REEL NO. 44.25

START

FIRST

SIDE

HM-127.
Pte Giroux P.E.

4M-127

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA2)
40-P-A-H-1408 (2864)

Convened by Order of Major General ELM Burns Comd CIC Cdn Sec CMQ dated 14 Dec 44
1 Dch 21 Army Gp

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
E-14207	Pte	Paul Emile	Giroux	18 Cdn Fd Amb RCAMC

certified true copy
[illegible]
D J A.

Cdn Sec GHQ 2 Feb 21 Army Gp

PROCEEDINGS RECEIVED Date 5 Jan 45 CMQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belguim on (*date(s)*) 17 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 34.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1450 hours trial commences.

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

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

A5. President to accused: Do you object to Lt J.H. LAMARCHE as interpreter? Ans NO

The Interpreter is sworn.(1) ~~Do you object to [illegible] as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

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

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

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

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

President	Major	A.C. Kavanagh	Cam of Can
Member	Capt	H.Howard	10 CBR Bn
Member	Lieut	M.Lamarche	10 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	J.J.H. Connors	RCAMC
Defending Offr	Lieut	A.T. Mann	11 CBR Bn

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See Dft p 3.)

A8. The accused before arraignment make(s) (and is) no plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, E-14207 Pte Paul Emile Giroux, 18 Canadian Field Ambulance, RCAMC, attached Canadian Section Headquarters Brussels Garrison, a soldier of the Canadian Army Overseas is Charged with:-

FIRST CHARGE
Sec 41
Army Act

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

in that he

in Brussels on the 27 November 44 did steal money in the amount of approximately 400 Belgian Francs, a cigarette case a cigar case, a razor and blades, a pair of gloves, a match, a handkerchief, a comb and a tube of toothpaste, the property of Mr. Edward Simon, and a compact and nail file, the property of Mme Gustavie Simon, both of 294 rue Edgar Tinel, Brussels.

SECOND CHARGE
Sec 22
Army Act

WHEN ON ACTIVE SERVICE BEING IN ARREST OR CONFINEMENT, ESCAPING

in that he

at approximately 1820 hours on 23 November 44, whilst in lawful custody undergoing detention at No.1 Field Punishment Camp and Detention Barracks, escaped.

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

absented himself without leave from No.1 Field Punishment Camp and Detention Barracks from 1820 hrs 23 November 44 until apprehended in Brussels by the Canadian Provost Corps at 2200 hours on the 27 November 44.

Time of absence 4 days, 3 hours, 40 minutes.

BRUSSELS
8 Dec 44

(sgd) L.P. Payan, Lt-Col
Commanding
Cdn Sec HQ Brussels Grn

To be tried by Field General Court Martial

In the Field
14 Dec 44

(sgd) E.L.M. Burns, Maj-Gen
GOC
Cdn Sec GHQ 1 Sch - 21 A Gp

J.C. Vavanagh, Maj.
Pres

4M-127

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S 1608 (2864)

Convened by Order of Major General ELM Burns Comd OIC Cdn Sec GHQ 1 Ech 21 Army Gp dated 14 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-14207	Pte		Paul Emile	Giroux	18 Cdn Fd Amb RCAMC att Cdn Sec HQ Brussels Garrison

certified true copy
Jos Haugh Major
D J A,
Cdn Sec G H Q 2 Ech 21 Army Gp

PROCEEDINGS RECEIVED Date 15 Dec 44 Cdn Sec GHQ 2 Ech 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belguim on (date(s)) 17 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is ~~(are)~~ ACK brought before the Court. At 1450 hours trial commences.

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

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

A5. President to accused: Do you object to J.M. LAMARCHE as interpreter? Ans NO

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

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

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

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

Ans NO (2)

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

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

President	Major	A.C. Kavanagh	Cam of Can
Member	Capt	H.Howard	10 CBR Bn
Member	Lieut	M.Lamarche	10 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	J.J.H. Connors	RCAMC
Defending Offr	Lieut	A.T. Mann	11 CBR Bn

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

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

A8. The accused before arraignment make(s) ~~(no)~~ ACK (a) plea (3)

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on 2nd & 3rd charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly. PC
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

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

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

D2. The Prosecutor makes (an) (his) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

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

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Make statement not on oath. Do you intend to call witnesses on your behalf ? Ans. NO. Are they witnesses as to character only ? Ans.
(*1. RP 153. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by dm JA under RP 42, 103(6).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces ~~(statement as to Character and Particulars of Service)~~, and certified true copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and/Ex ~~Nil~~ respectively.(2)
(*1. AFB 355 or AFB 294. 2. MAM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, compliant w/ the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 114, 119(A), KR Can 308, 332, 363-366. Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 136. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 60(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : E-14207 Pte Giroux, Paul Emile

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

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

At present under sentence for 90 days detention beginning on (date) 3 Oct 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which Nil days were spent in hospital(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Two (2) years less three (3) months imprisonment with hard labour.

(Sgd) ..... Judge-Advocate, if any. 17 Dec 44 Date awarded. (Sgd) A.C. Kavanagh President. (RP 45, 50.)

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

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

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

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

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

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

Confirmed

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

(Sgd) E.L.M. Burns, Major General

Date 20 Dec 1944 Commanding Officer i/c Canadian Section G.H.Q. 1 Echn Confirming Officer.

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

Accused.	Date.	Signature of Offr.
E-14207 Pte. Giroux, P.E.	24 Dec 44	(sgd) Maj. DAAG, Cdn Sec HQ Brussels Garrison

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The Accused, E-14207 Pte Paul Emile Giroux, 18 Canadian Field Ambulance, RCAMC, attached Canadian Section Headquarters Brussels Garrison, a soldier of the Canadian Army Overseas is Charged with:-

FIRST CHARGE
Sec 41
Army Act

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

in that he

in Brussels on the 27 November 44 did steal money in the amount of approximately 400 Belgian Francs, a cigarette case a cigar case, a razor and blades, a pair of gloves, a watch, a handkerchief, a comb and a tube of toothpaste, the property of Mr. Edward Simon, and a compact and nail file, the property of Mme Gustavie Simon, both of 29A rue Edgar Tinel, Brussels.

SECOND CHARGE
Sec 22
Army Act

WHEN ON ACTIVE SERVICE BEING IN ARREST OR CONFINEMENT, ESCAPING

in that he

at approximately 1820 hours on 23 November 44, whilst in lawful custody undergoing detention at No.1 Field Punishment Camp and Detention Barracks, escaped.

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

absented himself without leave from No.1 Field Punishment Camp and Detention Barracks from 1820 hrs 23 November 44 until apprehended in Brussels by the Canadian Provost Corps at 2200 hours on the 27 November 44.

Time of absence 4 days, 3 hours, 40 minutes.

BRUSSELS
8 Dec 44

(sgd) L.P. Payan, Lt-Col
Commanding
Cdn Sec HQ Brussels Grn

To be tried by Field General Court Martial

In the Field
14 Dec 44

(sgd) E.L.M. Burns, Maj-Gen
GOC
C4n Sec GHQ 1 Gch - 21 A Gp

A.C. Kavanagh, Maj.
Pres

A.C. Kavanagh, Maj
Pres

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, an immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr on dealing with the application see MML Chap V paras 20 and 23. RP 87(8).

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-14207	Pte		Paul Emile	Giroux	18 Cdn Fd Amb RCAMC att Cdn Sec HQ Brussels Garrison

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Dec 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". E.L.M.B.

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

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

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

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

PRESIDENT.

Major (Rank.) A.C. Kavanagh, MC (Must be named. RP 106.) QOR of C X-4, 11 CERBn (Unit.)

MEMBERS.

Capt or Lieut (to be detailed by OC 10 CER Bn)

Capt or Lieut (to be detailed by OC 10 CER Bn) (Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut (to be detailed by OC 10 CER Bn) (Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Belgium (Country.) E.L.M. Burns (Signed personally. RP 105 fn 2.) Maj-Gen (Rank.)

Date Commanding CIC Cdn Sec GHQ 1 Ech - 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

I certify that No. E-14207 Pte Giroux,, P.E. Regiment

is Fit to undergo trial by Court-Martial.

17 Dec 44

(sgd) P.P. Pion, Capt.
RCAMC

A.C.Kavanagh, Maj.
Pres.

PROSECUTORS OPENING ADDRESS

Case of E-14207 Pte Giroux, P.E.

The prosecution will present evidence to prove the following points:

Date
Time
Place

That all the items as alleged were actually in the house when every one left it on the date in question, i.e. everyone except the accused. That the items were found to be missing along with the accused when they returned home. The Exhibits will be identified by the owners and the provostcarrying out the accused's arrest will swear that the exhibits were actually found on the accused's person at the time of his arrest.

(sgd) J.J.". Connors, Lt.
PCAMC

FIRST WITNESS FOR THE PROSECUTION

The Witness Madame Simon having been duly sworn states: (through interpreter)

I am Gustavie Simon (waitress) of 29A Rue Edgar Tinel, Brussels, employed at the Cafe. The Accused was having a drink in the Cafe on or about the 25 Nov 44 and I invited him to my home. He came with me for dinner there. I gave him my visiting card and invited him back for the next day. The next day the accused whom I recognize phoned me and asked if he could spend the night. I said yes and he came about 9 O'clock. The next day I had to leave for work early and the accused asked me if he could sleep in. I said yes. I left my key with him in order to get in and out. I left him alone in the house about 0930 hrs. He the accused was to bring the Key to my place of work. My Husband had left for work at 0645 hrs that morning and Mrs Gilberte Libert left for work at 0730 hrs . She has lived with us since the start of the war. At about 1230 hrs the accused phoned me and thanked me for the hospitality. Between 1400 and 1415 hrs the accused came to the cafe and gave me the keys. He was drunk he left, promising he would return at 1645 hrs to take me home. I waited for him untill 1730 hrs and then walked home with Mrs Gilberte Libert . When I arrived home I wanted to light the fire but the stove was damp, a bottle of wine had been spilled the visiting card I had given the accused was in the stove. Gilberte went in to the dining room and called me saying the Buffet had been damaged and the money in a box there was gone. There was about 475 francs, two english coins a one shilling and a two shilling piece. The accused had previously seen where I had put the money because I had given him a 5 franc piece from it as a souvenir, He had drank the cognac from there and I replaced it with wine. There was a cigarette case, a hundred franc note, a razor and some bladas, a tube of toothpaste, and a watch of my husbands and a bracelet made up of foreign coins. (Objection by defense as to bracelet - declined) I identify Ex A, Ex B, Ex C, EX D, Ex E, Ex F, Ex G, Ex H, as property of both me and my husband.

Were these items you have just identified in your home on the morning you left the accused alone and these items were not in the house when I returned It is then, onreturning that I found them missing.

Cross-examination by Defense.

Question How drunk was the accused when he returned the keys.

Answer He was talking loud and when he stood up to leave he was very drunk.

Question How much liquor had he drank from your home.

Answer About ½ Litre Cognac and 1 Litre wine.

Question Did you tell him he could help himself to the ~~wine~~ liquor

Answer On Saturday I had bought two bottles wine one for saturday and one for sunday. They did not have my permission to drink.

R.P. 83 (F) Complied with

SECOND WITNESS FOR THE PROSECUTION

Mr. Edward Simon (foreman) having been duly sworn states(through interp reter)

I am Edward Simon (foreman) of 29A Rue Edgar Tinel Brussels. The accused whom I recognize stayed at my home on the night of 26-27 Nov 44 when I left for work on the morning of the 27th, my wife and the accused were in the house. When I came home from work that evening there was no one there. I went to light the fire and in the stove was a piece of bread and a writing card. My wife came in with Mrs Gilbrette. Mrs Gilbrette went into the dining room and called my wife saying that the buffet had been damaged. When I saw this I picked up the visiting

card which had an address on it and went there, I asked if the accused was there and was told he had returned to the front. The wife gave me the address of a Hotel where the accused contacted the RAF police and they took me to the CDN M Police. From there I went to the hotel where I had been told the accused would be that night. The Police found the accused in tis Hotel. There was about 450 francs missing perhaps more. The total amount missing is between 450 and 500 francs since the original investigation. There was about 450 francs in the box and a hundred franc notes on the buffet. A razor was missing, toothpaste and tooth brush, one comb, one cigar case with some cigars in it a cigarette case, one watch, one pair of gloves, and a bracelet made of various foreign coins.

(Defending Officer objected to mention of bracelet. Objection overruled

Identify Ex A as mine
Ex B as mine
Ex C as my wifes
Ex D as mine
Ex E as my wifes
Ex F as mine
Ex G as mine
Ex H as mine

These items which I have just identified were in the house when I left on the morning of 27 Nov 44. They were not there when I returned

R.P. 83 (B) Complied with.

M-19018 A/Cpl Bement G.W.V. No. 8 Sec No. 2 Cdn L of C Provost having been duly sworn states:

On the night of 27 Nov 44 at the U.S. police station I received a complaint from a civilian that the night previously a Canadian soldier had slept at his house. They left him asleep in the morning and when they returned at night they found a sum of money missing. He gave me an address where this soldier was known to frequent the cafe Royal Midi. I called at this cafe and talked to the proprietor between 2000 hrs and 2100 hrs. I was told that this soldier would probably be in later in the evening. I left then and returned later about midnight. The accused whom I recognize was in the cafe. I checked him for his pass and he had none also no pay book. He stated he had escaped from Field punishment camp. I placed him under close arrest. L/Cpl Gouthier was on duty with me. While on the way to the U.S. Police station I was stopped by an Officer who required some directions. The accused ran away in an attempt to escape. I gave chase and caught him. On arrival at the U.S. M Police station I had the accused empty his pockets placing the contents in his cap. The articles here, namely the Exhibits A to H are the ones I removed from the accused's pockets. I took them to Prince Albert Barracks with the accused and turned them over to C.C. Guard.

R.P. 83(B) Complied with

Madame Ida Bormans (housewife) having been duly sworn states:

I am Ida Borman housewife of 29A Rue Edgar Tinel, Brussels. On Monday 27 November about 1.30 PM this soldier whom I recognize here, called me down to open the door as he couldn't. My husband helped me. The accused asked the way to the cafe de La Poste. we gave the directions to him. He had been drinking.

R.P. 83(B) Complied with.

PROSECUTORS CLOSING ADDRESS

in the case of E-14207 Pte Giroux, P.E.

Sirs:

The Prosecution has presented sufficient evidence to prove each point in this very serious charge. The date, time, place, have been proven, the articles positively identified by both the owners and the Provost whom arrested him with the articles on his person. In view of the fact that this was a dastardly act committed by a Canadian soldier enjoying the hospitality and confidence of friendly Belguim Civilians, I ask the court to find him guilty.

(sgd) J.J.M. Connors, Lt.

CLOSING ADDRESS FOR DEFENSE

In the case of Pte Giroux, P.E.

Sirs:

In summing up the evidence I would ask you to cosider these points. Before Madame Simon left the house on the morning of the 27 of Nov She showed Pte Giroux a bottle of wine which she told him she had bought for that evening and that if he felt inclined, he could have a drink. That morning Pte Giroux had only had some coffeeand no food. He had a drink of wine and I need not explain how that only made him feel that he should have another. I admit it was a weakness on his part- but a weakness he could not help at the time. Pte Giroux had more wine then cognac and then wine again and I am certain that the Court is aware of the effect that such a combination would have on an empty stomach. After having these drinks Pte Giroux does not remember what he did and is not responsible for his actions in the same way as a normal person is. I wish to draw the courts attention to Sections 8 and 9 of Chap VII of the MML. I cannot quote for I have not an MML with me but t e court will find words to the effect that that if the mind of a person is so affected by some disease that he is unaware of the nature of the crime and incapable of forming the specific intent necessary to constitute the crime he should not be convicted of it. Intoxication can affect themind to such an extent and if the court consider the evidence brought out I am sure they will find that in this case the mind of the accused was so affected. In the first place the accused consumed approx a Bottle of wine and half a bottle of cognac. That in itself should be sufficient proof . Secondly the witnesses will testify that he was very drunk he was so drunk that he couldnt even open the door but had to call for help.

And lastly I would ask the court to consider the articles found on the accused. What normal person would go taking a ladies handkerchief or what good to a soldier is a ladies nail file with green handle ? Only a person so far gone that he absolutely didnt know what he was doing would take any such things. At the time that the accused did take them his mind was so far gone that he didn't even know what he was taking or was incapable of forming the specific intent that is necessary. In view of these facts I would ask the court to consider this as a special case and with reference to the ML as a guidance for such a special case I feel that the accused should be acquited

Respectfully submitted

(sgd) A.T. Mann, Lieut

Statement of accused not on oath.

E-14207 Pte Giroux, P.E. states.

I awoke about 0900 hrs on the morning of the 27 Nov and Madame Simon was in the Kitchen. She gave me some coffee and I smoked a cigarette, she told me she was leaving in a few minutes and to retur n to bed if I wished. She gave me another cup of coffee and showed me a bottle of wine on the fire place. She told me to help myself to a glass. I drank a glass of wine and found half a bottle of Cognac beside the bureau. Madame simon had gone before I started drink ing I had alittle cognac and then drank some more and I finished the rest of the wine and cognac. I then left the House. I took the key back to Madame Simon. I finished drinking with another Canadian soldier until I was picked up by the provost. I do not remember taking any of the articles found in my possession.

R.P. 83 (B) Complied with

Statement by accused taken on Oath pertaining to second charge (plea of guilty)

E-14207 Pte Giroux, P.E. having been duly sworn states:

I am E-14207 Pte Giroux, P.E. I was working in the M.I.R. at No. 1 Pd punishment camp and Detention Barracks, with L/Cpl Shear. On the 23 Nov 44 when he came back from the sick parade he had with him a bottle of cognac and offered me a drink. I took one. After dinner he went out to get another bottle and on returning he offered me some I refused and told him I had only 8 more days to do and didnt want any trouble. He told me if something happened he would take care of me. We drank a bottle and a half and aroun 1800 hrs the Sgt major found out that the L/Cpl was drunkand he looked for me and put us in the hole. I escaped from there.

R.P. 83 (B) Complied with

PLEA IN MITIGATION OF PUNISHMENT

in the case of Pte Giroux, P.E.

Sirs:

Before the court considers the sentence I would ask you to consider these points. The accused joined the army in Nov of 1939 when he was only 19 years of age - He served with the Army Service Corps for over a year work ng with an ammunition Coy In Jan 41 he was discharged and spent some time in the hospital but on coming out joined up again in the army because he felt he had a special job to do . He enlisted the second time with the service corps in July of 41 and was later transfered to the 18th Fd Ambulance Section.

He had been up to the front with the 18 Fd ambulance for about one month when called back for trial on a charge of AWL that had been pending for several months and had been put off because there was not sufficient evidence.

He was tried on the charge and sentenced to 90 days and had only 8 more days to complete his sentence when he broke out I wish to ask the Court to consider the circumstances under which that was done the accused had been drinking Cognac for most of the afternoon and when he was locked up and given the opportunity of escaping he was unable to forsee the seriousness of his offence. The accused is at present aware that drunkeness is no excuse for crime but at the time his mind was incapable of functioning properly, this is only too well brought out by the fact that no person under normal circumstances would do so with only 8 days of sentence left to do.

I would ask the court to take this into consideration in determining the sentence and with with special reference to sections 47 and 48 of Chap III of MCL where it states such circumstances should lessen the punishment.

I would also ask you to cosider that the accused is fit and ready to go back to the front where he is urgently needed. He is anxious to get back to his unit and carry on with his work.

I notice the NPM 6 but if the Court consider that all these entries were spread over a period of yrs and ~~xxxxxx~~ most of them are only minor AWLs of a day or so - the record is not at all bad.

In conclusion I would ask the court to deal as leniently as possible with this soldier in order that he may soon be able to rejoin his unit and carry on the work for which he joined up.

Respectfully submitted

(sgd) A.T. Mann, Lt.

SECOND WITNESS: Madam Gustavie Simon (Waitress) 29A Rue Edgar Tinel Brussels being unable to speak english requires an interpreter. Interpreter (French-English) Capt G Hessey-White, CWAC Cdn Sec HQ Brussels Garrison has been duly sworn.

The witness Mme Gustavie Simon having been duly sworn states:

"On the 25 November 1944 at about 5.00 PM I invited Paul whom I recognize in this room and his friend to come to my home for dinner. They did, coming back with me and we arrived at my home 29A Rue Edgar Tinel Brussels at about 5.45 Pm in the afternoon. They had supper with us and left about 10.00 O'clock that night. Before they left I invited them back next day , but I asked them to telephone before coming as I'd be in all day. The next day Paul telephoned about 5.00 PM and asked if he could stay here. I said "Yes", and he came about 9.00 O'clock He had dinner with us. We sat up talking quite late and before going to bed I told him I would have to get up early in the morning to go to work. He answered "French Canadians dont eat breakfast in the mornings and I'd rather stay in bed until 1.00 O'clock". As he had come from the front I wanted him to get as much sleep as possible, so I left him with my keys, so he wouldN't be disturbed in the morning. We all went to bed then. In the morning about 9.00 O'clock paul got up himself and had some coffee with me and smoked a cigarette before I went to work, before I left for work, I showed him where the keys were , and asked him to bring the Keys to Cafe de La Poste, where I worked , before he left He telephoned me at 1230 noon to say "Thank you for your Hospitality and "I'll bring your keys at 1.30 PM . He brought me the keys at 2.30 PM . He was drunk when he brought the keys to me . I gave him a rendez-vous to join me for the theatre and he said he'd be there at 4.30 PM . I waited for an hourthere for him , but when he diin't come I returned home, arriving between 6.30 and 7.00 PM When I got in my Husband was already home. My husband was trying to start the fire, but te stove had my visiting card which I had given Paul two slices of buttered bread which I had given him for his breakfast and wads of paper soaked with wine, in it, and he couldn't get it started. I saw my wine bottle was not empty wine was splashed on the wall a d floor. I also saw a key lying on the buffet which is kept in the Kitchen drawer and the buffets top drawer had been forced open, evidently with a kitchen knife because it wasn't in its usual position in the drawer and the point was broken . I found the following things missing which were there when I left in the morning: over 400 francs composed of small change ranging from 50 centimes to 20 franc pieces, also an English 1 shilling piede and a 2 shilling piece, a cigar case(Leather) , a silver cigarette case, and a hundred franc note which was left on the buffet. There was also a razor and blades, a tube of tooth-paste, and a black comb of my husbands".

Accused declines to Cross-examine.

Questioned by the Officer taking the Summary.

Q:"ave you ever seen this before? (handing a cigarette case to the witness).

A:Yes it belongs to my husband.

(sgd) Mme Simon Gustavie

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THIRD WITNESS: Mlle Gilbert Libert (hairdresser) No. 29A Rue Edgar Tinel, Brussels, being unable to speak English requires an interpreter. Interpreter (French-English) Capt G Hessey-White, CWAC Cdn Sec HQ Brussels Garrison has been duly sworn.

The witness Mlle Gilberte Libert having been duly sworn states:

"The first time I saw Paul whom I recognize as being in this room, was about 6.45 in the afternoon of the 25 November 1944, when he came to the house at 29A Rue Edgar Tinel Brussels with Mme Simon. He had dinner and left about 9.45 that evening. The next day he phoned in the after noon about 3.00 O'clock and asked if he could come and sleep there and that he might come with his friend. He arrived alone about 9.00 O'clock in the evening and he had dinner with us. During dinner Madam Simon said they all had to work in the morning and Paul said "In Canada we never get up until 1200hrs", so Madame Simon said she'd leave the keys and he could bring them up to her at the Cafe de la Postewhere she worked when he was ready to leave . Paul stayed all night and I left for work at 8.00 O'clock the next morning. M Simon left before I left, it was about 6.45 I returned about 6.30 in the evening with Mde Simon and I saw the tablecloth was all dirty and the wall had wine spilled on it. I saw a key which is kept in a drawer in the kitchen, lying on the buffet where it shouldn't have been. I told Mde Simon ".

The accused declines to Cross-examine.

Questioned by theOfficer taking the summary.

Q:Have you ever seen this before? (handing a cigarette case to witness)

A: Yes, it belongs to M Simon.

(sgd) Libert Gilberte

FOURTH WITNESS: Madame Ida Bormans (housewife) 29A Edgar Tinel Brussels being unable to speak english requires an interpreter. Interpreter (French-English) Capt G Hessey-White, CWAC Cdn Sec HQ Brussels Garrison has been duly sworn.

The witness Mme Ida Bormans having been duly sworn states:

"On Monday 27th November about 1.30 PM this soldier whom I recognize here, called me down to the door because he couldn't get it unlocked. My husband went down with me and we got it open. He then asked instructions to the Cafe de la Poste. We gave them to him. I believe he was drunk.

Accused declines to cross-examine.

(sgd) Ida Bormans

FIFTH WITNESS: H-19018 A/Cpl Bement C W V, No 2 Cdn L of C provost Coy having been duly sworn states:

"On the night of the 27th November 1944 I was NCO IC town patrols, Brussels. I received a complaint from a civilian that a soldier had slept at his house on the evening of 26-27 Nov 44. This civilian gave me a description of this soldier and stated he frequented the Cafe Royal Midi, Rue du Midi. At approximately 0005 hrs I proceeded to the above mentioned cafe and found a soldier fitting the description. I asked this soldier for his pass and he stated that he did not have one I requested his pay book and he stated he didn't have one.as he had escaped from a Cdn Field Punishment camp. I escorted him to the US Military Police Station for further questioning. I was accompanied on this trip by L/Cpl Gauthier G, of this Unit. On the way to the American Police Station it was necessary to stop the vehicle to give some directions to an English Officer. Whilst stopped this solier who is present here and whom I recognize as H-14207 Pte Giroux, P.E., whose identity I obtained from his identity discs, jumped from the vehicle and attempted to escape I gave chase accompanied by L/Cpl Gauthier and caught Pte Giroux after running about 200 yards. On arrival at the American Police Station I removed Pte Giroux's property from his person, placing it in his hat and later turning it over to the NCO IC Prince Albert Barracks guard room where I escorted Pte Giroux.

Accused declines to cross-examine.

(sgd) CWV Bement

SIXTH WITNESS: H-10180 L/Cpl Gauthier G, No 6 Sec 2 Cdn L of C Coy Provost Corps having been duly sworn states:

"On the night of 27-28 Nov 44 I assisted Cpl Bement at the Cafe Gare de Midi to check Pte GirouX's identity and pass. I recognize this man here as Pte Giroux. He Couldn't produce a pass so Cpl bement put him under arrest. We left with the accused in our car to take him to the US Police Station. On the way there we stopped at the corner of Rue de la Loi to give information to an Officer and while we do that, this Pte Giroux got out of the car and run away. Cpl Bement and I chase him and Cpl Bement catch him about 200 yds away. I helped Cpl Bement bring him back to the car. Then we took him to the US Police Station . Cpl Bement searched him in front of me and took many things from his pockets and put them in the accused's hat. They included : brown cigar case (exhibit "A") silver cigarette case(exhibit "B") ladies compact(exhibit "C") Silver Pocket watch (exhibit "D") small nail file (exhibit "E") razor and blades (Exhibit "F") handkerchief (exhibit "G") and pair of gloves (Exhibit "H") these things are in front of me now and I recognize them.

Accused declines to cross-examine.

(sgd) G.Gauthier

SEVENTH WITNESS: 6145081 Cpl Richards W H, 276 Coy Pioneer Corps attached 120 CMP Guard Room, having been duly sworn states:

"At Brussels Prince Albert Barracks Guard Room on the night of 27 Nov 1944 I was on duty when the accused Pte Giroux whom I recognize was brought in by Cdn Provost staff. I relieved him of the contents of his hat and plac ed them in a bag to be taken to the property room for safe keeping. These are some of the items which I took off Pte Giroux when he was admitted: Cigar Case(brown) (exhibit "A"), silver cigarette case (Exhibit "B") ladies compact (exhibit "C") silver pocket watch(exhibit "D") nail file (exhibit "E") one razor set(Exhibit "F") one handkerchief (Exhibit"G") and one pair of gloves(Exhibit "H"). I see these items here in front of me now and I recognize them.

Accused declines to cross-examine.

(sgd) W.H. Richards

The articles referred t in the evidence of 6145081 Cpl Richards, W.H. are attached hereto as follows:

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case with green marking
Exhibit "C" - ladies pink compact with zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file with green handle
Exhibit "F" - razor and blades in box
Exhibit "G" - handkerchief
Exhibit "H" - pair of light brown gloves.

(sgd) J.J.H. Connors, Lt., RCAMC

EIGHTH WITNESS: 547906 Cpl Smith S, 276 Coy Pioneer Corps having been duly sworn states:

"I do duty looking prisoners in and out also of looking after their personal effects. On the 4 Dec 44 I gave Lieut Connors the following itemsfrom the property of Pte Giroux whom I recognize and who was present when I did so: one pocket watch, one ladies compact, one nail file one cigar case(leather) one razor and blades, one pair of gloves, and one handkerchief. I also gave him this silver cigarette case about 3 or four days ago. all these items had adhesive tape (brown) placed on them on the 4 Dec 44 when I handed them over and put my name on each piece. The accused's kit is kept locked in the property room and I got these items from it today".

Accused declines to cross-examine.

(sgd) Cpl Smith, S.

FIFTH WITNESS (recalled): H-19018 A/Cpl Bement, CHV, No 2 Cdn L of C provost Coy having been recalled and duly sworn states:

"Sir I recognize the following articles now in front of me as being among the items of property which Pte Giroux had in his possession on the night of the 27-28 Nov 44 when I took them off him in the American Police station:-Leather cigar case(exhibit "A"), silver Cigarette case (exhibit "B"), red ladies compact(exhibit "C"), one pocket watch(exhibit "D"), green handled nail file (exhibit "E"), a safety razor (exhibit "F"), one handkerchief(Exhibit"G") and one pair of leather gloves (Exhibit "H")

Accused declines to cross-examine.

(sgd) CHV Bement

ADDITIONAL SUMMARY OF EVIDENCE

In the case of: E-14207 Pte Giroux, P.E., 18 Cdn Fd Amb R C A M C
a soldier of the Cdn Army Overseas

The Commanding Officer diredts that the evidence will be given on oath.

FIRST WITNESS: A-22112 Sgt Landstra, L.E., No 1 FP Camp and Detn Pks Cdn Prov Corps.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written copy of his evidence has been read to the accused and is attached here to as Exhibit "J".

(sgd) J.J.H. Connors, Lt. RCAMC

I do not require the attendance of A-22112 Sgt Landstra, L.E. for the purpose of cross-examination.

(sgd) Paul Emile Giroux

SECOND WITNESS: Lieut W.D. Cain, No 1 FP Camp and Detn Pks, C Prv C

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "J".

(sgd) J.J.H. Connors, Lt RCAMC

I do not require the attendance of Lieut W.D. Cain for the purpose of Cross-examination.

(sgd) Paul Emile Giroux.

The accused was then cautioned as follows:

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

A: I have nothing to say.

(sgd) Paul Emile Giroux.

The accused does not wish to call witnesses.

I certify that the foregoing additional summary of Evidence, cosisting of one page was taken down by me in the presence of that accused and that R P 4 (c), (d), (e), and (f) have been complied with.

In the Field
13 Dec 44

(sgd) J.J.H. Connors, Lt, RCAMC
Officer Detailed to take additional Summary of Evidence.

The accused was cautioned as follows:

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

A: I want to make a statement

Q: On oath or not on oath?

A: On oath.

The accused sworn states:

" I left the Field punishment camp on thursdayx night. I think it was the 23 or 24 I'm not sure. I slept in Alost that night. Then I came down to Brussels the next day and I met Mme Simon and she make me an invitation for supper and I'm been there for supper. I went there for supper next day and I sleep there. I left the house about 11.30 or 12.00 O'clock and I was drunk and don't remember whats happened after that until I'm being picked up"

(sgd) Paul Emile Giroux.

The accused does not wish to call witnesses at this point.

I certify that the foregoing summary of Evidence, consisting of fourteen pages, was taken by me in the presence of the accused and that R.P. 4 (c), (d), (e),(f), and (g) have been complied with.

In the Field
5 Dec 44

(sgd) J.J.H. Connors, Lt RCA(C)
Officer detailed to take the summary.

Exhibit "JJ"
JJW Connors, Lt

No 1 FP Camp & Detn Bks.
Cdn Pro C.
29 Nov 44

THIS IS TO CERTIFY, that:

E-14207 Pte Giroux, Paul Emile, 18 Cdn Fd Amb RCAMC att No 1 FP Camp and Detn Bks., Cdn Pro C., whilst in lawful custody undergoing detention, did escape at approximately 1820 hrs 23 Nov 44. Date of admission - 12 Oct 44.

This SUS is still absent. FBM Parts 1,2,3 are not on hand and enquiry has been made with his unit as to their whereabouts.

(sgd) W.D. Cain, Lt for Camt
(DAPM) (Comd)
No 1 FP Camp and Detn Bks.
Cdn Pro C.

CERTIFIED TRUE COPY OF EVIDENCE

On the night of 23 Nov 44 I was night orderly Sjt at approximat ely 1820 hrs whilst making my routine check of the cells, I found Giroux, P.E., to be absent. I searched the quarters and buildings bu but he was not to be found and he remained absent throughout the night.

(sgd) L.E. Langstra - Sgt.
A-22112

CERTIFIED TRUE COPY OF ORIGINAL EVIDENCE HELD IN THIS UNIT.

(sgd) W D. Cain, Lieut
No 1 Fd Punishment Camp
Cdn Pro C.

REQUEST FOR DEFENDING OFFICER

In the Field
5 Dec 44

I desire the services of a defending officer
I would like the court to appoint one.

(sgd) Paul Emile Gireoux

LIST OF WITNESSES FOR THE PROSECUTION

1. Mr Edward Simon (foreman) 29A Rue Edgar Tinel Brussels
2. Mrs Gustavie Simon (Waitress) 29A Rue Edgar Tinel Brussels
3. Miss Gilberte Libert (Hairdresser) 29A Rue Edgar Tinel Brussels
4. Mrs Ida Formans (Housewife) 29A Rue Edgar Tinel Brussels
5. H-19018 A/Cpl Bement, CHV, No 2 Can L of C Provost Corps
6. E-10180 L/Cpl Gauthier, G No 2 Sec 2 Can L of C Provost Corps
7. 6145981 Cpl Richards, WW, 276 Coy Pioneer Corps (attached 120 CMP Guard Room)
8. 547906 Cpl Smith S, 276 Coy Pioneer Corps.
9. A22112 Sjt Landstra, L E, No. 1 F P Camp and Det Bks C Prc C
10. Lieut W D Cain No. 1 F P Camp and Det Bks C Prc C

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case with green marking
Exhibit "C" - lady's pink compact with zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file with green handle
Exhibit "F" - razor and blades in box
Exhibit "G" - handkerchief
Exhibit "H" - pair of light brown gloves(Leather)
Exhibit "J" - Statements of (A-22112 Sjt Landstra, L E
(Lieut W D Cain

In the Field
13 Dec 44

(sgd) J.J.W. Connors, Lt., RCAMC

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Aug43	Pte		WOAS AWL from 2300 hrs 14 Aug 43 until 1940 hrs 17 Aug 43(Total 68 hrs 40 minutes) in Sec 15(1)	RSM Proulx,LR Sgt Latulippe L.P.	28 days F.P.	18 Aug 43	Lt-Col CU Letourneau	forf 3 days pay for absence
Field	15 Sep43	Pte		AA Sec 15(1) absented himself without permission from 0800 hrs 15 Sep 43 until 1815 hrs 17 Sep 43 Absent 2 dys 10 hrs 15 mins	RQMS Gagnon Cpl Choiniere Document	28 days F.P.	19 Sep 43	Lt-Col CU Letourneau	forf 3 days pay for absence
Field	8 Jan 44	Pte		1)AA Sec 15(1) AWL from 2300 8 Jan to 0020 9 Jan 44(1 hr 20 mins)	Sgt Cote,L. Cpl Gladstone				
Field	9 Jan 44	Pte		2)AA Sec 10(4) broke out of Bks while under open arrest.	Sgt Cote,L. S/Sgt Bishop	28 Days F.P.	10 Jan 44	Lt-Col C.U. Letourneau	forf 1 days pay for absence
"	"	"	"	3)AA Sec 15(1) AWL from approx 1625 hrs to approx 2245 9 Jan 44 Total 6 hrs 20 mins	S/Sgt Bishop Cpl Frechette				
"	"	"	"	4)AA Sec 19 Drunkenness while under open arrest	L/Cpl StPierre,T Capt Robert S/Sgt Bishop				

No. B14207 Name Giroux, P.E. | Sqn, Battery, or Company | Corps RCAMC | Date of enlistment 30-7-41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 30-1-42 : No entry: No cases of drunkeness					
Wenley	19-8-42	Pte		AA Sec 40 failed to appear on 1330 hrs parade	Cpl Edwards L/Cpl Hatton	5 days CB	19-8-42	Capt Gander	
Field	13-2-43	Pte		AA Sec 40 whilst in a public place namely Coach & Horses, gave the nazi salute upon entering	Pte StPierre, Pte StPierre,	RY14 Dys CB T 28 Dys Pay	16-2-43	Lt Col Letourneau, C.U.	
Field	12-6-43	Pte		AA Sec 15(1) AWL from 2259 hrs 12-6-43 until 2355 hrs 12-6-43. Total : 56 Minutes	Cpl Langalis, QMS Proulx,LR	7 days CB	14-6-43	Capt Blais, R.	
Field	2 Aug43	Pte		AA Sec 15(1) AWL from 2259 hrs 2 Aug until 0015 hrs 3 Aug 43 Absent 1 hr 16 minutes.	Cpl Cheiniere Pte Marin,L.	7 Days CB	3 Aug 44	Capt Landry R D	

Exhibit "B" A.C. Kavanagh, Major
Pres

(PTO)

4M-127

RECORDED AT CMHQ IN AB 160

CPA66 (To form of AFA31 40/P & R/1898 (49/01)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Maj. Gen. E.L.M. Burns Comd 6 Cdn Inf Div dated 14 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 30C, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E.14207	Pte.	PAUL EMILE	GIRAUX	1 Can Fd Amb. HCAMC. att 2 Can Sig Regt HQ Brussells Barracks

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belgium on (*date(s)*) 17 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/101 -

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

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

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

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

A3. The Court is opened. The accused is (are) ACK brought before the Court. At 1415 hours trial commences.

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

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

A5. President to accused: Do you object to LT. M. LAMARCHE as interpreter ? Ans No.

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

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

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

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

Ans No (2)

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

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

President	MAJOR	A.C. KAVANAGH	CAMERON'S OF CAN.
Member	CAPT.	H. HOWARD	10 C.B.R. Bn.
Member	LIEUT.	M. LAMARCHE	10 C.B.R. Bn.
Judge-Advocate	—	—	—
Prosecutor	LIEUT.	J.J.H. CONNORS	R.C.A.M.C.
Defending Offr	LIEUT.	A.T. MANN	11 C.S.R. Bn.

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

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

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

(1. If a special plea is made for separate trial as one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 74, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by two ? several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

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

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

A10. The Court ~~is about to~~ ACK considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Forms B, C, D & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans. YES (5)

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

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on 2nd & 3rd charge(s). ~~The accused is (not) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Typing Sheets of Record.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. MAKE STATEMENT NOT ON OATH. Do you intend to call witnesses on your behalf? Ans. No Are they witnesses as to character only? Ans. .....

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

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

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CR 1905. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

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

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

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

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

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans. No.

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

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

(1. *MFB 255 or MFB 294.* 2. *MML 6.* 3. *RP 46, KR Can 556. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes - through my Det. Officer (2)

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

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

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

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

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 47, 48 and its purpose, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 48-50, 69, 118, 119(A), KR Can 308, 380, 563-566, Overseas RD 309, 2123, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 562. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: E 14207 Pte Giroux, Paul Emile

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

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for 90 days detention beginning on (date) 3 Oct 44 (1)
(1. Insert sentence being served, or delete if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which — days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: Two years imprisonment with hard labour ~~Less than~~ months

17 Dec 44 (Sgd) A C Tananaych
Date awarded. President. (RP 45, 50.)

(Sgd) Judge-Advocate, if any.

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

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

(Sgd) Commanding.

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

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

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

Confirmed

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

(Sgd) E de Burgh Maj Gen

Date Commanding Officer at Confirming Station Confirming Officer.

DJAG Office Copy

I certify that there are no ill-effects or irregularities in judicial proceedings confirmation of these proceedings

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

Accused.	Date.	Signature of Offr.
E14207 Pte GIROUX PE.	24 Dec 44	[illegible] Maj.

DJAG, CMF
HQ BRUSSELS GARRISON

Pub in Con Sec HQ BRUSSELS Gen CR "46 d/26 DEC 44.
(2 (BRUSSELS) Jnl in Con Sec GHQ 1 Echn - 31 HQ)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The Accused, E.14207 Pte Paul Emile GIROUX, 18 Canadian Field Ambulance, RCAMC, attached Canadian Section Headquarters Brussels Garrison, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SEC 41
ARMY ACT

When on Active Service committing a civil offence, that is to say, stealing

in that he

in BRUSSELS on the 27 November 44 did steal money in the amount of approximately 400 Belgs Francs, a cigarette case, a cigar case, a razor and blades, a pair of gloves, a watch, a handkerchief, a comb and a tube of toothpaste, the property of Mr. Edward SIMON, and a compact and nail file, the property of Mme Gustavie SIMON, both of 29A rue Edgar Tinel, BRUSSELS.

SECOND CHARGE
SEC 22
ARMY ACT

When on Active Service being in arrest or confinement, escaping

in that he

at approximately 1820 hours on 23 November 44, whilst in lawful custody undergoing detention at No.1 Field Punishment Camp and Detention Barracks, escaped.

THIRD CHARGE
SEC 15(1)
ARMY ACT

When on Active Service absenting himself without leave

in that he

absented himself without leave from No.1 Field Punishment Camp and Detention Barracks from 1820 hrs 23 November 44 until apprehended in BRUSSELS by the Canadian Provost Corps at 2200 hours on the 27 November 44.

Time of absence - 4 days, 3 hours, 40 minutes.

BRUSSELS
8 Dec 44

(L. P. GAGAN) Lt-Col
Commanding
Cdn Sec HQ Brussels Grn

To be tried by Field General Court Martial

In the Field
14 Dec 44.

(E.L.M. Burns) Maj-Gen
OIC
Cdn Sec GHQ 1 Echn - 21 A Gp

Approved
KR(Gen) 140
Maj

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(8).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-14207	Pte		Paul Emile	GIROUX	18 Cdn Fd Amb RCAMC att Cdn Sec HQ Brussels Garrison

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Dec 44 endorsed by me, "~~I order that he be~~ To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is expedient in the interests of discipline that he should be tried by a Field General Court-Martial.~~

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

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

~~4. I direct that the Officer appointed to act as Prosecutor (or the person detailed to assist him) shall~~

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

5. ~~I direct that the Officer appointed to act as Defending Officer~~

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

PRESIDENT.

Major (Rank.) A.C. Kevanagh, MC (Must be named. RP 106.) QOR of C X-4, 11 CBR Bn (Unit.)

MEMBERS.

Capt or Lieut (to be detailed by OC 10 CBR Bn)

Capt or Lieut (to be detailed by OC 10 CBR Bn) (Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut (to be detailed by OC 10 CBR Bn) (Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Belgium (Country.)

Dat 17 Dec 44

E.L.M. Burns (Signed personally. RP 105 fn 2.)

(E.L.M. Burns)

Maj-Gen (Rank.)

Commanding OIC Cdn Sec GHQ 1 Echn - 21 A Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A CFA 95 (In lieu of AFA 2) 60/P & S/1071 (0142)

Approved

Maj

MEDICAL OFFICER'S CERTIFICATE

I certify that No. H-142207 Pte. GIROUX, P.E. .....Regiment
R.C.A.M.C.
is fit .....to undergo trial by Court-Martial.

17 Dec 44

P P Pion capt
.....
(P. P. Pion) Capt RCAMC

Prosecutor's Opening
Address
Case of E-14207 Pte. Gimes P.E.

The prosecution will present evidence to prove the following points:

Date
Time
Place

That all the items as alleged were actually in the house when everyone left it on the date in question, i.e. everyone except the accused. That the items were found to be missing along c̄ the accused when they returned home. The exhibits will be identified by the owners & the Provost carrying out ~~It~~ the accused's arrest will swear that the exhibits were actually found on the accused's person at the time of his arrest.

[signature]

First witness for the prosecution

The witness Madame Simon having been duly sworn states through interpreter Mme Simon (Widow) of 24 Rue Edgar Quinet Brunet sworn says at the time of the accident was serving a drink in the cafe and was at the counter. I noticed one of the customers, a man who was unknown to me, was drinking. He left the cafe and I noticed him go into the adjoining cafe. He came back to the cafe and I noticed him go into the adjoining cafe. He came back to the cafe and I noticed him go into the adjoining cafe. He came back to

Promising he would return at 1643 his
8 to be me home. I waited for him
until 1730 his and then walked
home with Miss Gilbert Lilliet.
When I arrived home I wanted to
light the fire but the stove was damp.
A bottle of wine had been spilled
The visiting card I had given the
accused was on the stove. Gilbert
went in to the dining room and
called me saying the buffet had
been damaged and the money in
a box there was gone. There was
about 475 francs, two english coins
a one shilling and a two shilling piece.
The accused had previously seen
where I had put the money because
I had given him a five franc piece
from it as a souvenir. He had
drank the cognac from there and
I replaced it with wine. There
was a cigarette case, a cigar case
a hundred franc note, a razor and
some blades, a tube of tooth paste
and a watch of my husbands, and
a bracelet made up of foreign coins.
(Objection by Defence as to bracelet declined).
I identify Ex. A, Ex "B", Ex "C" Ex "D"
Ex "E" Ex "F" Ex "G" Ex "H" as property of both
me and my husbands
~~[illegible]~~ Were these items you have just
identified in your home on the
morning you left the accused
alone and these items were not
in the house when returned.
It is then, on returning that I
found them missing

~~6675~~ (3)

Cross Examination by Defense.

Ques. How drunk was the accused when he returned the keys.

Ans. He was talking loud and when he stood up to leave he was very drunk.

Ques. How much liquor had he drunk from your home.

Ans. About 1/4 litre cognac and 1 litre wine.

Ques. Did you tell him he could help himself to the liquor.

Ans. On Saturday I had bought two bottles wine one for saturday and one for Sunday. They did not have my permission to drink.

RP. 83/6 Complied with

Second Witness for the Prosecution.

Mr Edward Simon having been duly sworn states (through interpreter)

Sam Edward Simon (foreman) 29A Rue Egdas Tinel Brussels.

The accused whom I recognize stayed at my home on the night of 26/27 Nov. When I left for work on the morning of the 27th, my wife and the accused were in the house. When I came home from work that evening there was no one there. I went to light the fire and in the stove was a piece of bread and a visiting card. My wife came in with Mrs Gilbrette. Mrs Gilbrette went into the dining room and called my wife saying that the buffet had been damaged. When I saw this I picked up the visiting card which had an address on it and went there. I ~~went to the address~~ I asked ~~if~~ the accused was there, and was told he had returned to the front. The ~~[illegible]~~ gave me an address of a hotel where the accused would be that night. I contacted the RAF police and they took me to the ~~Rue de midi~~ Can M Police. From there I went to the hotel where I had been told the accused would be that night. The police found the accused in this hotel.

There was about 450 francs missing perhaps more. The total amount missing is between 450 and 500 francs, since the original investigation. There was about 450 francs in the box and a 100 franc note on the buffet. Razor was missing, tooth paste & brush, one comb, one cigar case with some cigars in it, a cigarette case, one watch, one pair of gloves, and a bracelet made up of various foreign coins.

(Defending Officer objected to mention of bracelet. Objection overruled.)

I identify Ex A as mine
Ex B as mine
Ex C as my wife's
Ex D as mine
Ex E as my wife's
Ex F as mine
Ex G as mine
Ex H as mine.

These items which I have just identified were in the house when I left on the morning of Nov 21. They were not there when I returned.

R.P. 83(b) Complied with

his pockets placing the contents on his cap. The articles here, namely the Exhibits A to H are the ones removed from the accused's pockets. I took them to Prince Albert Barracks with the accused and turned them over to O.C. Guard.

R.P. 83(b) complied with

H 19018 A/6 pt Diment G.H.V Not Sec
No 2 Can Loft Provost having been
duly sworn states

On the night of Nov 21 1944 at the
US Police station I received a
complaint from a civilian that
the night previously a Can soldier
had slept at his house. They left
him asleep in the morning and when
they returned at night they found a
sum of money missing. He gave
me an address where this soldier
was known to frequent, the Cafe
Royal Midi. I called at this
cafe and talked to the proprietor
between 2000 hrs and 2100 hrs. I
was told that this soldier would
probably be in later in the evening.
I left then and returned later about
midnight. I he accused whom I
recognize was in the cafe. I checked
him for his pass and he had none
also no pay book. He stated he
had escaped from field punishment
comp. I placed him under close
arrest. S/Cpl Youthier was on
duty with me. While on the way
to the US police station I was stopped
by an officer who required some direction
I he accused ran away in an attempt
to escape. I gave chase and caught
him. On arrival at the U.S. M Police
station I had the accused empty

Madame Ida Barmans (housewife) having been duly sworn states - Jane Ida Barman housewife of 29A Rue Edgar Tinel, Brussels. On Mon 27 Nov meet about 1.30 PM this soldier whom I recognize here, called me down to open the door as he couldn't. My husband helped me. I he accused asked the way to the Lafayette de Paste. We gave the directions to him. He had been drinking.

RP83(a) complied with.

Statement of Accused NOT on Oath.
214201 Pte Leroux Pt Stalis. (9)

I awoke about 0900 hrs on the morning of the 21 Nov and Madame Simon was in the kitchen. She gave me some coffee and I smoked a cigarette. She told me she was leaving in a few minutes and to return to bed if I wished. She gave me another cup of coffee and showed me a bottle of wine on the fire place. She told me to help myself to a glass. I drank a glass of wine and found half a bottle of cognac beside the bureau. Madame Simon had gone before I started drinking. I a little cognac and then drank some more and I finished the rest of the wine and cognac. I then left the house. I took the key back to Madame Simon. I finished drinking with another Kln soldier until I was picked up by the Provost. I do not remember taking any of the articles found in my possession.

R.P. 83(b) complied with

Statement by Accused taken on Oath pertaining to 2nd Charge (Plea of Guilty)

E14201 Pte Giroux P.E. having been duly sworn states.

I am E14201 Pte Giroux P.E.

I was working in the M.I.R. No 1 Fd Punishment Compound Det. Barracks. with 2/6 pt Shear. On the 2. Nov when he came back from the sick parade he had with him a bottle of cognac and offered me a drink. I took one. After dinner he wanted to get ~~and~~ I had another bottle and on returning he offered me some I refused and told him I had only 8 days to do and I didn't want any trouble. He told me if something happened he would take care of me. We drank a bottle and a half and around 1800 hrs the Sgt Major found out he 2/6 pt was drunk and he looked ~~after~~ for me and put us in the hole. I escaped from there.

R.P. 83(b) complied with

Prosecutors Closing Address
in the case of E-14207 Pte. Giroux P.F.

Sirs: the prosecutions has presented sufficient evidence to prove each point in this very serious charge. The date, time, place have been proven, the articles positively identified by both the owners & the provost who arrested him & the articles on his person. In view of the fact that this was a dastardly act committed by a Canadian soldier enjoying the hospitality & confidence of friendly Belgian civilians, I ask the court to return a verdict of guilty.

[illegible signature]
Recorder

Closing Address for Prosecution
in the case of Pte Firsing

Sirs:

In summing up the evidence I would ask you to consider these points.

Before Madame Simon left the house on the morning of the 27th she showed Pte Firsing a bottle of wine which she told him she had bought for that evening & that if he felt inclined, he could have a drink. That morning Pte Firsing had only had one coffee & no food. He had a drink of wine & I need not explain how that only made him feel that he should have more. I admit it was a weakness on his part - but a weakness he could not help at the time. Pte Firsing had more wine, then cognac & then wine again & I am certain that the court is aware of

the effect that such a combination would have on an empty stomach.

After having these drinks the prisoner does not remember what he did & is not responsible for his actions in the same way as a normal person is. I wish to draw the courts attention to sections 8 & 9 of chap VII of the Act. I cannot quote for I have not an Act with me - but the courts will find words to the effect that if the mind of a person is so affect by some disease that he is unaware of the nature of the crime & incapable of forming the specific intent necessary to constitute the crime he should not be convicted of it. Intoxication can affect the mind to such an extent & if the court considers the evidence brought out I am sure they will find that in the case the mind of the accused was so affected. In the first place

the accused consumed approx a bottle of wine & half a bottle of cognac that in itself should be sufficient proof. Secondly the witnesses all testify that he was very drunk — he was so drunk he couldn't even open the door but had to call for help. And lastly I would ask the court to consider the articles found on the accused. What normal person would go taking a ladies handkerchief — or what good to a soldier is a ladies nail file with green handle ... I truly a person so far gone that he absolutely didn't know what he was doing would take such things. At the time that the accused did take them his mind was so far gone that he didn't even know what he was taking & was incapable of forming the specific intent that is necessary. In view of these facts I would

ask the court to consider this as a special case & with reference to the stock as a guidance for such a special case I feel that the accused should be acquitted.

Respectfully submitted

Thompson.

Plea in Mitigation of Punishment:
in the case of Pte Grieve P.E.

Sir Before the court considers the sentence I would ask you to consider these points.

The accused joined the army in Nov of 39 when he was only 19 yrs of age - He served with the army service corps for over a year working with an ammunition coy. In Jan 41 he was discharged & spent some time in the hospital but on coming out joined up again with the army because he felt he had a special job to do. He joined & enlisted the second time with the service corps in July of 41 & was later transferred to the 18th Fd Ambulance section.

He had been up to the front with the 18 Fd ambulance for about one month when recalled back for ~~that~~ he had trial on a charge of AWL that had been pending for several months & had been put off because there was not sufficient evidence.

He was tried on the charge & sentenced to 90 days & said my

8 more days to complete his sentence when he broke out. I wish to ask the court to consider the circumstances under which this was done — the accused had been drinking cognac for most the afternoon & when he was locked up & given the opportunity of escaping he was unable to forsee the seriousness of his offence. The accused is at present aware that drunkenness is no excuse for crime but at the time his mind was incapable of functioning properly — this is only too well brought out by the fact that no person under normal circumstances would do so with only 8 day of sentence left to do.

I would ask the court to take this into consideration in determining the sentence & with special reference to sections 47 & 48 of Chap III of A.F.O.L.R. where it states such circumstances should lessen the punishment.

I would also ask you to consider that the accused is fit & ready to go back to the front where he is urgently needed. He is anxious to go back to his unit & carry on with his work.

I notice the [illegible] & [illegible] if the court consider that all those entries were spread over a period of yrs & most of them are only minor a wk of a day or so the record is not at all bad.

In conclusion I would ask the court to deal as leniently as possible with this ~~[illegible]~~ soldier in order that he may soon be able to rejoin his unit & carry on the work for which he joined up.

Respectfully submitted
[illegible]

Ex "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of E14207 Pte GIROUX, P E, No 18 Cdn Fd Amb RCAMC a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

First Witness: Mr EDWARD SIMON (Foreman) 29A Rue EDGAR TINEL, BRUSSELS being unable to speak English required an interpreter. Interpreter (French-English) Capt G HESSEY-WHITE CWAC CDN SEC HQ BRUSSELS GARRISON has been duly sworn.

The witness, Mr EDWARD SIMON, having been duly sworn states:

"When I came home on Saturday the 25th of November 1944, I saw Paul, whom I recognize here, with another soldier at my home. They both stayed for supper and they both left about 10:00 O'Clock that night. Before they left they were invited to return the next day and we gave them our visiting card and our telephone number and address on it.

When I came home on Sunday night my wife said that Paul had phoned and had asked if he could come over after a film show and stay the night, to which my wife had said "yes". Paul came to supper that evening and before going to bed we told him we had to go to work early in the morning to which Paul said it was a pity and my wife asked him "why". He said that he usually got up late around mid-day. My wife told him that she'd leave the keys with him and he could bring them to her place of work when he was ready to leave. We all went to bed then. In the morning I left for work at 7:00 AM and Paul was still in the house. I returned home between 6:30 and 7:00 that evening and found no one home. I went into the kitchen to start the fire and having difficulty I sorted out the contents of the stove. I found my visiting card, two slices of bread and a piece of half-burnt paper. It was all wet and I think that the paper had wine spilled over it. Shortly afterwards my wife came in. She had been waiting to meet Paul to go to a show but he hadn't turned up. Then I looked around and noticed wine had been spilled all over the place and Mlle LIBERT called me into the dining room to show me a key which was lying of the buffet, where it shouldn't have been. I saw the drawer of the bureau open and I noticed several things missing, they were: money from my box which is kept in the drawer, there was about 400 francs composed of nickeled pieces of various amounts among which were 2, 20 franc pieces, also an English shilling and a two shilling piece. From another box a 100 franc note was gone too. On the following Wednesday I was looking for my cigarette case and I found it gone. After that at various times I found these items missing: razor and blades, cigar case(Leather) comb, pair of gloves, handkerchief, compact, watch and nail file. I didn't know that the gloves, handkerchief, compact, watch and nail file were missing until I saw them here to-day. I never had occasion to look for them before. I recognize this cigar case as mine (Exhibit "A"), cigarette case as mine (Exhibit "B"), compact is my wife's (Exhibit "C"), my First Communion watch (Exhibit "D"), my wife's nail file (Exhibit "E"), my razor and blades (Exhibit "F"), my handkerchief (Exhibit "G") my gloves (Exhibit "H")

Accused declines to cross-examine.

Question by Officer taking the Summary.

Q: Were these items, cigarette case, cigar case, compact, watch, nail file, razor and blades, handkerchief and gloves which you have just identified, in the house when you left it on the morning of the 27 NOV 44.

A: Yes.

EDWARD SIMON

2)

Second Witness: Madam GUSTAVIE SIMON (Waitress) 29A rue EDGAR TINEL BRUSSELS being unable to speak English requires an interpreter. Interpreter (French-English) Capt G HESSEY-WHITE, CWAC CDN SEC HQ BRUSSELS GARRISON has been duly sworn.

The witness Mme GUSTAVIE SIMON having been duly sworn states:

"On the 25 November 1944 at about 5:00 PM I invited Paul whom I recognize in this room and his friend to come to my home for dinner. They did, coming back with me and we arrived at my home 29A rue EDGAR TINEL BRUSSELS at about 5:45 in the afternoon. They had supper and left about 10:00 O'Clock that night. Before they left I invited them back the next day, but I asked them to telephone before coming as I'd be in all day. The next day Paul telephoned about 5:00 PM and asked if he could stay here. I said "yes", and he came about 9:00 O'Clock. He had dinner with us. We sat up talking quite late and before going to bed I told him I'd have to get up early in the morning to go to work. He answered "French-Canadians don't eat breakfast in the mornings and I'd rather stay in bed until 1:00 O'Clock". As he had come from the front I wanted him to get as much sleep as possible, so I left him [illegible] my keys, so he wouldn't be disturbed in the morning. We all went to bed then. In the morning about 9:00 O'Clock Paul got up himself and had some coffee with me and smoked a cigarette before I went to work, before I left for work I showed him where the keys were, and asked him to bring the keys to Cafe de la Poste, where I worked, before I left. He telephoned me at 12:30 noon to say "thank you for your hospitality" and "I'll bring your keys at 1:30 PM. He brought me the keys at 2:30 PM. He was drunk when he brought the keys to me. I gave him a rendez-vous to join me for the theatre and he said he'd be there at 4:30 PM. I waited for an hour there for him, but when he didn't come I returned home, arriving between 6:30 and 7:00 PM. When I got in my husband was already home. My husband was trying to start the fire, but the stove had my visiting card which I had given Paul, two slices of buttered bread which I had given him for his breakf st and wads of paper soaked with wine, in it, and he couldn't get it started. I saw my wine bottel was now empty, wine was splashed on the wall and floor. I also saw a key lying on the buffet which iskept in the kitchen drawer and the buffet's top drawer had been forced open, evidently with a kitchen knife because it wasn't in its usual position in the drawer and its point was broken. I found the following things missing which were there when I left in the morning: over 400 francs composed of small change ranging from 50 centimes to 20 franc pieces, also an English 1 shilling piece and a 2 shilling piece, a cigar case(Leather), a silver cigarette case, and a hundred franc note which was left on the buffet. There was also a razor and blades, a tube of tooth-paste, and a black comb of my husbands".

Accused declines to cross-examine.

Questioned by the Officer taking the Summary.

Q: Have you ever seen this before? (handing a cigarette case to witness).

A: Yes it belongs to my husband.

M SIMON GUSTAVIE

3)

Third Witness: Mlle GILBERT LIBERT (hairdresser) No 29A RUE EDGAR TINEL, BRUSSELS, being unable to speak English requires an interpreter. Interpreter (French/English) Captain G HESSEY-WHITE, CWAC CDN SEC HQ BRUSSELS GARRISON has been duly sworn.

The witness Mlle GILBERTE LIBERT having been duly sworn states:

"The first time I saw Paul whom I recognize as being in this room, was about 6:45 in the afternoon of the 25 November 1944, when he came to the house at 29A RUE EDGAR TINEL BRUSSELS with Mme SIMON. He had dinner and left about 9:45 that evening. The next day he phoned in the afternoon about 3:00 O'Clock and asked if he could come and sleep here and that he might come with his friend. He arrived alone about 9:00 O'Clock in the evening and he had dinner with us. During dinner Madam SIMON said they all had to work in the morning and Paul said "In Canada we never get up until 12:00", so Madame SIMON said she'd leave the keys and he could bring them up to her at the Cafe de la POSTE where she worked, when he was ready to leave. Paul stayed all night and I left for work at 8:00 O'Clock the next morning. M SIMON left before I left, it was about 6:45. I returned about 6:30 in the evening with Mde SIMON and I saw the tablecloth was all dirty and the wall had wine spilled on it. I saw a key which is kept in a drawer in the kitchen, lying on the buffet where it shouldn't have been. I told Mde SIMON".

The accused declines to Cross-examine.

Questioned by the Officer taking the Summary.

Q: Have you ever seen this before? (handing a cigarette case to witness)

A: Yes, it belongs to M SIMON.

LIBERT GILBERTE

Fourth Witness: Madame IDA BORMANS (housewife) 29A RUE EDGAR TINEL BRUSSELS being unable to speak English requires an interpreter. Interpreter (French-English) Capt G HESSEY-WHITE CWAC CDN SEC HQ BRUSSELS GARRISON has been duly sworn.

The witness Mme IDA BORMANS having been duly sworn states:

"On Monday 27th November about 1:30 PM this soldier whom I recognize here, called me down to the door because he couldn't get it unlocked. My husband went down with me and we got the door open. He then asked instructions to the Cafe de la POSTE. We gave them to him. I believe he was drunk.

Accused declines to cross-examine.

IDA BORMANS.

Fifth Witness: H19018 A/Cpl BEMENT G H V, No 2 Cdn L of C Provost Coy having been duly sworn states:

"On the night of the 27th November 1944 I was NCO IC town partols, BRUSSELS. I received a complaint from a civilian that a soldier had slept at his house on the evening 26/27 NOV 44. This civilian gave me a description of this soldier and stated he frequented the Cafe ROYAL MIDI, Rue du MIDI. At approximately 0605 hrs I proceeded to the above mentioned Cafe and found a soldier fitting the description. I asked this soldier for his pass and he stated he did not have one. I requested his pay book and he stated he didn't have one as he had escaped from a Cdn Field Punishment Camp. I escorted him to the US Military Police Station for further questioning. I was accompanied of this trip by L/Cpl GAUTHIER G, of this Unit. On the way to the American Police Station it was necessary to stop the vehicle to give some directions to an English Officer. Whilst stopped this soldier who is present here and whom I recognize E14207 Pte GIROUX P E, whose identity I obtained from his identity disks, jumped from the vehicle and attempted to escape. I gave chase accompanied by L/Cpl GAUTHIER and caught Pte GIROUX after running about 200 yds. On arrival at the American Police Station I removed Pte GIROUX's property from his person, placing it in his hat and later turning it over to the NCO IC Prince Albert Barracks guard room where I escorted Pte GIROUX.

Accused declines to cross-examine.

G H V BEMENT

Sixth Witness: E10180 L/Cpl GAUTHIER G, No 8 Sec 2 Cdn L of C Coy Provost Corps having been duly sworn states:

"On the night 27/28 NOV 44 I assisted Cpl BEMENT at the Cafe Gare de MIDI to check Pte GIROUX's identity and pass. I recognize this man here as Pte GIROUX. He couldn't produce a pass so Cpl BEMENT put him under arrest. We left with the accused in our car to take him to the US Police Station. On the way there we stopped at the corner of Rue de la Loi to give information to an officer and while we do that, this Pte GIROUX got out of the car and run away. Cpl BEMENT and I chase him and Cpl BEMENT catch him about 200 yds away. I helphd Cpl BEMENT bring him back to the car. Then we took him to the US Police Station. Cpl BEMENT searched him in front of me and took many things from his pockets and put them in the accused's hat. They included: brown cigar case (Exhibit "A"), silver cigarette case(Exhibit"B") ladies compact (Exhibit "C"), silver pocket watch (Exhibit "D") small nail file (Exhibit "E") razor and blades (Exhibit "F"), handkerchief (Exhibit "G") and pair of gloves (Exhibit "H"). These things are in front of me now and I recognize them.

Accised declines to cross-examine.

G GAUTHIER

5)

Seventh Witness: 6145981 Cpl RICHARDS W H, 276 Coy Pioneer Corps attached 120 CMP Guard Room, having been duly sworn states.

"At BRUSSELS Prince Albert Barracks Guard Room on the night of 27th November 1944 I was on duty when the accused Pte GIROUX whom I recognize was brought in by Cdn Provost Staff. I relieved him of the contents of his hat and placed them in a bag to be taken to the Property Room for safe-keeping. These are some of the items which I took off Pte GIROUX when he was admitted: cigar case (brown)(Exhibit "A"), silver cigarette case (Exhibit "B"), ladies compact (Exhibit "C"), silver pocket watch (Exhibit "D"), nail file (Exhibit "E"), one razor set (Exhibit "F"), one handkerchief (Exhibit "G"), and one pair of gloves (Exhibit "H"). I see these items here in front of me now and I recognize them.

Accused declines to cross-examine.

W H RICHARDS

The articles referred to in the evidence of 6145981 Cpl RICHARDS W H are attached hereto as follows:

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case with green marking
Exhibit "C" - ladies pink compact with zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file with green handle
Exhibit "F" - razor and blades in box
Exhibit "G" - handkerchief
Exhibit "H" - pair of light brown gloves.

(J J H CONNORS) LT RCAMC

Eigth Witness; 547906 Cpl SMITH S, 276 Coy Pioneer Corps having been duly sworn states:

"I do duty booking prisoners in and out also of looking after their personal effects. On the 4 DEC 44 I gave Lieut CONNORS the following items from the property of Pte GIROUX whom I recognize and who was present when I did so: one pocket watch, one ladies compact, one nail file, one cigar case (Leather) one razor and blades, one pair of gloves, and one handkerchief. I also gave him this silver cigarette case about 3 or 4 days ago. All these items had adhesive tape (brown) placed on them on the 4 DEC 44 when I handed them over I put my name on each piece. The accused's kit is kept locked in the Property Room and I got these items from it today".

Accused declines to cross-examine.

CPL SMITH S

6)

Fifth Witness (recalled) : H19018 A/Cpl BEMENT G H V, No2 Cdn L of C Provost Coy having been recalled and duly sworn states:

"Sir I recognize the following articles now in front of me as being among the items of property which Pte GIROUX had in his possession on the night of the 27/28 NOV 44 when I took them off him in the American Police Station:- Leather cigar case (Exhibit "A"), silver cigarette Case (Exhibit "B"), red ladies compact (Exhibit "C"), one pocket watch (Exhibit "D"), green handled nail file (Exhibit "E"), a safety razor (Exhibit "F"), one handkerchief (Exhibit "G") and one pair of leather gloves (Exhibit "H")

Accused declines to cross-examine.

G H V BEMENT

The Form of Order for commitment to a Detention Barracks, marked Exhibit "J", and the certificate of escaping while undergoing detention and of the time and date of absence without leave, marked Exhibit "K", are produced as documentary evidence and were read over to the accused, signed by me and attached hereto.

(J J H CONNORS) LT RCAMC

7)

The accused was cautioned as follows:

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

A: I want to make a statement

Q: On oath or not on oath?

A: On oath.

The accused sworn states:

"I left the Field Punishment Camp on Thursday night. I think it was the 23 or 24 I'm not sure. I slept in ALOST that night. Then I came down to BRUSSELS the next day and I met Mme SIMON and she make me an invitation for supper and I'm been there for supper. I went there for supper next day and I sleep there. I left the house about 11:30 or 12:00 O'Clock and I was drunk and don't remember whats happened after that until I'm being picked up"

PAUL EMILE GIROUX.

The accused does not wish to call witnesses at this point.

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

In the Field
5 DEC 44

(J J H CONNORS) Lt RCAMC
Officer Detailed to Take the Summary

2)

The accused does not wish to call witnesses.

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

In the Field
13 DEC 44

(J J H CONNORS) LT RCAMC
Officer Detailed to take Additional
Summary of Evidence.

8)

Request for Defending Officer

In the Field
5 DEC 44

I desire the services of a defending Officer
I would like the Court to appoint one.

PAUL EMILE GIROUX

List of Witnesses for the Prosecution.

1. Mr EDWARD SIMON (Foreman) 29A RUE EDGAR TINEL BRUSSELS
2. Mrs GUSTAVIE SIMON (Waitress) 29A RUE EDGAR TINEL BRUSSELS
3. Miss GILBERTE LIBERT (Hairdresser) 29A RUE EDGAR TINEL BRUSSELS
4. Mrs IDA BORMANS (Housewife) 29A RUE EDGAR TINEL BRUSSELS
5. H19018 A/Cpl BEMENT G H V, No 2 Cdn L of C Provost Corps
6. E10180 L/Cpl GAUTHIER G No 8 Sec 2 Cdn L of C Provost Corps
7. 6145981 Cpl RICHARDS W H, 276 Coy Pioneer Corps (attached 12C CMP Guard Room)
8. 547906 Cpl SMITH S, 276 Coy Pioneer Corps.
9. A22112 Sjt LANDSTRA L E No 1 F P Camp & Det Bks C Pro C
10. Lieut W D CAIN No 1 F P Camp & Det Bks C Pro C

List of Witnesses for the Defence

Nil

List of Exhibits

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case with green marking
Exhibit "C" - lady's pink compact with zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file with green handle
Exhibit "F" - razor and blades in box
Exhibit "G" - handkerchief
Exhibit "H" - pair of lightbrown gloves (Leather)
Exhibit "J" - Form of order for commitment to a Detention Barracks
Exhibit "K" - Certificate of escaping while undergoing Detention and of the time and date of absence without leave.
Exhibit "J" - Statements of (A22112 Sjt LANDSTRA L E
(Lieut W D CAIN

In the Field
15 DEC 44

(J J H CONNORS) LT RCAMC

ADDITIONAL SUMMARY OF EVIDENCE IN
THE CASE OF

E14207 Pte GIROUX P E
18 Cdn Fd Amb R C A M C
A soldier of the Cdn Army Overseas

The Commanding Officer directs that the evidence willbe given on oath.

1st Witness: A22112 Sgt LANDSTRA L E , no L FP Camp and Detn Bks Cdn Prov Corps.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "J".

(J J H CONNORS) LT RCAMC

I do not require the attendance of A22112 Sgt LANDSTRA L E for the purpose of cross-examination.

(SGD) PAUL EMILE GIROUX

Second Witness: Lieut W D CAIN, No 1 F P Camp and Detn Bks, C Pro C.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "J".

(J J H CONNORS) LT RCAMC

I do not require the attendance of Lieut W D CAIN for the purpose of cross-examination.

(SGD) PAUL EMILE GIROUX.

The accused was then cautioned as follows:

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

A: I have nothing to say.

(SGD) PAUL EMILE GIROUX.

4

Summary of Evidence

Summary of Evidence in the case of E-14207 Pte. Giroux P.E., No. 18 Cdn. Vd. Amb. R.C.A.M.C. a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

~~First~~ third-mf Witness: Mlle. Gilberte Libert (hairdresser) No. 29A Rue Edgar Tinel, Brussels being unable to speak English requires an Interpreter.

Interpreter: (French-English) Captain G. Hessy-White, C.W.A.C., Cdn. Sec H.Q. Brussels Garrison has been duly sworn.

The witness Mlle. Gilberte Libert having been duly sworn states:

"The first time I saw Paul whom I recognize as being in this room, was about 6.45 in the afternoon of the 25th November 1944, when he came to the house at 29A Rue Edgar Tinel, Brussels c̄ ~~Mme.~~ Mme-mf Simon. He had dinner & left about 9.45 that evening. The next day he phoned in the afternoon about 3.00 o'clock & asked if he could come & ~~[illegible]~~ sl-ed sleep here, & that he might come c̄ his friend. He arrived alone about 9.00 o'clock ~~[illegible]~~ in the evening & he had dinner c̄ us. During dinner Madam Simon said they all had to work in the morning & Paul said "In Canada we never get up until 12.00 o'clock", so Madame Simon said she'd leave the keys & he could bring them up to her at the Cafe de la Poste where she worked,

when he was ready to leave. Paul stayed all night & I left for work at 8:00 o'clock the next morning. Mr. Simon left before I left. It was about 6:45. I returned about 6:30 in the evening & Mde. Simon & I saw the tablecloth was all dirty & the wall had wine spilled on it. I saw a key which is kept in a drawer in the kitchen, lying on the buffet where it should not have been. I told Mde. Simon

Accused declines to Cross-examine.

Questioned by the Officer taking the Summary.

Q. Have you ever seen this before? (handing a cigarette case to witness)

A. Yes, it belongs to Mr. Simon.

Albert Gilberte

Second Witness. Madame Suzanne Simon (waitress) 29A Rue Edgar Tinel, Brussels being unable to speak English requires an interpreter. Interpreter (Friend - English) Captain D. Henry White, C.W.A.C. Chr. Sec H.Q. Brussels Garrison has been duly sworn.

The witness Mme Suzanne Simon having been duly sworn States.

"On the 25 November 1944 at about 5:00 p.m. I invited Paul whom I recognize in this room & his friend, to come to my home for dinner. They did, coming back to me & we arrived at my home 29A Rue Edgar Tinel Brussels at about 5:45 in the afternoon. They had supper & left at about 10:00 only left & the accused in our car to take him to the U.S. police station. On the way there we stopped at the corner of Rue de la Loi to give information to an officer & while we do that, this Pte. Simon got out of the car & run away. Cpl. Remont & I chase him & Cpl. Remont catch him about 200 yds away. I helped Cpl. Remont bring him back to the car. Then we took him to the U.S. police station. Cpl. Remont searched him in front of me & took many things from his pockets & put them in the accused's hat. They included: brown cigar case (Exhibit "A"), silver cigarette case (Exhibit "B"), ladies compact (Exhibit "C"), silver pocket watch (Exhibit "D"), small nail file (Exhibit "E"), razor & blades (Exhibit "F"), handkerchief (Exhibit "G"), a pair of gloves (Exhibit "H"). These things are in front of me now & I recognize them."

Accused declines to cross-examine

G Gauthier

Fifth ~~Fourth~~ Witness (recalled) H-19018 A/Cpl Remont G. H.V., No 2 Can. L. of C. Provost Coy having been recalled & duly sworn States.

"I recognize the following articles now in front of me as being among the items of property which Pte. Simon had in his possession on the night of the 27/28 Nov 44 when I took them off him in the American police station: leather cigar case (Exhibit "A"), silver cigarette case (Exhibit "B"), red ladies

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compact (Exhibit "C"); one pocket watch (Exhibit "D"); green handled nail file (Exhibit "E"); a safety razor (Exhibit "F"); one hankerchief (Exhibit "G"); & one pair of leather gloves (Exhibit "H").

Accused declines to cross-examine

[signature]

* The articles referred to in the evidence of [illegible] Cpl. Richards W.H. are attached hereto as follows:

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case & green marking
Exhibit "C" - ladies pink compact & zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file & green handle
Exhibit "F" - razor & blades in box
Exhibit "G" - hankerchief
Exhibit "H" - pair of light brown gloves

~~The Form of order for Commitment to a detention barrack, marked Exhibit "J"; & the Certificate of escaping while undergoing detention & of the time & date of absence without leave, marked Exhibit "K", are produced as documentary evidence, & were read over to the accused, signed by me & attached hereto.~~

Cancelled [illegible]

[signature] Lt.
Reserve

that night. Before they left I invited them back the next day, but I asked them to telephone before coming as I'd be in all day. The next day Paul telephoned about 5:00 p.m. & asked if he could stay two. I said "yes", & he came about 9:00 o'clock. He had dinner c me. We sat up talking quite late & before going to bed I told him I'd have to get up early in the morning to go to work. He answered "French-Canadians don't eat breakfast in the mornings & I'd rather stay in bed until 1:00 o'clock". As he had come from the front I wanted him to get as much sleep as possible, so I left him my keys, so he wouldn't be disturbed in the morning. We all went to bed then. In the morning about 9:00 o'clock Paul got up himself & had some ~~caf~~ coffee c me, & smoked a cigarette before I went to work. Before I left for work I showed him where the keys were & asked him to bring the keys to Café de la Poste where I worked, before he left. He telephoned me at 12:30 noon to say "thank you for your hospitality" & I'll bring your keys at 1:30 p.m. He brought me the keys at 2:30 p.m. He was drunk when he brought the keys to me. I gave him a rendez-vous to join me for the theater & he said he'd be there at 4:30 p.m. I waited for an hour there for him, but when he didn't come I went

home, arriving between 6.30 & 7.00 p.m. When I got in my husband was already home. My husband was trying to start the fire, but the stove had my visiting card which I had given Paul, two slices of buttered bread which I had given him for his breakfast, & wads of paper soaked c̄ wine, in it, & he could not get it ~~start~~ mal started. I saw my wine bottle was now empty, wine was splashed on the wall & floor. I also saw a key lying on the buffet which is kept in the kitchen drawer. & the buffet's ~~[illegible]~~ mal top drawer has been forced open, evidently c̄ a kitchen knife because it wasn't in its usual position in the drawer & its point was broken. I found the following things missing which were there when I left in the morning: over 400 francs composed of small change ranging from 50 centimes to 20 franc pieces, also an English 1 shilling piece & a 2 shilling piece, a cigar case (leather), a mal silver cigarette case, & a hundred franc not which was left on the buffet. There was also a razor & blades, a tube of tooth-paste, & a black comb of ~~[illegible]~~ mal husbands."

Accused declines to cross exame.

Questioned by the Officer taking the Summary.

Q. Have you ever seen this before? (handing a cigarette case to witness)

A: Yes it belongs to my husband.

Mrs Simon Gustave

of the contents of his ~~pockets~~ hat & placed them in a bag to be taken to the property room for safe-keeping. These are some of the items which I took off Cte. Giraux when he was admitted: Cigar case (brown) (Exhibit "A"); silver cigarette case (Exhibit "B"); ladies compact (Exhibit "C"); silver pocket watch (Exhibit "D"); nail file (Exhibit "E"); one razor set (Exhibit "F"); one hankerchief (Exhibit "G"); & one pair of gloves (Exhibit "H"). I see these items here in front of me now & I recognize them."

Accused declines to cross examine

WH Dike

*

~~Sixth~~ Fifth mal Witness. H-19018 A/cpl. Bement G.H.V. No 2 Cdn L of C. Provost Cay. having been duly sworn states:

On the night of the 27th November 1944 I was N.C.O. c̄ town patrols, Brussels. I received a complaint from ~~[illegible]~~ a ~~[illegible]~~ civilian that a soldier had slept at his house on the evening 26/27 Nov 44. This civilian gave me a description of this soldier & stated he frequented the Cafe Royal Midi, Rue du Midi. At approx. 0065 hrs. I proceeded to the arm cafe & found a soldier fitting the description. I asked this soldier for his pass & he stated he did not have one. I requested his pay book & he stated he did not have one as he had escaped from a Cdn Fd.

10)

Punishment Camp. I escorted him to the U.S. Military Police station for further questioning. I was accompanied on this trip by 4/cpl. Gauthier G. of this Unit. On the way to the American police station it was necessary to stop the vehicle to give some directions to an English Officer. Whilst stopped this soldier who is present here & whom I recognize E-14207 Pte. Giroux P.E. whose identity I obtained from his identity disks, jumped from the vehicle & attempted to escape. I gave chase accompanied by 4/cpl. Gauthier & caught Pte. Giroux after running about 200 yds. On arrival at the American Police Station I removed Pte Giroux's property from his person, placing it in his hat & later turning it over to the N.C.O. ½ Prince Albert Barracks guard room where I escorted Pte. Giroux. ~~[illegible]~~ B.

Accused declines to cross examine

G.W. Bement

Sixth ~~Eight~~ Witness: E-10180 4/cpl. Gauthier G. No. 8 Sec. 2 Cdn. L. of C. Coy Provost Corps. having been duly sworn states.

On the night 27/28 Nov 44 I assisted Cpl. Bement at the Cafe ~~Rue~~ Gare de Midi to check Pte Giroux's identity & pass. I recognize this man here as Pte Giroux. He could not produce a pass so Cpl. Bement put him under arrest. We

5)

Fourth - msl

~~Third~~ Witness: Madame Ida Bormans (housewife) 29A Rue Edgar Tinel, Brussels being unable to speak English requires an interpreter.

Interpreter (French-English) Capt. G. Hessy-White, C.W.A.C. Cdn-Sec. H.Q. Brussels Garrison has been duly sworn.

The witness Mme. Ida Bormans having been duly sworn states:

"On Monday 27th November about 1.30 p.m. this ~~[illegible]~~ msl soldier whom I recognize here, called me down to the door because he could not get it unlocked. My husband went down c̄ me & we got the door open. He then asked instructions to the Cafe de la Poste. We gave them to him. I believe he was drunk.

Accused declines to cross examine.

Ida Bormans

First - msl
~~Third~~ - msl

~~Fourth~~ Witness: Mr. Edward Simon (Foreman) 29A Rue Edgar Tinel, Brussels being unable to speak English requires an interpreter.

Interpreter (French-English) Capt. G. Hessy White C.W.A.C. Cdn-Sec-H.Q. Brussels Garrison has been duly sworn.

The witness Mr. Edward Simon having been duly sworn states:

"When I came home on Saturday the 25th of November 1944, I saw Paul whom I recognize here c̄ ~~of~~ another soldier at my home. They both stayed for supper ~~[illegible]~~

& they both left about 10.00 o'clock that night
Before they left they were invited to return
the next day & we gave them our visiting
card c̄ our telephone number & address on it
When I came home on Sunday night my
wife said that Paul had phoned & had
asked if he could come over after a film
show, & stay the night, to which my
wife had said "yes". Paul came to
supper that evening & before going to bed
we told him we had to go to work early
in the morning to which Paul said, it
was a pity, & my wife asked him "Why".
He said that he usually got up late around
midday. My wife told him that she'd leave
the keys c̄ him & he could bring them to her place
of work when he was ready to leave. ~~He~~
We all went to bed then. In the morning
I left for work at 7.00 a.m. & Paul was
still in the house. I returned home between
6.30 & 7.00 that evening & found no one home.
I went into the kitchen to start the fire
& having difficulty I sorted out the contents
of the stove. I found my visiting card,
two slices of bread, & a piece of half-burnt
paper. It all was wet & I think the paper
had wine spilled over it. Shortly afterwards
my wife came in. She had been waiting to meet
Paul to go to a show but he had'nt turned up.
Then I looked around & noticed wine had been
spilled all over the place & Mlle. ~~[illegible]~~ Liberty
called me into the ~~[illegible]~~ dining room to show
me a key which was lying on the buffet where
it should'nt have been. I saw the drawer

of the bureau open & I noticed several things
missing, they were: Money from my box
which is kept in the drawer. There was about
400 francs composed of nickeled pieces of
various amounts among which were 2 20 franc
pieces, also ~~[illegible]~~ an English shilling & a two ~~[illegible]~~
shilling piece. From another box a 100 franc
note was gone too. On the following Wednesday
I was looking for my cigarette case & I found it
gone. After that at various times I found
these items missing: razor & blades, cigar
case (leather), comb, pair of gloves, hankerchief,
compact, watch, & nail file. I did'nt know
that the gloves, hankerchief, compact, watch &
nail file were missing until I saw them
here to-day. I never had occasion to look for
them before. I recognize this cigar case as
mine (Exhibit "A"); cigarette case as mine (Exhibit
"B"); compact is my wife's (Exhibit "C"); my
First Communion watch (Exhibit "D"); my
wife's nail file (Exhibit "E"), my razor & blades
(Exhibit "F"); my hankerchief (Exhibit "G");
my gloves (Exhibit "H").

Accused declines to cross examine
Questioned by Officer taking the summary.

Q: Were these items, cigarette case, cigar case,
compact, watch, nail file, razor & blades,
hankerchief & gloves which you have just
identified, in the house when you
left it on the morning of the 27 Nov 44

A: Yes.

[illegible signature]

8/

Eight ~~Fifth~~ Witness: 547906 Cpl. Smith S. 276 Coy Pioneer Corps, having been duly sworn States. "I do duty booking prisoners in & out also of looking after their personal effects. On the 4 Dec 44. I gave Lieut Connors the following items from the property of Pte. Giroux whom I recognize & who was present when I did so; one pocket watch, one ladies' compact, one nail file, one cigar case (leather), one razor & blades, one pair of gloves, & one handerchief. I also gave him the cigarette case about 3 or 4 days ago. All these items had adhesive tape (brown) placed on them on the 4 Dec 44 when I handed them over. I put my name on each piece. The accused's kit is kept locked in the Property room & I got these items from it to-day."

Accused declines to cross examine

Cpl Smith S.

~~Sixth~~ Witness: 6145981 Cpl. Richards W.H. 276 Coy. Pioneer Corps, attached 120 C.M.P. Guard Room, having been duly sworn States. "At Brussels, Prince Albert Barracks guard room on the night of the 27th of November 1944 I was on duty when the accused Pte. Giroux whom I recognize was brought in by Cdn Provost Staff. I relieved him

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Request for Defending Officer

In the Field
5 Dec 44

I desire the services of a defending Officer
I would like the Court to appoint one.

Paul Emile Simon

List of Witnesses for the Prosecution

1. Mr. Edward Simon (Owner) 29A Rue Edgar Tinel, Brussels
2. Mrs. Gustavie Simon (waitress) 29A Rue Edgar Tinel, Brussels
3. Miss Gilberte Lilint (hairdresser) 29A Rue Edgar Tinel, Brussels
4. Mrs. Ida Bormans (housewife) 29A Rue Edgar Tinel, Brussels
5. H-19018 A/Cpl. Bennett G.H.V., No. 2 Cdn. L. of C. Provost Coy.
6. E-10180 L/Cpl. Gauthier G., No. 8 Sec. 2 Cdn. L. of C. Provost Corps.
7. 6145981 Cpl. Richards W.H., 276 Coy. Pioneer Corps (attached 120 C.M.P. Guard Room)
8. 547906 Cpl. Smith S., 276 Coy. Pioneer Corps.
9. A-22112 Sgt. Landstra L.E., No. 1 F.A. Camp & Detn. Bks., Cdn. Prov. Corps
10. Lieut. W.D. Cain, No. 1 F.A. Camp & Detn. Bks., Cdn. Prov. Corps

List of Witnesses for the Defence

Nil

List of Exhibits

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case c̄ green marking
Exhibit "C" - lady's pink compact c̄ zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file c̄ green handle
Exhibit "F" - razor & blades in box
Exhibit "G" - hankerchief
Exhibit "H" - pair of light brown gloves (leather)
Cancelled ~~Exhibit "I" - Form of order for commitment to a detention barrack~~
~~Exhibit "K" - Certificate of escaping while undergoing detention & of the time & date of absence without leave~~
Insert Exhibit "J" - Statements of {A-22112 Sgt. Landstra L.E. / Lieut. W.D. Cain}

In the Field
13 Dec 44

M.S. [illegible] Lt.
Rooms

13)

The accused was cautioned as follows.

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

A: I want to make a statement.

Q: On oath or not on oath?

A: On oath.

The accused, sworn, states.

"I left the F.P. Camp on a thursday night. I think it was a 23 or 24 I'm not sure. I slept in Alost that night. Then I come down to Brussels the next day & I met Mme. Simon & she make me an invitation for supper & I'm been there for supper. I went there for supper next day & I sleep there. I left the house about 11.30 or 12.00 o'clock & I was drunk & I don't remember whats happened after that until I'm being picked up."

Paul Smile Simon

The accused does not wish to call witnesses at this point.

I certify that the foregoing Summary of Evidence, consisting of fourteen pages, was taken by me in the presence of the accused and that R.P. 4 (c), (D), (E), (F), and (G) have been complied with.

In the Field
5 Dec 44

[signature] Lt. Rome
Officer Detailed to Take the Summary

1/

Additional Summary of Evidence
in the Case of

E-14207 Pte Giroux P.E.
18 Cdn. Fd. Amb. R.C.A.M.C.
A Soldier of the Cdn. Army Canada.

The Commanding Officer directs that the evidence will be given on oath.

1st Witness: A-22112 Sgt. Sandstra L.E., No. 1 F.P. Camp & Detn. Bks, Cdn. Prov. Corps:

I certify that in my opinion the attendance of this witness is, owing to the ~~absence of~~ exigencies of the ~~this N.C.O. on duty~~ service mtl, not readily procurable, & a written copy of his evidence, ~~signed~~ mtl has been read to the accused & is attached hereto as Exhibit "J".

[signature]

I do not require the attendance of A-22112 Sgt. Sandstra L.E. for the purpose of cross-examination.

Paul Emile Giroux

Second Witness: Lieut. W.D. Cain, No. 1 F.P. Camp & Detn. Bks, Cdn. Provost Corps:

I certify that in my opinion the attendance of this witness is, owing to the ~~absence of this officer on duty~~ exigencies of the service mtl, not readily procurable, & a written statement of his evidence, signed by him has been read to the accused & is attached hereto as Exhibit "J".

[signature]

I do not require the attendance of Lieut. W.D. Cain for the purpose of cross-examination.

Paul Emile Giroux

The accused was then cautioned as follows:

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you

wish to do so, but whatever you say or any evidence you give will be taken down in writing & may be given in evidence.

A: I have nothing to say

Paul Emile Giwes

The accused does not wish to call witnesses

I certify that the foregoing Additional Summary of Evidence, consisting of two pages was taken down by me in the presence of that accused & that RP 4(C), (D), (E), & (F), have been complied to

[illegible] Le Roux
Officer Detailed to take Additional Summary of Evidence

In the Field
13 Dec 44

Statements of A-22112 Sgt. Landstra L.E. & [illegible] W.D. Cain, both of No. 1 F.P. Camp & Detn Bks Cdn Prov Corps.

Exhibit "J"

No 1 FP Camp & Detn Bks.
Cdn Pro C.

29 Nov 44

THIS IS TO CERTIFY, that:

E-14207 Pte GIROUX, Paul Emile, 18 Cdn Fd Amb RCAMC att No 1 FP Camp & Detn Bks., Cdn Pro C., whilst in lawful custody undergoing detantion, did escape at approximately 1820 Hrs 23 Nov 44. Date of admission - 12 Oct 44.

This SUS is still absent. MBM Parts 1,2,3 are not on hand and enquiry has been made with his unit as to their whereabouts.

W.L. Cain Lieut. for Capt.
(DAPM) (Comd)
No 1 FP Camp & Detn Bks.
Cdn Pro C.

CERTIFIED TRUE COPY OF EVIDENCE

On the night of 23 Nov 44 I was night Orderly Sergeant At approximately 1820 hrs whilst making my routine check of the cells, I found GIROUX, P.E. to be absent. I searched the quarters and buildings but he was not to be found and he remained absent throughout the night.

(Sgd) L.E.Landstra - Sgt.
A-22112.

No 1 FD. PUNISHMENT CAMP
29 NOV 1944
ORDERLY ROOM
CDN. PRO. C.

CERTIFIED TRUE COPY OF ORIGINAL EVIDENCE HELD IN THIS UNIT

W.L. Cain Lieut.

No. 1 FD. PUNISHMENT CAMP
CDN. PRO. C.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Field	14 Aug 43	Pte		WOAB AWL from 2300 hrs 14 Aug 43 until 1940 hrs 17 Aug 43.(Total 68 hrs 40 minutes.) AA Sec 15(1)	RSM Proulx,LR Sgt Latulippe L.P.	28 days F.P.	18 Aug 43	Lt-Col CU Letourneau	Forf 3 days' pay for absence.
Field	15 Sep 43	Pte		AA Sec 15(1) Absented himself without permission from 0800 hrs 15 Sep 43 until 1815 hrs 27 Sep 43. Absent 2 dys 10 hrs 15 mins.	RQMS Gagnon Cpl Cholniere Document.	28 days FP	19 Sep 43	Lt-Col Letourneau	Forf 3 days' Pay for absence.
Field	8 Jan 44	Pte		1)AA Sec 15(1) AWL from 2300 8 Jan to 0020 9 Jan 44(1 hr 20 min)	Sgt Cote,L. Cpl Gladstone	28			
Field	9 Jan 44	Pte		2)AA Sec 10(4) Broke out of Bks while under open arrest.	Sgt Cote,L. S/Sgt Bishop	28 days Fd Punishment.	10 Jan 44	Lt-Col C.U. Letourneau	Forf 1 day's Pay for absence.
"	"	"	"	3)AA Sec 15(1) AWL from approx 1625 to approx 2245 9 Jan 44. Total 6 hrs 20 mins.)	S/Sgt Bishop Cpl Prechette L/C StPierre,T				
"	"	"	"	4)AA Sec 19 Drunkenness while under open arrest	Capt Robert S/Sgt Bishop				

No. E14807 Name Giroux, P.E. | Sqn. Battery or Company | Corps R.C.A.M.C. | Date of enlistment 30-7-41 | OC Badges | Service or Proficiency Par | MFM 6 (AFB 122) 40/PAM/136 (3458)

Date of last entry in Company Conduct Sheet N.A. | No and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 30-1-42 ; no entry; no cases of drunkenness									
Henley	19-8-42	Pte		AA Sec 40 failed to appear on 1330 hrs parade	Cpl Edwards L/Cpl Hatton	5 days C.B.	19-8-42	Capt Gander	
Field	13-2-43	Pte		AA Sec 40 whilst in a public place namely Coach & Horses, gave the nazi salute upon entering.	Pte StPierre, RY Pte StPierre, T	14 days CB 28 dys pay	16-2-43	Lt-Col Letourneau, C.U.	
Field	12-6-43	Pte		AA Sec 15(1) AWL from 2259 hrs 12-6-43 until 2355 hrs 12-6-43. Total: 56 minutes)	Cpl Langelis, QMS Proulx, LR	7 days C.B.	14-6-43	Capt Blais, E.	
Field	2 Aug 43	Pte		AA Sec 15(1) AWL, from 2259 hrs 2 Aug until 0015 hrs 3 Aug 43. Absent 1 hr 16 minutes.	Cpl Choiniere Pte Marin, L.	7 days CB C&B	3 Aug 43	Capt Landry, RD	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21-2-44	Pte		1. AA Sec 15 (1) AWL 10 Days 8 hrs.	Sgt Langlais C	90 Days	3 Oct 44	FGCM	Forf 90 days pay for sent. Forf 33 days for for AWL Forf 5 days pay for Close Arrest.
"	3-3-44	Pte		2. AASec 15 (1) AWL 21 days. 8 hrs 15 mins	Sgt Label C DOCUMENTARY	Detention			
				SENTENCE CONFIRMED BY BRIG - 5 Cdn Inf Bde.					

MFM 6
(AFB 122)
40/P&S/136 (3438)

E14207 Name GIROUX Paul, Emile

Sqn, Battery or Company N.A.

Corps Royal Canadian Army Medical Corps

Date of enlistment 30-7-41

OC Badges

Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet N.A.

No and date of last drunk N.A.

Period not reckoning towards freedom from extra fine N.A.

Sheet No 2

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 44	Pte		AA Sec 15(1) AWL., on the 14 Feb 44 8 hours 20 minutes.	A/CSM McDougall, JE	7 dys CB.	16 Feb 44	Major Stevenson	Forf 1 dys' pay for abs.

CERTIFIED TRUE COPY.... Trockmann Capt RCAMC
Officer i/c Records
18 Cdn Fd Ambulance, RCAMC

(PTO)

MEDICAL OFFICER'S CERTIFICATE

I certify that No. W-14207 Pte Giroux, P.E. Regiment

is Fit to undergo trial by Court-Martial.

17 Dec 44 (sgd) F.P. Pick, Capt.
RCAMC

A.C.Kavanagh, Maj.
Pres.

4M-127

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31)
40-P-ALR-1696 (2864)

Convened by Order of Major General E.L. Burns Comd 1 Can Base Sub Area dated 1 Feb 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-14207	Pte	Paul Emile	Circe	1 Can Sec GHQ Tps

certified true copy
W.H. Waugh Major
D.J.A.,
Can Sec G.H.Q. 2 Echelon

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 15th Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (~~are~~) RCK brought before the Court. At 1400 hours trial commences.

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

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

A5. President to accused: Do you object to LT M.LAMARCHE as interpreter? Ans NO

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

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

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

Ans C (2)

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

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

President	Major	A.C. Farnsworth	Can of Can
Member	Capt	T.How ard	10 Cdn Inf Bn
Member	Lieut	M.Lamarche	10 Cdn Inf Bn
Judge-Advocate			
Prosecutor	Lieut	J.J.B. Commeau	RCAC
Defending Offr	Lieut	A.J. Mann	10 Cdn Inf Bn

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans [illegible] (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 21 p 3.)

A8. The accused ~~before arraignment make(s)~~ RCK (~~is~~) plea (2)

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

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

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

A10. The Court ~~re-considers~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form I C D E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans Yes.(5)

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

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on 2nd & 3rd charge(s). ~~The accused is (are) so informed, and he (they) (~~~~) ~~charge(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~~~

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Make statement not on oath. Do you intend to call witnesses on your behalf ? Ans No. Are they witnesses as to character only ? Ans .....

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

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 885. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

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

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

(1. AA 54(3) (6), RP 43, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

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

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

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

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

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

(1. When several accused tried separately see RP 7(D). One sentence only, consequent of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 1923,

SCHEDULE.

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

Accused: R-14207 Pte Giroux, Paul Emile

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

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

At present under sentence for 90 days detention beginning on (date) 3 Oct 44 (1)

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

Time in confinement awaiting present trial—a total of 20 days, of which Nil days were spent in hospital. (1)

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

Sentence Awarded by the Court:

Two (2) years less three (3) months imprisonment with hard labour.

(Sgd) ..... Judge-Advocate, if any. 12 Dec 44 Date awarded. (Sgd) A.C. Kavanagh President. (RP 45, 50.)

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

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

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

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

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

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

Confirmed

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

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

(Sgd) [illegible], Major General

Date 20 Dec 1944 Commanding Officer i/c Canadian Section [illegible] Confirming Officer.

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

Accused.	Date.	Signature of Offr.
R-14207 Pte. Giroux, P.E.	24 Dec 44	(sgd) Maj. DAAG, Cdn Sec HQ Brussels Garrison

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No E14207 Name Giroux Paul Emile | Sqn, Battery, or Company | Corps RCAMC | Date of enlistment 30-7-41 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb44	Pte		AA Sec 15(1) AWL on the 14 Feb44 @ hrs 20 mins	A/CSM McDougall,JE	7 days CB	16 Feb44	Major Stevenson	forf 1 days pay for absence

Certified true Copy

(sgd) [illegible]

Capt, RCAMC

Officer i/c Records

18 Cdn Fd Ambulance, RCAMC

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded.	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21-2-44	Pte		1. AA Sec 15 (1) AWL 10 Days 8 hrs	Sgt Langlais C				
"	3-3-44	Pte		2. AA Sec 15 (1) AWL 21 days 8 hrs 15 mins	Sgt Label G Documentary	90 Days Detention	3 Oct 44	FGCM	Forf 90 days pay for Sent Forf 33 days for AWL Forf 5 days pay For Close Arrest
				Sentence confirmed by Brig - 5 Cdn Inf Bde.					

Ex "A"

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE in the case of H-14207 Pte Giroux,P.E. No 18 Cdn Fd AMB RCAMC a soldier of the Canadian Army Overseas.

The Commanding Officer diredts that the evidence shall be given on oath.

FIRST WITNESS: Mr Edward Simon (foreman) 29A Rue Edgar Tinel, Brussels being unable to speak English required an interpreter. Interpreter (French English) Capt G Wessey-White CWAC Cdn Sec HQ Brussels Garrison has been duly sworn.

The Witness, Mr Edward Simon, having been duly sworn states:

"When I came home on Saturday the 25th of November 1944, I saw paul, whom I recognize here, with another soldier at my home. They both stayed for supper and they both left about 10 O'clock that night. Before they left they were invited to return the next day and we gave them our visiting card and our telephone number and address on it.

When I came home on Sunday night my wife said that paul had phoned and had asked if he could stay the night, to which my wife had said yes. Paul came to supper that night and before going to bed we told him we had to go to work early in the morning to which Paul replied it was a pity and my wife asked him"why". He said that he usually got up late around midday. My wife told him that she'd leave the keys with him and he could bring them to her place of work when he was ready to leave. We all went to bed then. In the morning I left for work at 7.00 AM and Paul was still in the house. I returned home between 6.30 and 7 PM that evening and found no one home. I went into the Kitchen to start the fire and having diffic ulty I sorted out the contents of the stove. I found my visiting card, two slices of bread and a piece of half burnt paper. It was all wet and I think that the paper had wine spilled over it. Shortly afterwards my wife came in. She had been waiting to meet paul to go to a show but he hadn't turned up. Then I looked around and noticed wine had been spilled all over the place and Mrs Libertte called me into the dining room to show me a key which was lying on the buffet, where it shouldn't have been I saw the Bureau open and I noticed several things missing, they were money from my box which is kept in the drawer, there was about 300 francs composed of nickeled pieces of various amounts among which were two 20 franc pieces, also an English Shilling and a two shilling piece. From another box a 100 franc note was gone too. On the following wednesday I was looking for my cigarette case and I found it gone . after that at various times I found these items missing: razor and blades, cigarette case (Leather) Comb, pair of gloves, handkerchief, compact, watch and nail file I didn't know that the gloves, handkerchief, compact, watch and nail file were missing until I saw them here to day . I never had occasion to look for them before. I recognize this Cigar case as mine(Exhibit"C"), Cigarette case as mine(Exhibit"B"), Compact as my wifes(Exhibit"A"), My first communion watch(Exhibit"D"), My wifes nail file(Exhibit"E"), my razor and blades(Exhibit"F"), My handkerchief(Exhibit"G"), my gloves (Exhibit"H"),

Accused declines to cross-examine.

Question by Officer taking the summary.

Q: Were these items, cigarette case, cigar case, compact, watch, nail file razor and blades, handkerchief and gloves which you have just identified in the house when you left it on the morning of the 27 Nov 44.

(sgd) Edward Simon

A: Yes.

CHARGE SHEET

The Accused, E-14207 Pte Paul Emile Giroux, 18 Canadian Field Ambulance, RCAMC, attached Canadian Section Headquarters Brussels Garrison, a soldier of the Canadian Army Overseas is Charged with :-

FIRST CHARGE
Sec 41
Army Act

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

in that he

in Brussels on the 27 November 44 did steal money in the amount of approximately 400 Belgian Francs, a cigarette case, a cigar case, a razor and blades, a pair of gloves, a watch, a handkerchief, a comb and a tube of toothpaste, the property of Mr. Edward Simon, and a compact and nail file, the property of Mme Gustavie Simon, both of 79A rue Edgar Tinel, Brussels.

SECOND CHARGE
Sec 22
Army Act

WHEN ON ACTIVE SERVICE BEING IN ARREST OR CONFINEMENT, ESCAPING

in that he

at approximately 1820 hours on 23 November 44, whilst in lawful custody undergoing detention at No.1 Field Punishment Camp and Detention Barracks, escaped.

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

absented himself without leave from No.1 Field Punishment Camp and Detention Barracks from 1820 hrs 23 November 44 until apprehended in Brussels by the Canadian Provost Corps at 2200 hours on the 27 November 44.

Time of absence 4 days, 3 hours, 40 minutes.

BRUSSELS
8 Dec 44

(sgd) L.P. Ryan, Lt-Col
Commanding
Cdn Sec 82 Brussels Grn

To be tried by Field General Court Martial

In the Field
14 Dec 44

(sgd) E.L.M. [illegible], Maj-Gen
OIC
Cdn Sec GHQ I Ech - 21 A Gp

A.C. Kavanagh, Maj.
Pres

A.C. Ravenscroft, Maj
Pros

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 108. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 181, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
R-14907	Pte		Earl Emile	[illegible]	[illegible]

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Dec 43 endorsed by me, (~~or by an offr of my staff for me~~) "To be tried by Field General Court-Martial". E.M.B.

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

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ E.M.B.
(AA 49, RP 106(3), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~ E.M.B.
(RP 106(1). Delete, if none appointed.)

PRESIDENT.

[illegible] A.C. Ravenscroft, MC [illegible]
(Rank.) (Must be named. RP 106.) (Unit.)

MEMBERS.

Capt or Lieut (to be detailed by CC 10 CTR Bn)

Capt or Lieut (to be detailed by CC 10 CTR Bn)
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut (to be detailed by CC 10 CTR Bn)
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in [illegible] [illegible] [illegible]
(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date [illegible] Commanding CTC Cdn Sc. Trg Bde - Fd & Sp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Formerly (to Date of AF G-8) AF F & S 37/1891 (1945))

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

PROSECUTORS OPENING ADDRESS

Case of E-14207 Pte Giroux, P.E.

The prosecution will present evidence to prove the following points:

Date
Time
Place

That all the items as alleged were actually in the house when every one left it on the date in question, i.e. everyone except the accused. That the items were found to be missing along with the accused when they returned home. The Exhibits will be identified by the owners and the provostcarrying out the accused's arrest will swear that the exhibits were actually found on the accused's person at the time of his arrest.

(sgd) J.J.P. Connors, Lt.
RCAMC

FIRST WITNESS FOR THE PROSECUTION

The Witness Madame Simon having been duly sworn states: (through interpreter)

I am Gustavie Simon (waitress) of 29A Rue Edgar Tinel, Brussels, employed at the Cafe. The Accused was having a drink in the Cafe on or about the 25 Nov 44 and I invited him to my home. He came with me for dinner there. I gave him my visiting card and invited him back for the next day. The next day the accused whom I recognise whoned me and asked if he could spend the night. I said yes and he came about 9 O'clock. The next day I had to leave for work early and the accused asked me if he could sleep in. I said yes. I left my key with him in order to get in and out. I left him alone in the house about 0930 hrs. He the accused was to bring the Key to my place of work. My Husband had left for work at 0645 hrs that morning and Mrs Gilberte Libert left for work at 0730 hrs. She has lived with me since the start of the war. At about 1230 hrs the accused phoned me and thanked me for the hospitality. Between 1400 and 1415 hrs the accused came to the cafe and gave me the keys. He was drunk he left, promising he would return at 1645 hrs to take me home. I waited for him until 1730 hrs and then walked home with Mrs Gilberte Libert. When I arrived home I wanted to light the fire but the stove was damp, a bottle of wine had been spilled the visiting card I had given the accused was in the stove. Gilberte went in to the dining room and called me saying the Buffet had been damaged and the money in a box there was gone. There was about 475 francs, two english coins a one shilling and a two shilling piece. The accused had previously seen where I had put the money because I had given him a 5 franc piece from it as a souvenir. He had drank the cognac from there and I replaced it with wine. There was a cigarette case, a hundred franc note, a razor and some plates, a tube of toothpaste, and a watch of my husbands and a bracelet made up of foreign coins. (Objection by defense as to bracelet - unclined) I identify Ex A, Ex B, Ex C, Ex D, Ex E, Ex F, Ex G, Ex H, as property of both me and my husband.

Were these items you have just identified in your home on the morning you left the accused alone and these items were not in the house when I returned It is then, onreturning that I found them missing.

Cross-examination by Defense.

Question How drunk was the accused when he returned the keys.

Answer He was talking loud and when he stood up to leave he was very drunk.

Question How much liquor had he drank from your home.

Answer About ½ Litre Cognac and 1 Litre wine.

Question Did you tell him he could help himself to the liquor

Answer On Saturday I had bought two bottles wine one for saturday and one for sunday. They did not have my permission to drink.

H.P. 53 (P) Complied with

SECOND WITNESS FOR THE PROSECUTION

Mr. Edward Simon (foreman) having been duly sworn states (through interpreter)

I am Edward Simon (foreman) of 29A Rue Edgar Tinel Brussels. The accused whom I recognise stayed at my home on the night of 26-27 Nov 44. When I left for work on the morning of the 27th, my wife and the accused were in the house. When I came home from work that evening there was no one there. I went to light the fire and in the stove was a piece of bread and a writing card. My wife came in with Mrs Gilberte. Mrs Gilbrette went into the dining room and called my wife saying that the buffet had been damaged. When I saw this I picked up the visiting

card which had an address on it and went there, I asked if the accused was there and was told he had returned to the front. The wife gave me the address of a Hotel where the accused contacted the RAF police and they took me to the CDN M Police. From there I went to the hotel where I had been told the accused would be that night. The Police found the accused in this Hotel. There was about 450 francs missing perhaps more. The total amount missing is between 450 and 500 francs since the original investigation. There was about 450 francs in the box and a hundred franc notes on the buffet. A razor was missing, toothpaste and tooth brush, one comb, one cigar case with some cigars in it a cigarette case, one watch, one pair of gloves, and a bracelet made of various foreign coins.

(Defending Officer objected to mention of bracelet. Objection overruled

Identify Ex A as mine
Ex B as mine
Ex C as my wifes
Ex D as mine
Ex E as my wifes
Ex F as mine
Ex G as mine
Ex H as mine

These items which I have just identified were in the house when I left on the morning of 27 Nov 44. They were not there when I returned

R.P. 93 (B) Complied with.

M-19018 A/Cpl Bernet C.W.V. No. 2 Sec No. 2 Cdn L of C Provost having been duly sworn states:

On the night of 27 May 44 at the U.S. police station I received a complaint from a civilian that the night previously a Canadian soldier had slept at his house. They left him asleep in the morning and when they returned at night they found a sum of money stolen. He gave me an address where this soldier was known to frequent the cafe Royal Hotel. I called at this cafe and talked to the proprietor between 2000 hrs and 2100 hrs. I was told that this soldier would probably be in later in the evening. I left then and returned later about midnight. The accused whom I recognize was in the cafe. I checked him for his pass and he had none also no pay book. He stated he had escaped from field punishment camp. I placed him under close arrest. L/Cpl Gauthier was on duty with me. While on the way to the U.S. Police station I was stopped by an Officer who required some directions. The accused ran away in an attempt to escape. I gave chase and caught him. On arrival at the U.S. M Police station I had the accused empty his pocket s placing the contents in his cap. The articles here namely the Exhibits A to V are the ones I removed from the accused's pockets. I took them to Prince Albert Barracks with the accused and turned them over to C.P. Guard.

N.P. 83(B) Complied with

Madame Ida Dormans (housewife) having been duly sworn states:

I am Ida Dorman housewife of 29A Rue Edgar Tinel, Brussels. On Monday 27 November about 1.30 PM this soldier whom I recognize here, called me down to open the door as he couldn't. My husband helped me. The accused as at the way to the cafe de La Poste, we gave the directions to him. We had been drinking.

R.P. P3(B) Complied with.

Statement of accused not on oath.

B-14207 Pte Giroux, P.E. states.

I awoke about 0000 hrs on the morning of the 27 Nov and Madame Simon was in the Kitchen. She gave me some coffee and I smoked a cigarette, she told me she was leaving in a few minutes and to retur n to bed if I wished. She gave me another cup of coffee and showed me a bottle of wine on the fire place. She told me to help myself to a gluss. I drank a glass of wine and found half a bottle of Cognac beside the bureau. Madame Simon had gone before I started drinking I had alittle cognac and then drank some more and I finished the rest of the wine and cognac. I then left the House. I took the key back to Madame Simon. I finished drinking with another Canadian soldier until I was picked up by the provost. I do not remember taking any of the articles found in my possession.

R.P. 83 (E) Complied with

Statement by accused taken on Oath pertaining to second charge (Plea of guilty)

B-14207 Pte Giroux, P.E. having been duly sworn states:

I am B-14207 Pte Giroux, P.E. I was working in the M.I.R. at No. 1 P/W punishment camp and Detention Barracks, with L/Cpl Shear. On the 23 Nov 44 when he came back from the sick parade he had with him a bottle of cognac and offered me a drink. I took one. After dinner he went out to get another bottle and on returning he offered me some I refused and told him I had only 7 more days to do and didn't want any trouble. He told me if something happened he would take care of me. We drank a bottle and a half and around 1700 hrs the Sgt Major found out that the L/Cpl was drunkand he locked us up and put us in the hole. I escaped from there.

R.P. 83 (E) Complied with

PROSECUTORS CLOSING ADDRESS

In the case of H-14207 Pte Giroux, P.E.

Sir:

The Prosecution has presented sufficient evidence to prove each point in this very serious charge. The date, time, place, have been proven, the articles positively identified by both the owners and the Provost who arrested him with the articles on his person. In view of the fact that this was a dastardly act committed by a Canadian soldier enjoying the hospitality and confidence of friendly Belgium Civilians, I ask the court to find him guilty.

(sgd) J.J.M. Connors, Lt.

CLOSING ADDRESS FOR DEFENSE

In the case of Pte Giroux, P.E.

Sir,

In summing up the evidence I would ask you to consider these points. Before Madame Simon left the house on the morning of the 27 of Nov she showed Pte Giroux a bottle of wine which she told him she had bought for that evening and that if he felt inclined, he could have a drink. That morning Pte Giroux had only had some coffee and no food. He had a drink of wine and I need not explain how that only made him feel that he should have another. I admit it was a weakness on his part- but a weakness he could not help at the time. Pte Giroux had more wine then cognac and then wine again and I am certain that the Court is aware of the effect that such a combination would have on an empty stomach. After having these drinks Pte Giroux does not remember what he did and is not responsible for his actions in the same way as a normal person is. I wish to draw the courts attention to Sections F and G of Chap VII of the M.L. I cannot quote for I have not an M.L. with me but the court will find words to the effect that that if the mind of a person is so affected by some disease that he is unaware of the nature of the crime and incapable of forming the specific intent necessary to constitute the crime he should not be convicted of it. Intoxication can affect the mind to such an extent and if the court consider the evidence brought out I am sure they will find that in this case the mind of the accused was so affected. In the first place the accused consumed approx a Bottle of wine and half a bottle of cognac. That i itself should be sufficient proof. Secondly the witnesses will testify that he was very drunk he was so drunk that he couldnt even open the door but had to call for help.

And lastly I would ask the court to consider the articles found on the accused. What normal person would go taking a ladies handkerchief or what good to a soldier is a ladies nail file with green handle? Only a person so far gone that he absolutely didnt know what he was doing would take any such things. At the time that the accused did take them his mind was so far gone that he didn't even know what he was taking or was incapable of forming the specific intent that is necessary. In view of these facts I would ask the court to consider that as a special case and with reference to the M.L as a guidance for such a special case I feel that the accused should be acquitted

Respectfully submitted

(sgd) A.T. [illegible], Lieut

PLEA IN MITIGATION OF PUNISHMENT

In the case of Pte Giroux, P.E.

Sir:

Before the court considers the sentence I would ask you to consider these points. The accused joined the army in Nov of 1939 when he was only 19 years of age - He served with the Army Service Corps for over a year work ng with an ammunition Coy In Jan 41 he was discharged and spent some time in the hospital but on coming out joined up again in the army because he felt he had a special job to do . He enlisted the second time with the service corps in July of 41 and was later transfered to the 15th Fd Ambulance Section.

He had been up to the front with the 15 Fd ambulance for about one month when called back for trial on a charge of AWL that had been pending for several months and had been put off because there was not sufficient evidence.

He was tried on the charge and sentenced to 90 days and has only 6 more days to complete his sentence when he broke out I wish to ask the Court to consider the circumstances under which that occurred the accused had been drinking Cognac for most of the afternoon and when he was locked up and given the opportunity of sobering he was unable to foresee the seriousness of his offence. The accused is at present aware that drunkeness is no excuse for crime but at the time his mind was incapable of functioning properly, this is only too well brought out by the fact that no person under normal circumstances would do so with only 6 days of sentence left to do.

I would ask the court to take this into consideration in determining the sentence and with with special reference to sections 47 and 46 of Chap III of KRR where it states such circumstances would lessen the punishment.

I would also ask you to consider that the accused is fit and ready to go back to the front where he is urgently needed. He is anxious to get back to his unit and carry on with his work.

I notice the AWL 6 but if the Court consider that all these sentences were spread over a period of yrs and xxxxx most of these are only short AWLs of a day or so - the record is not at all bad.

In conclusion I would ask the court to deal as leniently as possible with this soldier in order that he may so n be able to rejoin his unit and carry on the work for which he joined up.

Respectfully submitted

(sgd) A.T. Cann, Lt.

Ex "A"

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE in the case of E-14207 Pte Giroux, P.E. No 18 Cdn Fd Amb Coast a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

FIRST WITNESS: Mr Edward Simon (Foreman) 29A Rue Edgar Tinel, Brussels being unable to speak English required an interpreter. Interpreter (French English) Capt G Hessey-White CWAC Cdn Sec HQ Brussels Garrison has been duly sworn.

The Witness, Mr Edward Simon, having been duly sworn states:

"When I came home on Saturday the 25th of November 1944, I saw paul, whom I recognize here, with another soldier at my home. They both stayed for supper and they both left about 10 O'clock that night. Before they left x they were invited to return the next day and we gave them our visiting card and our telephone number and address on it.

When I came home on Sunday night my wife said that paul had phoned and had asked if he could stay the night, to which my wife had said yes. Paul came to supper that night and before going to bed me told him we had to go to work early in the morning to which Paul replied it was a pity and my wife asked him "why". He said that he usually got up late around mid-day. My wife told him that she'd leave the keys with him and he could bring them to her place of work when he was ready to leave. We all went to bed then. In the morning I left for work at 7.00 AM and Paul was still in the house. I returned home between 6.30 and 7 PM that evening and found no one home. I went into the Kitchen to start the fire and having difficulty I sorted out the contents of the stove. I found my visiting card, two slices of bread and a piece of half burnt paper. It was all wet and I think that the paper had wine spilled over it. Shortly afterwards my wife came in. She had been waiting to meet paul to go to a show but he hadn't turned up. Then I looked around and noticed wine had been spilled all over the place and Mrs Libertie called me into the dining room to show me a key which was lying on the buffet, where it shouldn't have been I saw the Bureau open and I noticed several things missing, they were money from my box which is kept in the drawer, there was about 400 francs composed of nickeled pieces of various amounts among which were two 20 franc pieces, also an English Shilling and a two shilling piece. From another box a 100 franc note was gone too. On the following wednesday I was looking for my cigarette case and I found it gone. After that at various times I found these items missing: razor and blades, cigarette case (Leather) Comb, pair of gloves, handkerchief, compact, watch and nail file xxxx I didn't know that the gloves, handkerchief, compact, watch and nail file were missing until I saw them here to day. I never had occasion to look for them before. I recognize this Cigar case as mine(Exhibit"A"), Cigarette case as mine(Exhibit"B"), Compact as my wifes(Exhibit"C"), My first communion watch(Exhibit"D"), My wifes nail file(Exhibit"E"), my razor and blades(Exhibit"F"), My handkerchief(Exhibit"G"), my gloves (Exhibit"H"),

Accused declines to cross-examine.

Omission by Officer taking the summary.

Q: Where these items, cigarette case, cigar case, compact, watch, nail file razor and blades, handkerchief and gloves which you have just identified in the house when you left it on the morning of the 27 Nov 44.

A: Yes. (sgd) Edward Simon

SECOND WITNESS: Madam Gustavie Simon (Waitress) 29A Rue Edgar ~~Tinel Brussels~~ being unable to speak english requires an Interpreter. Interpreter (French-English) Capt G Bessey-White, CMAC Cdn Sec HQ Brussels Garrison has been duly sworn.

The witness Mme Gustavie Simon having been duly sworn states:

"On the 25 November 1944 at about 5.00 PM I invited Paul whom I recognize in this room and his friend to come to my home for dinner. They did, coming back with me and we arrived at my home 29A Rue Edgar Tinel Brussels at about 5.45 Pm in the afternoon. They had supper with us and left about 10.00 O'clock that night. Before they left I invited them back next day , but I asked them to telephone before coming as I'd be in all day. The next day Paul telephoned about 5.00 PM and asked if he could stay here. I said "Yes", and he came about 9.00 O'clock He had dinner with us. We sat up talking quite late and before going to bed I told him I would have to get up early in the morning to go to work. He answered "French Canadian sudent eat breakfast in the mornings and I'd rather stay in bed until 1.00 O'clock". As he had come from the front I wanted him to get as much sleep as possible, so I left him with my keys, so he wouldn't be disturbed in the morning. We all went to bed then. In the morning about 9.00 O'clock Paul got up himself and had a me coffee with me and smoked a cigarette before I went to work, before I left for work, I showed him where the keys were , and asked him to bring the keys to Cafe de La Poste, where I worked , before he left. He telephoned me at 1230 noon to say "Thank you for your hospitality and "I'll bring your keys at 1.30 PM . He brought me the keys at 2.30 PM . He was drunk when he brought the keys to me . I gave him a rendez-vous to join me for the theatre and he said he'd be there at 4.30 PM . I waited for an hourthere for him , but when he didn't come I returned home, arriving between 6.30 and 7.00 PM When I got in my Husband was already home. My husband was trying to start the fire, but to stove had my visiting card which I had given Paul two slices of buttered bread which I had given him for his breakfast and ends of paper soaked with wine, in it, and he couldn't get it started. I saw my wine bottle was not empty wine was splashed on the wall and floor. I also saw a key lying on the buffet which is kept in the Kitchen drawer and the buffets the drawer had been forced open, evidently with a kitchen knife because it wasn't in its usual position in the drawer and the point was broken . I found the following things missing which were there when I left in the morning over 400 francs composed of small change ranging from 50 centimes to 20 franc pieces, also an English 1 shilling piece and a 2 shilling piece, a cigar case(Leather) , a silver cigarette case, and a hundred franc note which was left on the buffet. There was also a razor and blades, a tube of tooth-paste, and a black comb of my husbands".

Accused declines to Cross-examine.

Questioned by the Officer taking the Summary.

Q:Have you ever seen this before? (handing a cigarette case to the witness).

A:Yes it belongs to my husband.

(sgd) Mme Simon Gustavie

[illegible] Gilbert Libert (hairdresser) No. 29A [illegible]
[illegible], being unable to speak English requires an interpreter.
Interpreter (French-English) Capt C Hessey-White, [illegible]
Brussels Garrison has been duly sworn.

The witness Mlle Gilberte Libert having been duly sworn states:

[illegible] first time I saw Paul whom I recognize as being in this room, was about 6.45 in the afternoon of the 27 November 1944, when he came to the house at 29A Rue Edgar Tinel Brussels with Mme Simon. He had dinner and left about 9.45 that evening. The next day he phoned in the afternoon about 3.00 o'clock and asked if he could come and sleep there and that he [illegible] with his friend. We arrived alone about 9.00 o'clock in the evening and he had dinner with us. During dinner Madame Simon said they all had to work in the morning and Paul said "In Canada we never get up until 1200hrs", so Madame Simon said she'd leave the keys and he could bring them up to her at the Cafe de la Poste where she worked when he was ready to leave. Paul stayed all night and I left for work at 8.00 o'clock the next morning. Madame Simon left before I left. It was about 6.45 I returned about 6.30 in the evening with Mme Simon and I saw the tablecloth was all dirty and the well had wine spilled on it. I saw a key which is [illegible] for a drawer in the kitchen, lying on the [illegible] where it shouldn't have been, I told Mme Simon ".

The accused declines to Cross-examine.

Questioned by the Officer taking the summary.

Q: Have you ever seen this before? (handing a cigarette case to witness)

A: Yes, it belongs to Simon.

(sgd) Libert Gilberte

PROSECUTION WITNESS: Madame Ida Hermans (housewife) 20A Place Pierre Paul Riquet, Brussels
being unable to speak english requires an interpreter.
Interpreter (French-English) Capt G. Vesey-White, CMAC, also sworn.
Brussels Garrison has been duly sworn.

The witness Mme Ida Hermans having been duly sworn states:

"On Monday 20th November about 1.30 pm this soldier whom I recognize here, called me down to the door because he couldn't get in otherwise. My husband went down with me and we got it open. He then asked questions to the Cafe de la Poste. We gave them to him. I believe he was drunk.

Accused declines to cross-examine.

(sgd) Ida Hermans

PROSECUTION WITNESS: W-10018 L/Cpl Tremont P W V, No 2 Cdn L of C Provost Coy having been duly sworn states:

"On the night of the 27th November last I was with Cpl Carter, Patrols, Brussels. I received a complaint from a civilian that a soldier had client at his home on the evening of 26-27 Nov 44. This civilian gave me a description of this soldier and stated he frequented the Cafe Royal with [illegible] at 0101 hrs I proceeded to the above mentioned cafe and found a soldier fitting the description. I asked this soldier for his pass and he stated that he [illegible] I requested his pay book and he stated he didn't have one as he had been at from a Cdn Field Punishment camp. I escorted him to the [illegible] Police Station for further questioning. I was accompanied on this trip by L/Cpl Gauthier G, of this Unit. En the way to the American Police station it was necessary to stop the vehicle to give some directions to an English Officer. Whilst stopped this soldier whom he now recognizes as W-14207 Pte Giroux, J.-L., whose identity I established from his identity discs, turned from the vehicle and attempted to escape. I gave chase accompanied by L/Cpl Gauthier and caught the fleeing [illegible] running about 200 yards. On arrival at the American Police Station I searched the prisoner in order to remove any articles from his person, placing it [illegible] and later handing it over to a MCC NCO in Prince Albert Barracks from where I escorted Pte Giroux.

Accused declines to cross-examine.

(sgd) [illegible]

PROSECUTION WITNESS: W-10120 L/Cpl Gauthier G, No 2 Cdn L of C Provost Corps having been duly sworn states:

"On the night of 27-28 Nov 44 I assisted Cpl Pement at the Cafe Carre de Vin to check the accused's identity and pass. I recognize this man here as Pte Giroux. I Cpl Pement produce a pass as Cpl Pement put him under arrest. We left with the accused in our car to take him to the MP Police Station. On the way there we stopped at the corner of Rue de la [illegible] to give information to an Officer and while we do that, accused opened the door of the car and ran away. Cpl Pement and I chased him and Cpl Pement caught him about 200 yds away. I helped Cpl Pement bring him back to the car. There we took him to the MP Police Station. [illegible] and he [illegible] some of me and took many things from his pockets and put them on the accused's lap. Many [illegible] from his pockets were [illegible] silver cigarette case (exhibit "A") ladies compact (exhibit "B") [illegible] brown wallet (exhibit "D") small note file (exhibit "E") [illegible] (exhibit "F") handkerchief (exhibit "G") and pair of gloves (exhibit "H") these did we have in front of me here as I recognize them.

Accused declines to cross-examine.

(sgd) G. Gauthier

SEVENTH WITNESS: £145681 Cpl Richards T. W., 276 Coy Pioneer Corps attached 120 CMP Guard Room, having been duly sworn

states:

"At Brussels Prince Albert Barracks Guard Room on the night of 27 Nov 1944 I was on duty when the accused Pte Gregory was brought in by the Provost staff. I relieved him of the contents of his hat and placed them in a bag to be taken to the property room for safe keeping. These are some of the items which I took from him when he was first brought in Cigar Case(brown) (exhibit "A"), silver cigarette case (exhibit "B") ladies compact (exhibit "C") silver pocket watch(exhibit "D") nail file (exhibit "E") one razor set(exhibit "F") one handkerchief (exhibit "G") and one pair of gloves(exhibit "H"). I can identify these items in front of me now and I recognize them.

Accused declines to cross-examine.

(sgd) T.W. Richards

The exhibits referred to in the evidence of £145681 Cpl Richards, T.W. are attached hereto as follows:

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case with green mat
Exhibit "C" - ladies pink compact with zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file with green handle
Exhibit "F" - razor and blades in box
Exhibit "G" - handkerchief
Exhibit "H" - pair of light brown gloves.

(sgd) J.J.M. Connors, Lt., DCA/C

EIGHTH WITNESS: 540906 Cpl Smith S, 276 Coy Pioneer Corps having been duly sworn states:

I am the police prisoner in and out clerk of Leopold Barracks. On the 4 Dec 44 I saw Pte Gregory the following personal effects. On the 4 Dec 44 I saw Pte Gregory the following I confirm the property of the Circus when I recognize it as that taken from him on the 4 Dec 44 one pocket watch, one ladies compact, one nail file one razor one (leather) one razor and blades, one pair of gloves, and one handkerchief. I also remember that Pte Gregory had about 3 or four days arc. all these items had adhesive tape (brown) placed on them on the 4 Dec 44 when I handed them over and put them in a safe place. The accused's identity book to the records room and I can identify these items from it also".

Accused declines to cross-examine.

(sgd) Cpl Smith, S.

NINTH WITNESS (recalled): W-19016 A/Cpl Bennet, CWV, No 2 Sec L of C Provost Coy having been recalled and duly sworn states:

With I recognize the following articles now I took part of my being search the accused property which the Circus lad in his possession at night of the 27-28 Nov 44 when I took them off him in the presence of Pte Gregory namely:- Leather cigar case(exhibit "A"), silver cigarette case (exhibit "B"), one ladies compact(exhibit "C"), one pocket watch(exhibit "D"), one nail file (exhibit "E"), a fifty razor set (exhibit "F", one handkerchief(exhibit "G") and one pair of leather gloves (exhibit "H").

Accused declines to cross-examine.

(sgd) CWV Bennet

The accused was cautioned as follows:

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

A: I want to make a statement

Q: On oath or not on oath?

A: On oath.

The accused sworn states:

" I left the Field punishment camp on thursdayx night. I think it was the 23 or 24 I'm not sure. I slept in Alost that night. Then I came down to Brussels the next day and I met Mme Simon and she make me an invitation for supper and I'm been there for supper. I went there for supper next day and I sleep there. I left the house about 11.30 or 12.00 O'clock and I was drunk and don't remember whats happened after that until I'm being picked up"

(sgd) Paul [illegible] Giroux.

The accused does not wish to call witnesses at this point.

I certify that the foregoing summary of Evidence, consisting of fourteen pages, was taken by me in the presence of the accused and that W.P. 4 (b), (d), (e), (f), and (g) have been complied with.

In the Field
[illegible] 44

(sgd) [illegible] Connors, [illegible]
Officer detailed to take the summary.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of: [illegible]-14207 Pte Giroux, P.E., [illegible] Cdn Fd Amb [illegible] a soldier of the Cdn Army Overseas

The Commanding Officer directs that the evidence will be given on oath.

FIRST WITNESS: A-22112 Sgt Landstra, L.E., [illegible] L FP Camp and Detn Bks Cdn Prov Corps.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "J".

(sgd) J.J.[illegible]. Connors, [illegible]

I do not require the attendance of A-22112 Sgt Landstra, L.E. for the purpose of cross-examination.

(sgd) Paul [illegible] Giroux

SECOND WITNESS: Lieut [illegible]. Cain, [illegible] FP Camp and Detn Bks, [illegible]

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "J".

(sgd) J.[illegible]. Connors, [illegible]

I do not require the attendance of Lieut [illegible]. Cain for the purpose of Cross-examination.

(sgd) Paul [illegible] Giroux.

The accused was then cautioned as follows:

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

A: I have nothing to say.

(sgd) Paul [illegible] Giroux.

The accused does not wish to call witnesses.

I certify that the foregoing additional summary of evidence, consisting of one page was taken down by me in the presence of the accused and that R P 4 (c), (d), (e), and (f) have been supplied with.

In the Field
11 Dec 44

(sgd) J.J.[illegible]. Connors, [illegible]
Officer Detailed to take additional Summary of Evidence.

REQUEST FOR DEFENDING OFFICER

In the Field I desire the services of a defending officer
Dec 44 I would like the court to appoint one.

(sgd) Paul Emile Simons

LIST OF WITNESSES FOR THE PROSECUTION

1. Mr Edward Simon (Foreman) 29A Rue Edgar Tinel Brussels
2. Mrs Gustavia Simon (Waitress) 29A Rue Edgar Tinel Brussels
3. Miss Gilberte Likert (Hairdresser) 29A Rue Edgar Tinel Brussels
4. Mrs Ida Hermans (housewife) 29A Rue Edgar Tinel Brussels
5. [illegible]-10018 A/Col Hement, [illegible], [illegible] Cdn L of [illegible] Corps
6. [illegible]-10150 L/Col Gauthier, [illegible] Cdn L of [illegible] Corps
7. [illegible] Col Richards, [illegible], 276 Coy Pioneer Corps (attached 120 CMP Guard Room)
8. [illegible] Col Smith S, 276 Coy Pioneer Corps.
9. A22112 Sjt Lindstra, L E, [illegible] L P P Camp and Det Ths C Prm C
10. Lieut [illegible] Cain [illegible] L P P Camp and Det Ths C Prm C

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - brown leather cigar case
Exhibit "B" - silver cigarette case with green marking
Exhibit "C" - lady's pink compact with zipper
Exhibit "D" - small silver pocket watch
Exhibit "E" - nail file with green handle
Exhibit "F" - razor and blades in box
Exhibit "G" - handkerchief
Exhibit "H" - pair of light brown gloves (Leather)
Exhibit "J" - Statements of (A-22112 Sjt Lindstra, L E
(Lieut [illegible] Cain

In the Field
13 Dec 44

(sgd) [illegible], Lt., [illegible]

Exhibit "J"
JJH Coppers, JA

No 1 FP Camp & Detn Bks.
Cdn Pro C.
29 Nov 44

THIS IS TO CERTIFY, that:

E-14207 Pte Giroux, Paul Emile, 18 Cdn Ed Amb CAMC att No 1 FP Camp and Detn Bks., Cdn Pro C., whilst in lawful custody undergoing detention, did escape at approximately 1820 hrs 23 Nov 44. Date of admission - 12 Oct 44.

This SHE is still absent. FM Parts 1,2,3 are not on hand and enquiry has been made with his unit as to their whereabouts.

(sgd) [illegible].D. Cain, Lt for Comt
(DAPM) (Comd)
No 1 FP Camp and Detn Bks.
Cdn Pro C.

CERTIFIED TRUE COPY OF EVIDENCE

On the night of 23 Nov 44 I was night orderly Mjr at approximately 1820 hrs whilst making my routine check of the cells, I found Giroux, P.E., to be absent. I searched the quarters and buildings but he was not to be found and he remained absent throughout the night.

(sgd) L.N. Langstra - Sgt.
A-22112

CERTIFIED TRUE COPY OF ORIGINAL EVIDENCE HELD IN THIS UNIT.

(sgd) [illegible] D. Cain, Lieut
No 1 Fd Punishment [illegible]
Cdn Pro C.

No. 514207 Name Giroux Paul Emile Sqn, Battery, or Company Corps RCAMC Date of enlistment 10-7-41 GC Badges Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/P&S/126 (5412)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 14	Feb44	Pte		AA Sec 15(1) A L on the 14 Feb44 [illegible] 20 mins	A/CSM McDougall, JE	7 days CB	1[illegible] Feb44	Major Stevenson	Forf 1 days pay for absence
				Certified true Copy (sgd) [illegible] Capt, RCAMC Officer i/c Records 1[illegible] Cdn [illegible] Ambulance, RCAMC					

(PTO)

Place	Date of offence	Rank	Corps or department	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field 27-2-44	Pte			1. AA Sec 15 (1) AWL 10 Days 8 hrs	Sgt Lanclais C				
" 3-3-44	Pte			2. AA Sec 15 (1) AWL 21 days 8 hrs 15 hrs Sentence confirmed by Brig - 5 Cdn Inf Bde.	Sgt Label C Documentary Detection	90 Days	3 Oct 44	FOO	Crf 90 days pay for Sen Crf 33 days for AWL Forf 5 days pay F P 1 Close Arrest

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 14	Aug43	Pte		BOAS AWL from 2300 hrs 14 Aug 43 until 1940 hrs 17 Aug 43(Total 68 hrs 40 minutes)AA Sec 15(1)	RSM Proulx,RR Sgt Lateliere L.P.	28 days F.P.	18 Aug 43	Lt-Col CU Letourneau	forf 3 days pay for absence
Field 15	Sep43	Pte		AA Sec 15(1) absented himself without permission from 0800 hrs 15 Sep 43 until 1815 hrs 17 Sep 43 Absent 2 dys 10 hrs 15 mins	HQMS Gagnon Cpl Choisiere Document	28 Days F.P.	19 Sep 43	Lt-Col CU Letourneau	forf 3 days pay for absence
Field 8	Jan 44	Pte		1)AA Sec 15(1) AWL from 2300 8 Jan to 0020 9 Jan 44(1 hr 20 mins)	Sgt Cote,L. Cpl Gladstone	28 Days F.P.	10 Jan 44	Lt-Col C.U. Letourneau	forf 1 days pay for absence
Field 9	Jan 44	Pte		2)AA Sec 10(4) broke out of Bks while under open arrest.	Sgt Cote,L. S/Sgt Bishop				
"	"	"	"	3)AA Sec 15(1) AWL from approx 1625 hrs to approx 2245 9 Jan 44 Total 6 hrs 20 mins	S/Sgt Bishop Cpl Frechette				
"	"	"	"	4)AA Sec 19 Drunkenness while under open arrest	L/Cpl St Pierre,T Capt [illegible] S/Sgt Bishop				

No. 14207 Name Giroux, P.E. Sqn, Battery, or, Company Corps BCAMC Date of enlistment 10-7-41 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40:PAS/136 (5413)

Date of last entry in Company Conduct Sheet W/A No. and date of last drunk W/A Period not reckoning towards freedom from extra fine W/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 30-1-42 : No entry: No cases of drunkenness					
Henley	10-8-42	Pte		AA Sec 40 failed to appear on 1330 hrs parade	Cpl Edwards L/Cpl Hatton	5 Days CB	10-8-42	Capt Gander	
Field	13-2-43	Pte		AA Sec 40 whilst in a public place equally Coach & Horses, equal the nazi salute upon entering	Pte St Pierre, Pte St Pierre,	21 Dys CB 21 Dys Pay	16-2-43	Lt Col Letourneau	C.D.
Field	12-6-43	Pte		AA Sec 15(1) AWL from 2250 hrs 12-6-43 until 2355 hrs 12-6-43. Total : 5 Minutes	Cpl Langelis, Pte Franklin,	7 Days CB	14-6-43	Capt Blais	R.
Field	2 Aug43	Pte		AA Sec 15(1) AWL from 2250 hrs 2 Aug until 0015 hrs 3 Aug 43 Absent 1 hr 16 minutes.	Cpl Chaimiers Pte Marin, L.	7 Days CB	3 Aug 44	Capt Landry	
					Exhibit "B" A.C. Kavanagh. Major Pres				

(PTO)

VVV-106

PTE GIROUX R.

REC'D WED 15 SEP 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160

VVV-102

CPA66 (In lieu of AFW3) 40/P At 8/1808

4 38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig GSN Gostling, ED Comd "A" GP CRU dated 31 AUG 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D57714	Pte		Rene	GIROUX	6 CIRU CIC

PROCEEDINGS REVIEWED
J. Rutherglen Capt
16 Sept 44

PROCEEDINGS OF TRIAL.

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

Held in the Fd in (*country*) England on (*date(s)*) 11 SEP 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1505 hours trial commences.

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

(1. KR Can 553. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lieut G Dupuis as interpreter? Ans N/a Sir

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

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

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

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

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

President	MAJOR	C R JARDINE	2 CIRU
Member	Capt	P Poisson	6 CIRU
Member	Lt	WSD Creese	6 CIRU
~~Judge Advocate~~			
Prosecutor	Lieut	KC Courtenay	6 CIRU
Defending Offr	Lieut	A Dube'	6 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans N/a Sir Is the Defending Offr a lawyer? Ans N/a Sir (2)

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

A8. The accused D57714 Pte GIROUX, R before arraignment make(s) (no) ~~plea(s)~~ (1)

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 69(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

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

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

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

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

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part 2 of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

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

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

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

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 73 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.))

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....
Do you intend to call witnesses on your behalf ?
Ans.....
Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 109, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: D57714 Pte Rene GIROUX - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of not see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 4/ days, of which 0 days were spent in hospital.
(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for (6) Six months

(Sgd) ..... Judge-Advocate, if any. 1 Sept 44 Date awarded (Sgd) J.S. Macdonald President. (RP 45, 50.)

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

PART II. ~~MINUTE WHERE CONFIRMATION RESERVED.~~ (AA 54(5), RP 120(F), MML p 748.)

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

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

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

(Sgd) (G S N) Gostling Brig
Date 6 Sep 44 Commanding "A" Gp Cdn Rft Units Confirming Officer.

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

Accused. D. 57714 Pte Giroux R. 6 CIRU - C.I.C. Date 8 Sept 44 D.O. Part II Order No. 213 Promulgated before me at Italy Signature of Offr. A.F. Jones CAPT. ADJT. 6 CDN. INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, No D-57714 Private Rene GIROUX, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas, is charged with :

FIRST CHARGE
SECTION 40
ARMY ACT

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

in that he,

in the Field at approximately 1000 hours on the 8th day of August 1944, was concerned in making away with by attempting to sell to a civilian, Mr Frank WISE, one pair of ankle boots, the property of No E-10141 Private LEMARIER, A., said boots being an army issue and therefore public property.

In the Field
14 Aug 44.
/HWH

(W.E. Morgan) Col
Commanding Officer
No 6 C.I.R.U.

To be tried by Field General Court Martial.

Field
31 Aug 44

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

President

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D57714	Pte		Rene	GIROUX	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 Aug 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	C H JARDINE	2 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	
Lt	to be detailed by OC 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	

~~JUDGE ADVOCATE~~

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

On Active Service in the Fd

in England (Country.)

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

Date 31 Aug 44

Commanding (G S N Gostling) "A" Gp Cdn Rft Units C A (O) Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A OFAGS (In lieu of AFAS) 46/P & S/1097 (4021)

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: 1767744 Pte
(NAME)
Giroux R of 6 C.I.R.U and in my opinion he is
so fit to undergo trial by Court Martial.

Station

Date Sept-1-1944

SGD S. Stevensky Capt.
(Medical Offr)

1

1st. September 1944

Plea of mitigation in the case of:
D-57714 Pte René Giroux.

The accused enlisted in the army in 1940. Immediately after his training he came across into England. That is to say that he left his country almost three years ago. His over age and his medical category have prevented him to follow his Regiment in the field. That is a matter which I would like you to take under consideration, gentlemen of the court.

The accused admitted ~~having~~ to have commit an offense against military law. I must remember you gentlemen that it was the first offense he ever commited being of a major nature. And again, you have to conpider the temptation that was make to him. The accused was in need of money. A civilian came to him and offered him to buy some boots from him. He was tempted very much and he gave in. I am sure that if that occasion would not have been brought to him, the accused would have remain in the right way.

In conclusion gentlement of the court I must remind you that the low medical category of the accused, was a sufficient reason to return him to Canada. As a matter of fact he has been already recommanded for his return; and it is this misfortune that retained him here.

I strongly recommand him to the clemency of the court. (Lt. Dubé)

Lt. Dubé
Interpreter Officer.

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
with the
CANADIAN FORCES

1st sep. 1944

Plaidoyer de mitigation dans le cas de:

D-57714 Pte. René Tremy.

L'accusé s'est enrôlé dans l'Armée en 1940. Immédiatement après son entraînement, il est traversé en Angleterre. C'est donc dire qu'il est parti de son pays depuis bientôt trois ans. Son âge et sa catégorie médicale l'ont empêché de suivre son Régiment en action. C'est un point que je vous demande de prendre en considération, Mrs. de la Cour.

L'accusé a avoué avoir commis une faute contre la Loi Militaire. Je dois vous rappeler Mrs., que c'est la première d'une nature grave. Et encore, vous avez à considérer la tentation qui lui a été faite. L'accusé avait besoin d'argent. Un civil vient à lui et lui demande d'acheter des bottines. Il est tenté fortement, il succombe. Je suis certain que si l'occasion ne lui avait été offerte,

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

2 _____ 194__

L'accusé serait demeuré dans le droit chemin.

En terminant, Mrs. de la Cour, j'désire vous rappeler que la bonne catégorie médicale de l'accusé, était suffisante pour son retour au Canada. Il aurait même été convoqué pour son retour, et c'est cette malheureuse affaire qui le retient. Je le recommande fortement à la clémence de la Cour.

C. Dubé, Lieut.
R. 22e Rgt

E. A

SUMMARY OF EVIDENCE

In the case of No D-57714 Private Rene GIROUX, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

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

First Witness for the Prosecution

No E-5567 A/Sgt BRASSARD, J.E., of The Cdn Inf Corps, on strength of No 6 C.I.R.U., having been duly sworn states as follows:

"I am employed as Sgt i/c of Regt'l Police staff of No 6 C.I.R.U. At 1000 hrs 8 Aug 44 I was on duty near No 3 Camp Men's Kitchen when I saw a civilian whom I now know to be Mr Frank Wise, entering the said kitchen. I stayed there until he came out with something wrapped up in an old bag. He got on his tractor with the bag and moved off. I then ordered Cpl Brais J.N., of The Regt'l Police force of 6 C.I.R.U. to accompany me and we gave chase to the civilian. He stopped in front of the Sgts Mess at No 2 Camp and there, after making inquiries, we found a pair of army boots. I hereby produce the pair of boots which we found in the civilian tractor. These are marked as Exhibit "A" and attached to the proceedings. I then escorted the civilian to the office of the adjutant, where an identification parade was arranged in order to identify the owner of the boots. The civilian, Cpl Brais and myslef then proceeded to No 3 Kitchen, where the accused, whom I now recognize, was identified as the soldier who wanted to sell the boots to Mr Frank Wise. Pte Giroux was then placed under close arrest. Upon more investigation by the adjutant and the R.S.M. I was ordered to arrest Pte Lemarier, which I did immediately."

The accused declines to cross-examine this witness.

J.E. Brassard Sgt
(J.E. Brassard)

Second Witness for the Prosecution

Mr Frank WISE, Crag Farm, Norwood Edge, Otley, Yorkshire. A written statement of this witness's evidence purporting to be signed by him has been read over to the accused and is included in the Summary of Evidence and is marked Appendix "A". Having regard to the exigencies of the service and the expenses involved attendance of this witness cannot in my opinion be readily procured.

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

M.M. ..... Lieut
Officer detailed to take the summary of evidence

Third Witness for the Prosecution

No D-56219 Cpl BRAIS, J.N., of The Cdn Inf Corps, on the strength of No 6 C.I.R.U., having been duly sworn stated as follows:

" I am employed on the Regt'l Police force of No 6 C.I.R.U. At approximately 1000 hrs 8 Aug 44 I was ordered by the Sgt of the guard to accompany him to No 2 Camp in order to give chase to a civilian, whom I now recognize as being Mr Frank Wise, who was driving a tractor. Once in No 2 Camp the Sgt i/c of the guard room found one pair of army boots in the tractor. I hereby recognize Exhibit "A" as being the same pair of boots we found that day. We then escorted the civilian to the adjutant. Later on I was present when the civilian identified the accused, Pte Giroux, as the soldier who had given him the pair of boots. The accused was then placed under close arrest and escorted to the guard room. On 11 Aug 44 Pte Lemarier, a soldier detained in the guard room at No 3 Camp had his kit inspected by CQMS Keir, R.S. in my presence.

The accused declines to cross-examine this witness.

J.N. Brais ..... Cpl
J.N. Brais)

SUMMARY OF EVIDENCE

In the case of No D-57714 Private Rene CIRCUX, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

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

Fourth Witness for the Prosecution

D-66327, Sgt COUTE R., Can Inf Corps, on the strength of No 6 CIRU., having been duly sworn, states as follows:

I am NCO i/c of "A" Wing at No 3 camp, 6 CIRU. The accused, whom I now recognise is on the strength of "A" Wing, No 3 Camp. He is employed as fireman in No 3 camp Mes's kitchen. He is billeted in hut No 24 No 3 camp, 6 CIRU.

The accused declines to cross-examine this Witness.

.....Sgt.

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

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

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(E),(F) and (G) have been duly complied with.

.....Lt.
Officer detailed to take the Summary of Evidence.

In the Field
11th Aug 44.

/MPN

Appendix "H"

STATEMENT OF EVIDENCE

11 Aug 44.

of Mr Frank Wise
Crag Farm
Norwood Edge, Otley

On 8 Aug 44, as an employee of Wood Swill contractor, I was working in No 3 Camp, 6 C.I.R.U. I was approached by Pte Giroux, who asked me if I wanted to buy a pair of army boots. I was given the boots in order that I might try them on to see if they would fit me. I put the boots in my truck and then proceeded to No 2 Camp. There one of the Regt'l Police came along and took the boots away from me. I never bought those boots and never gave any money for them.

Frank Wise

(F. Wise)

E-B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-57314	Pte	GIROUX, Rene	6 Cdn Inf Reinf Unit

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

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

For AA Sec 15(1) AWL 2 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 14 Aug 43

Date of last entry in Field Conduct Sheet 1 Feb 44

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

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

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for N/L days in civil custody; and for 24 days in military custody, *i.e.*, N/L days in open arrest, 24 days in close arrest; of which N/L days were spent in hospital.

5. The present age of the accused is 36 years

6. The date of his attestation ~~[illegible] up for military service [illegible]~~ 31 Jul 40

7. The service which the accused is allowed to reckon is 4 yrs 24 days

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

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

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

~~*Date of Promotion.*~~

~~In the substantive rank of _____~~

~~In the war substantive rank of _____~~

~~In the acting rank of _____~~

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

(21114) Wt.8670/668 100,000 4/42 A. & E. W. Ltd. Op.698
(22459) Wt.29259/1873 60,000 9/42 " " Forms/B.296(War)/2

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

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

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

Signed this 1st day of Sept 44

officer having custody of original documents.

COMPILED FROM MFM 4, ORIGINAL NOT AVAILABLE

No. D-57314 Name GIROUX, Rene Sqn, Battery, or Company Corps Cdn Inf Corps Date of enlistment 31 Jul 40 GC Badges N/A Service and Proficiency Pay N/A 3/17 MFM 6 (SFB 122)

Date of last entry in Company Conduct Sheet 1 May 43 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc M.P. Menard Lieut Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order Concurrence with trial	By whom awarded	Remarks
Field	14-8-43	Pte		AA Sec 15 (1) AWL 5 days	Documentary	Admonished	20 Aug 43	DO 44/43	forf 5 days pay for AWL
Field	1-2-44	Pte		AA Sec 15(1) AWL 1 day	Documentary	7 days C.B. 7 days pay	11 Feb 44	DO 10/44	forf 1 days pay for AWL

1 SEP 1944

Certified true copy consisting of one page, dated ..... 44 .....
officer having custody of original documents

(PTO)

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

.....

if he is available.

In the Field
14 day of Aug 1944.
1400 hrs

R. Gorvin

LIST OF WITNESSES

In the case of No D-57714, Private Rene CIRCUX, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

E-5567 A/Sgt Brassard J.E., Cdn Inf Corps, on the strength of 6 CIRU
D-56219 Cpl Brais J.N. Cdn Inf Corps, on the strength of 6 CIRU
Mr Frank Wise, Grag Farm, Norwood Edge, Otley, Yorks
D-66327, Sgt Coutu R., Cdn Inf Corps, on the strength of 6 CIRU.

Defence

Nil

In the Field
12th Aug 44

LIST OF EXHIBITS

In the case of No D-57714, Private Rene GIROUX, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A": one pair of ankle boots

IN the Field
12th Aug 44

LIST OF APPENDICES

In the case of No D-57714, Private Rene GIROUX, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Appendix "A": Statement of evidence

In the Field
18th Aug 44

CERTIFICATE RE WAITING MEMBER

In the case of D 57714 Pte GIROUX Rene 6 C.I.R.

I hereby certify that there were no objections to the Members who constituted the Court which tried the a/m soldier by Field General Court-Martial. The Waiting Member Capt R.T. Halroyd was therefore permitted to withdraw.

In the Field.
1 Sept 44

.....Major.
President.

LIST OF OFFICERS FOR INSTRUCTION

In the case of D 57714 Pte GIROUX Rene 6 C.I.R.

The following Officers attended the a/m Field General Court-Martial for instruction:-

Lieut A M Keith

.....Major.
President.

In the Field.
1 Sept 44

4N-55

Pte. Giroux R.S.

4N-55

RECORDED IN CMHQ IN AE 160

CFA86 (To Beg of AF 53) 10-P-G-H (1000) 1944

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig R.H. Keefler Comd 6 CIB dated 18 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.115076	Pte	Roland Stanislas	Giroux	4 Fus M R

Certified true Copy
W.A. Glassop Capt
D.J.A.
Can Sec G.H.Q. 21 Army Gp

Can Sec G.H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 19 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/119

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which letters are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1010 hours trial commences.

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

(1. KR Can 557. 2. AA 44(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

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

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

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

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

Ans No (2)

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

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

President	Major	F Lee	S Sask R
Member	Capt	F.W.A. Glassop	Can of C
Member	Lt	L Tanguay	Fus M R
Judge-Advocate	Capt	E. K. McDougall	HQ 2 Cdn Inf Div
Prosecutor	Capt	J. G. Ouimet	Fus M R
Defending Offr	Capt	R Asselin	Fus M R

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

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

A8. The accused B.115076 Pte Giroux, R. L. before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 4 of instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF 856 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Put here Loose Sheets of Record.

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

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

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

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

(1. RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

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

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

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

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

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

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

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

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

Ans. ..... Are they witnesses as to character only ? Ans. .....

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

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

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

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

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

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

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

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans. No Sir

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

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

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

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By my defending officer (2)

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

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

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

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

(1. When several accused tried separately see RP 7(D). One sentence only, consisting of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 116, 119(A), KR Can 304, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : B.115076 Pte Giroux R. S.

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

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

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

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

Time in confinement awaiting present trial—a total of 11 days, of which 0 days were spent in hospital.(1)

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

Sentence Awarded by the Court :

TO BE IMPRISONED WITH HARD LABOUR FOR ONE (1) YEAR.

(Sgd) Errol K McDougall — Judge-Advocate, if any.

19 Dec 44 — Date awarded.

(Sgd) F Lee Major — President. (RP 45, 50.)

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

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

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

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

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

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

CONFIRMED

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

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

(Sgd) R. H. Keefler Brig

Date 21 Dec 44 — Commanding 6 Cdn Inf Bde — Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B-115076 Pte Giroux,R. S.	21 Dec 44	

CR 58 of 21 Dec 44 — Sgd CJR Langlois Capt & Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

B-115076 Private Roland Stanislas GIROUX, Les Fusiliers Mont-Royal, a soldier of the canadian Army Overseas, is charged with:

FIRST CHARGED
A. A. Sec 9(2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

in that he,

In the Field, at about 1450 hours on the 8th of December 1944, did NOT get ready to move with his Coy when ordered to do so by Major J. E. Thibault, his Coy Comd.

In the Field
This 12th December 1944

Sgd J. M.P. Sauve Lt-Col
Commanding
Les Fusiliers Mont-Royal

In the Field
18 Dec 44

General
To be tried by a Field Court Martial

Sgd R. H. Keefler Brig
Comd 6 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.115076	Pte		Roland Stanislas	Giroux	Fus M. R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Dec 44 endorsed by me, ~~to try an offr of my staff (or me)~~, " To be tried by Field General Court-Martial ".

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

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

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

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

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

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

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

PRESIDENT.

Major (Rank.)	F Lee (Must be named. RP 106.)	S Sask R (Unit.)

MEMBERS.

Capt	F. W. A. Glossop	Can of C
Lt (Rank.)	L Tanguay (Named or detailed. RP 106.)	Fus M R (Unit.)

WAITING MEMBER.

Lt (Rank.)	J. A. MacLean (Named or detailed, if any. RP 106.)	Can of C (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E. K. McDougall (Must be named, if any. RP 106.)	HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in Holland (Country.)	R. H. Keefler (Signed personally. RP 105 fn 2.)	Brig (Rank.)
Date 18 Dec 44	Commanding 6 Cdn Inf Bde	Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

In the Field 19 Dec 44

I certify that I have examined B.115076 Pte Giroux, R. S. and is fit to be tried by F. G. C. M.

Sgd G.Soucie Capt

SUMMARY OF EVIDENCE

In the case of B115076 Pte Giroux, R. S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed if his rights.

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

.....

FIRST WITNESS for the prosecution: Major J. E. Thibault, Les Fusiliers Mont-Royal, having been duly sworn, makes the following statement:

"On Friday, 8 Dec 44, at or about 1450 hrs, I, as Coy Comd, checked my lines to see that every man was ready for the move which was to take place the same date and take us from BEERS to GROESBEEK Holland. On making that inspection, I saw that Pte Giroux was not dressed. I then ordered him to be ready within ten minutes as my Coy had to leave at 1500 hrs. After th se ten minutes had expired, I noticed that Pte Giroux had failed to comply with my orders, and had done nothing to carry out the said orders. I then had him placed under close arrest by Sjt Falardeau L. of my Coy."

The accused declines to cross-examine

Sgd J. E. Thibault, Major
Les Fus M R

The accused, having been duly cautioned in accordance with RP 4 (c) says:

"I have nothing to say" Sgd Giroux R. S.
B.115076 Pte Giroux R. S.

Certified that RC 4 Have been complied with.

Sgd C. J. R. Langlois, Capt
Offr detailed to take the Summary

In the Field
11 Dec 44

LIST OF WITNESSES

In the case of B.115076 Pte ~~xxxx~~ Giroux, R. S. Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

PROSECUTION

MAJOR J. E. Thibault Les Fus M R

DEFENCE

N I L

LIST OF EXHIBITS

N I L

STATEMENT BY ACCUSED

I,B115076 Pte Giroux R. S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas,certify that I have been given free-of-charge copy of documents,proceeding,etc,relating to my trail by Field General Court Martial.

I request the services of an offr to defend me at my trail by Field General Court Martial.

I desire the Services of Capt J. E. Ouimet if he is available.

Sgd R. S. Giroux.

No B.115076 Name Giroux R | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 5 Aug 43 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFR (AFR [illegible]) [illegible]

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier 4 Mar	Sheet destroyed 44	Pte		5 Feb 44. Last Entry 7 Nov 43. Cases of AA Sec 9(2) Desobeying etc..... in that he desobeyed a lawful command given by superior officer	Drunkenness NIL Sgt Proulx Pte Rinette , Pte Tardif, R	R Savary Lt 7 days ord F pay-14 days pay	10 Mar 44	Lt Col Patenaude	7 days pay FR&I 149(1)(a)
Valcartier 1 May 44		Pte		AA Sec 15(1) AWL from 2200 hrs 1 May 44 until 1700 hrs 9 May 44. Cost of app. $94.20-7days 19 hrs	Documentry	14 days C. B.	22 May 44	Col P.E. Poirier	8 days pay FR&I149 (1) (a) Stopp$94.20
Valcartier 2 1 Aug 44		Pte		AA Sec 15(1) AWL from 0630 hrs 21 Jul 44 until 1500 hrs 21 Jul 44(8 hrs 30 min	SgtEdmond	~~xxxxxxxx~~ 2 days C.B.	22 Jul 44	Capt L.P. Proulx	1 day pay FR&I 149(1)(a)

(PTO)

	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Nov 44	Pte		AA Sec 15(1) NCAS absent without leave from 1830 hrs 9 Nov 44 until apprehended by Cdn Pro Corps in the Max Hotel at Antwerp at about 0130 hrs 26 Nov 44 Total of absence:-16 days 7 hrs	Documentary	17 days pay 28 days F. P.	2 Dec 44	Lt Col JMP Sauve	

CERTIFIED TRUE COPY

SGD C. J. H. Langlois Capt & Adjt
Les Fus A R C A (C)

M.F.B. 353
22M—5-41 (379-2)
H.Q. 1772-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.115076	Pte	Giroux R. S.	Les Fus M R

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

	Within last 12 months		Since enlistment or appointment	
For	AA 9(2)	1 times		times
For	AA 15(1) AWL	3 times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct N/A

or,

There are no entries in the conduct sheets of the accused. N/A

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

2. The accused has not been previously convicted N/A

or,

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

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 11 days in Air Force military custody, making a total of 11 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 19 years old

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 5 Aug 43

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

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

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

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

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years. N/A

In the rank of ..... years.

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

SCHEDULE

Air Force

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

Name ..... of .....

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

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

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

Signed this 19 day of Dec

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

RECORDED AT CMHQ IN AB 160 4N-55

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AFA33 40/10 & 11, 1688 161445) 4/38B

Convened by Order of Brig. R.H. Keeffer Comd 6 CAB dated 18 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 115076	Pte.		Roland Stanislas	Giroux	Fus 14 R

PROCEEDINGS REVIEWED

Maj R.H. Keeffer Capt

PROCEEDINGS REVIEWED BY BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 19 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/119-

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1010 hours trial commences.

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

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

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

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

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

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

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

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

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

President	Major	F. Lee	S. Staff R
Member	Capt.	F.W.A. Elcock	Can DC
Member	Lt.	L. Thomas	Fus M R
Judge-Advocate	Capt.	E.K. Thrindell	HQ 2 Cdn Inf Div
Prosecutor	Capt.	J.G. Dunnet	Fus M R
Defending Offr	Capt.	R. Rankin	Fus M R

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused B115076 Pte. Giroux R.J. before arraignment make(s) (no) (~~no~~) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 63(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Volg Fwd to

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s).(2) The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Invite the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(H).)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 42, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 5. Accused and witnesses are sworn. Evidence recorded per Notes.)

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and six governs, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 208, 220, 563-566, Overseas RO 309, 3323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest in Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : B115076 Pte. Giroux, R.S.

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

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

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

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

Time in confinement awaiting present trial—a total of 11 days, of which 0 days were spent in hospital.(2)

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

Sentence Awarded by the Court : to be imprisoned with Hard Labour for one (1) year.

(Sgd) Errol McDonald, Judge-Advocate, if any. Capt — 19 Dec 44, Date awarded. — (Sgd) [signature], President. (RP 45, 50.)

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

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

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

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

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

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

Confirmed

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

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

(Sgd) [signature] Brig

Date 21 Dec 44 — Commanding 6 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
B-115076 Pte Giroux R.S.	21 Dec 44	[signature]

CR 58 of 21 Dec 44 — CJSLanglois, Capt&Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

B-115076 Private ROLAND STANISLAS GIROUX, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A.Sec 9(2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER.

in that he,

in the Field, at about 1450 hours on the 8th of December 1944, did NOT get ready to move with his Coy when ordered to do so by Major J.E.Thibault, his Coy Comd.

(J.A.P.Sauve) Lt-Col
Commanding
Les Fusiliers Mont-Royal

In the Field
This 12th December 1944

In the Field
18 Dec 44

To be tried by a Field General Court Martial.

(R.H. Keefler) Brig
Comd 6 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1[illegible], 109.

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B115076	Pte.	—	ROLAND STANISLAS	GIROUX	Fwd M.R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". Brok

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

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

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

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

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

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

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

PRESIDENT.

MAJOR (Rank.)	F LEE (Must be named. RP 106.)	S. Sask R (Unit.)

MEMBERS.

CAPT	F.W.A GLOSSOP	Cam of C
LT (Rank.)	L TANGUAY (Named or detailed. RP 106.)	Fwd M.R. (Unit.)

WAITING MEMBER.

LT. (Rank.)	J.A. McLEAN (Named or detailed, if any. RP 106.)	Cam of C. (Unit.)

JUDGE-ADVOCATE.

CAPT (Rank.)	E.K. McDOUGALL (Must be named, if any. RP 106.)	HQ&CDN INF DIV (Unit.)

On Active Service in the Fd

in HOLLAND. (Country.) [signature] (Signed personally. RP 105 fn 2.) Brig (Rank.)

Dat 18 Dec 44 Commanding 6 Cdn Inf Bde.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/36A CFA 36 (In Bed of AFA 2) 40/P & S/1697 (8143) *(See overleaf for oaths and notes for use on trial.)*

In the Filed 19 Dec 44

I certify that I have to be examined . B-11507A Pte Giroux R.S.....

and is fit ~~[illegible]~~ to be tried by F.G.C.M.

G. Sourie Capt.

[illegible]

Mitigation

The Acc enlisted in Aug 43 at age of 18. He has always had a very good character. Came to France with the unit & has had 5 months action with the unit. He was a signaller to Maj. White for the first three months. Maj. White was killed & this shook the Acc who was then LOB for a while. This explains his condition now. He has always been willing to work.

I ask Ct. to consider his youth and the action he has already seen. I ask for lenient sentence

[illegible]

"A"

SUMMARY OF EVIDENCE

In the case of B115076 Pte Giroux R.S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed if his rights.

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

.....

FIRST WITNESS for the prosecution: Major J.E.Thibault, Les Fusiliers Mont-Royal, having been duly sworn, makes the following statement:

"On Friday, 8 Dec 44, at or about 1450 hrs, I, as Coy Comd, checked my lines to see that every man was ready for the move which was to take place the same date and take us from BEERS to GROENEKAN, Holland. On making that inspection, I saw that Pte Giroux was not dressed. I then ordered him to be ready within ten minutes as my Coy had to leave at 1500 hrs. After those ten minutes had expired, I noticed that Pte Giroux had failed to comply with my orders, and had done nothing to carry out the said orders. I then had him placed under close arrest by Sjt Balardeau L., of my Coy."

The accused declines to cross-examine

J.E.Thibault, Major
Les Fus M R

The accused, having been duly cautioned in accordance with RP 4(c) says:

"I have nothing to say"

B115076 Pte Giroux R.S.

Certified that RP 4 Have been complied with.

C.V.M.Langlois, Capt
Offr detailed to take the Summary.

In the Field
11 Dec 44

LIST OF WITNESSES

In the case of B115076 Pte Giroux R.S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

PROSECUTION

Major J.E.Thibault Les Fus M R

DEFENCE

N I L

LIST OF EXHIBITS

N I L

STATEMENT BY ACCUSED

I, B115076 Pte Giroux R.S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, certify that I have been given free-of-charge copy of documents, proceedings, etc., relating to my trial by Field General Court Martial.

I request the services of an offr to defend me at my trial by Field General Court Martial.

I desire the services of ..C.A.P.T...J.K.O.U.I.N.E.T. if he is available.

R.S. Giroux

R.S. Giroux, Pte.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B115076	Pte	GIROUX K.S.	Les Fus MR

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

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

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

† See para. 617, K.R., 1940.

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

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

	* Within last 12 months.	*Since Enlistment.
For AA 9(2)	1 time	times.
For AA 15(1) AWL	3 times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused. N/A

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

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

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

4. The accused has been in confinement, awaiting trial on the present charges, for _____ days in civil custody, and 11 days in military custody, making a total of 11 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years old

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 5 AUG 43

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

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

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

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

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

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

(*42500) WL34600/1730 20,000 10/43 A.A.T.W.Ltd. Gp.698
(20095) WL34995/1689 15,000 2/43 " "

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

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

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

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

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

Signed this 19 day of Dec 4

[signature] Capt. & Adjt.

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

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

N/A

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

No. 115076 Name GIRGUX R | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 5 Aug 43 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/128 (2436)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	4 Mar 44	Pte		5 Feb 44. Last Entry 7 Nov 43. AA sec 9(2) Desobeying etc.... in that he desobeyed a lawful command given by superior officer	Cases of Drunkenness NIL Sgt Proulx C Pte Binette F Pte Jardin, R	7 days pay-14 days pay	R. Savary Lt 10 Mar 44	Lt Col Patenaude	7 days pay PRM 149(1)(a
Valcartier	1 May 44	Pte		AA sec 15(1) AWL from 2200 hrs 1 May 44 until 1700 hrs 9 may 44. Cost of app $94.20-7 days 19 hrs	Documentary	14 days C.B.	22 May 44	Col P.E. Poirier	8 days pay PRM 149(1)(a Stopp$94.20
Valcartier	21 Aug 44	Pte		AA sec 15(1) AWL from 0630 hrs 21 Jul 44 until 1500 hrs 21 Jul 44 (hrs 30 mins	Sgt Emond	2 days C.B.	22 Jul 44	Capt L.P. Proulx	1 day pay PRM 149(1)(a

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Nov 44	Pte		AA sec 15(1) WOAS absent without leave from 1130 hrs 9 Nov 44 until apprehended by Cdn Provost Corps in the Lux Hotel at Antwerp at about 0130 hrs 30 Nov 44 Total of absence:- 16 days 7 hrs.	Documentary	17 days pay 30 days F.P.	2 Dec 44	Lt Col JTP Sauve	

4N-55

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig R.H. Keefler Comd 6 CIB dated 18 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.115076	Pte		Roland Stanislas	Giroux	Fus M R

Certified true copy
[signature]
A.D.J.A. Capt
Cdn Sec G.H.Q. 2 Cdn Inf Div

PROCEEDINGS REVIEWED
Date 18 Jan 45
[signature]
A.D.J.A. Capt
Cdn Sec G.H.Q. 2 Cdn Inf Div
21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 19 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/119

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

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

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1010 hours trial commences.

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

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

A5. President to accused: ~~Do you object to [illegible] as interpreter? Ans [illegible]~~

~~The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans [illegible]~~
~~The shorthand writer is sworn.(1)~~

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

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

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

President	Major	F Lee	S Sask R
Member	Capt	F.M.A. Glossop	Cam of C
Member	Lt	L Tanguay	Fus M R
Judge-Advocate	Capt	E. K. McDougall	HQ 2 Cdn Inf Div
Prosecutor	Capt	J. G. Quinet	Fus M R
Defending Offr	Capt	R Asselin	Fus M R

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

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

A8. The accused B.115076 Pte Giroux, R. L. before arraignment make(s) (no) (a) plea (1)

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

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP* 50, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

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

B1. The President or JA, if any, complies with RP 55(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

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

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

B3. ~~The Court considers the accused's statement (2). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

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

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras E1 to E5 of Record Form B above.(1)
(*1. Unless B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(as).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71(D). One sentence only, comprising of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : B.115076 Pte Giroux R. S.

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

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

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

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

Time in confinement awaiting present trial—a total of 11 days, of which 0 days were spent in hospital.(1)

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

Sentence Awarded by the Court :

TO BE IMPRISONED WITH HARD LABOUR FOR ONE (1) YEAR.

(Sgd) Errol K McDougall — Judge-Advocate, if any.

19 Dec 44 — Date awarded.

(Sgd) F Lee Major — President. (RP 45, 50.)

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

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

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

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

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

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

CONFIRMED

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

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

(Sgd) R. H. Keefler Brig

Date 21 Dec 44 — Commanding 6 Cdn Inf Bde — Confirming Officer

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

Accused.	Date.	Signature of Offr.
B-115076 Pte Giroux,R. S.	21 Dec 44	

CR 58 of 21 Dec 44 — Sgd CJB Langlois Capt & Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

B-115076 Private Roland Stanislas GIROUX, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGED
A. A. Sec 9(2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

in that he,

In the Field, at about 1450 hours on the 8th of December 1944, did NOT get ready to move with his Coy when ordered to do so by Major J. E. Thibault, his Coy Comd.

In the Field
This 12th December 1944

Sgd J. M.P. Sauve Lt-Col
Commanding
Les Fusiliers Mont-Royal

In the Field
18 Dec 44

To be tried by a Field/General Court Martial

Sgd R. H. Keefler Brig
Comd 6 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.115076	Pte		Roland Stanislas	Giroux	Fus M. R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 18 Dec 44 endorsed by me, (date) (for by an offr of my staff (the me)), "To be tried by Field General Court-Martial".

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

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

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons~~ have none not here.

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F Lee		3 Sask R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	F. H. A. Glossop		Can of C
Lt	L Tanguay		Fus M R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	J. A. MacLean		Can of C

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	E. K. McDougall		HQ 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.)

Date 18 Dec 44

E. H. Keefler (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Commanding 6 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

In the Field 19 Dec 44

I certify that I have examined B.115076 Pte Giroux, R. S. and is fit to be tried by F. G. C. M.

Sgd G. Bouscie Capt

SUMMARY OF EVIDENCE

In the case of B115076 Pte Giroux, R. S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed if his rights.

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

.....

FIRST WITNESS for the prosecution: Major J. E. Thibault, Les Fusiliers Mont-Royal, having been duly sworn, makes the following statement:

"On Friday, 8 Dec 44, at or about 1450 hrs, I, as Coy Comd, checked my lines to see that every man was ready for the move which was to take place the same date and take us from BEERS to GROESBECK Holland, On making that inspection, I saw that Pte Giroux was not dressed. I then ordered him to be ready within ten minutes as my Coy had to leave at 1500 hrs. After th se ten minutes had expired, I noticed that Pte Giroux had failed to comply with my orders, and had done nothing to carry out the said orders. I then had him placed under close arrest by Sjt Falardeau L. of my Coy."

The accused declines to cross-examine

SGDJ. E. Thibault, Major
Les Fus M R

The accused, having been duly cautioned in accordance with RP 4 (c) says:

"I have nothing to say" Sgd Giroux R. S.
B.115076 Pte Giroux R. S.

Certified that RO 4 Have been complied with.

Sgd C. J. E. Langlois, Capt
Offr detailed to take the Summary

In the Field
11 Dec 44

LIST OF WITNESSES

In the case of B.115076 Pte ~~xxxxx~~ Giroux, R. S. Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

PROSECUTION

MAJOR J. E. Thibault Les Fus M R

DEFENCE

N I L

LIST OF EXHIBITS

N I L

STATEMENT BY ACCUSED

I,B115076 Pte Giroux R. S., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas,certify that I have been given free-of-charge copy of documents,proceeding,etc,relating to my trail by Field General Court Martial.

I request the services of an offr to defend me at my trail by Field General Court Martial.

I desire the Services of Capt J. E. Guimet if he is available.

Sgd R. S. Giroux.

No. B.115076 Name Giroux R | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 5 Aug 43 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40(P&S [illegible] 5413)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier 4 Mar	Sheet destroyed 44	Pte		5 Feb 44. Last Entry 7 Nov 43. Cases of AA Sec 9(2) Desobeying etc..... in that he desobeyed a lawful command given by superior officer	Drunkenness NIL Sgt Proulx Pte Binette , Pte Tardif, R	R Savary Lt 7 days ord F pay-14 days pay	10 Mar 44	Lt Col Patenaude	7 days pay FR&I 149(1)(a)
Valcartier 1 May 44		Pte		AA Sec 15(1) AWL from 2200 hrs 1 May 44 until 1700 hrs 9 May 44. Cost of app. $94.20-7 days 19 hrs	Documentry	14 days C. B.	22 May 44	Col F.E. Poirier	8 days pay FR&I149 (1) (a) Stopp$94.20
Valcartier 2 1 Aug 44		Pte		AA Sec 15(1) AWL from 0630 hrs 21 Jul 44 until 1500 hrs 21 Jul 44(8 hrs 30 min	SgtEdmond	~~[illegible]~~ 2 days C.B.	22 Jul 44	Capt L.P. Proulx	1 day pay FR&I 149(1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Nov 44	Pte		AA Sec 15(1) NDAS absent without leave from 1830 hrs 9 Nov 44 until apprehended by Cdn Pro Corps in the Max Hotel at Antwerp at about 0130 hrs 26 Nov 44 Total of absence:-16 days 7 hrs	Documentary	17 days pay 28 days F. P.	2 Dec 44	Lt Col JMP Sauve	

CERTIFIED TRUE COPY

SGD C. J. R. Langlois Capt & Adjt
Les Fus R R C A (O)

M.F.B. 353
22M—3-41 (372-2)
H.Q. 1772-20-420
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.115076	Pte	Giroux R. S.	Les Fus M R

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

	Within last 12 months	Since enlistment or appointment
For	AA 9(2) 1 times	times
For	AA 15(1) AWL 3 times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or, N/A

There are no entries in the conduct sheets of the accused. N/A

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

2. The accused has not been previously convicted

or, N/A

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

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 11 days in Air Force military custody, making a total of 11 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 19 years old

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 5 Aug 43

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

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

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

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

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

..... dated .....

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years. N/A

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

SCHEDULE

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

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

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

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

Signed this 19 day of Dec

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

5Z-13 Pte. (L/Cpl.) Suibiler J. P.



PREPARED AT CMHQ IN AB 1004 — 5Z-13

RECEIVED MAR 16 1946 AG BRANCH

FIELD GENERAL COURT-MARTIAL

CFA36 (To incl. of AFA3) R.C.P. & S.C. 1606-1 (2864)

Convened by Order of Lt Col BAKER Comd 1 CAN DEMOB DEPOT dated 2 MAR 46

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B177561	PTE	(L/CPL)	JEAN PAUL	GIUBILEI	X-46137 C PRO C 3 CDN TRANSIT CAMP CFN

PROCEEDINGS REVIEWED

16 Nov 46 C.H. Tait, Maj.

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

(Initial Venue) at/in (country) HOLLAND on (date(s)) 4 MAR 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes" as to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

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

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

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 567(c). Delete, if not applicable.)

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

~~The Interpreter is sworn.(*) Do you object to ... as shorthand writer? Ans ...~~ B
~~The shorthand writer is sworn.(*)~~ B

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

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

Ans NO SIR.(2)

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

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

President	Major J A Ballargeon	Gen Cont 3 Cdn Transit Camp
Member	Capt H N McLeod	CIC 3 Cdn Transit Camp
Member	Capt D L Macdonell	CIC 3 Cdn Transit Camp
~~B Judge-Advocate~~		
Prosecutor	Lieut D R Saunderson	CIC 3 Cdn Transit Camp
Defending Offr	Lieut W D Callaghan	CIC 3 Cdn Transit Camp

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

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

A8. The accused B177561 Pte (L/Cpl) GIUBILEI J P before arraignment make(s) (no) ~~(no)~~ plea. B

.....(1)

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

3 Cdn Transit Camp CFN Vol 1 Page 47

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D2 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.~~(1)
(1. RP 37(A) (E).)

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....
(1. RP 155. 2. RP 40(A), etc 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Bad character conduct sheet
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. Idem 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to punishments see AA 44, 138, 142, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas AO 309, 2023, RP 48. As to punishments see AA 44, 138, 142, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas AO 309, 2023, MML p 60, 757-759. As to sentences imposed for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: 8177561 PTE (L/CPL) GIUBILEI JEAN PAUL X-4L1ST CPRO C 3 Cdn Tra Inf Coy CFN

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 7.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 153, and in lieu of list see RP 44 fn 6.)

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

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

Time in confinement awaiting present trial—a total of 9 days, of which NIL days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo detention for Forty Five (45) days.

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

4 MAR 46 (Sgd) [signature] President (RP 45, 50) Major.

Date awarded.

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

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

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

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

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

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

Confirmed

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

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

(Sgd) W H Baker Lt Col

Date 6 March 46

Commanding 1 Cdn Reinf Depot

Confirming Officer.

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

Accused.	Date.	Signature of Offr.
8-177561 Pte (A/Cpl) Giubilei J P C X-4 List 3 Cdn Trans Camp	6 Mar 46	Jack Rose Major Legal Officer 3 Cdn Transit Camp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. CFN

AB

PRIORITY OF THIS CERTIFICATE

(Mo (Cdn) Para 157)
(CMHQ CL 173)

I certify that I have this day examined D-177561
(No)

L/Cpl. GIUBILEI, J.P. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.

Station 3 Cdn Transit Camp, CFN

Date 4 Mar 46

Beaujard Lt (Sgd),
Medical Officer

(Unit) _____

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-177561	Pte	(L/Cpl)	Jean Paul GIUBILEI	(X-4 List)	C Pro C 3 Cdn Transit Camp CFN

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~been~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Mar 46 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial " HB

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

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

4. ~~[illegible]~~ HB
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ HB
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	F.A. BAILLARGEON	Gen List	3 Cdn Transit Camp CFN

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt.	H.N. McLEOD, MC.	CIC	3 Cdn Transit Camp CFN
Capt.	D.L. MACDONELL	CIC	3 Cdn Transit Camp CFN

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Lieut.	R.G. HILL	CIC	3 Cdn Transit Camp CFN

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Field (Country.) — H F Baker (Signed personally. RP 105 & 2.) (H.F. Baker) Lt-Col. — Lt-Col. (Rank.)

Dat 2 Mar. 46 — Commanding 1 Cdn Demob Depot. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 93 (In lieu of AFA 3) 80/P & S/1697 (61a3) — *(See overleaf for oaths and notes for use on trial.)*

- CHARGE SHEET -

The accused, D-177561 Pte (L/Cpl) Jean Paul GIUBILEI, (X-4 List) Canadian Provost Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

Sect. 15(1) Army Act.

in the Field, at 0900 hrs. 15 January 1946 absented himself without leave until he was apprehended at UTRECHT, Holland, at 1200 hrs 23 Feb 46.

(Absent 39 days 3 hrs)

Jack Rose

(H.A.C. Rose) Major
T/Officer Commanding
3 Cdn Transit Camp - CFN.

In the Field
28 February 1946.

To be tried by Field General Court Martial.

H F Baker

(H.F. Baker) Lt-Col.
Officer Commanding
1 Cdn Demob Depot
C.F.N.

In the Field
2 Mar. 1946

FORM OF APPLICATION FOR A COURT-MARTIAL

3 Cdn Transit Camp, CFN; Regiment

Station Field Date 28 February 1946

Application for a Field General **Court-Martial**

Sir,

I have the honour to submit One charge against

No. D-177561(Pte L/Cpl) GIUBILEI, J.P. (X-4 list C.Pro.C)

of the Unit under my command, and request you will obtain the sanction of O.C. 1 Cdn Demob Depot that a Field General Court-Martial may be assembled for his trial at This Unit

The case was investigated by (a) Major HAC ROSE (b) Lieut. D.R. Saunderson, both of this Unit.

A Court of Inquiry was held on (b) 21 February 1946 (date)

at 3 Cdn Transit Camp, CFN (Station).

President Capt. Y. Vezina
Members Lieut. D.R. Abbey
} Ranks, names and corps.

The accused is now at This Unit His general character is (c) Unknown

I enclose the following documents (d):—

1. One Charge Sheet (in duplicate) (e).
2. Summary of Evidence, original (f) and One copy.
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. ~~[illegible]~~
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer HACRose
(H.A.C. Rose) Major
T/Officer Commanding
3 Cdn Transit Camp, CFN.

To: Officer Commanding
1 Cdn Demob Depot
C.F.N.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. D-177561(Pte L/Cpl) GIUBILEI, JP., (X-4 list C.Pro.C) Regiment, is* fit to undergo trial by Court-Martial.

[signature]
Signature of the Medical Officer.

*Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 2, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(i) the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

3/62 M.F.B. 221
4P/F & S/650

- CHARGE SHEET -

The accused, D-177561 Pte (L/Cpl) Jean Paul GIUBILEI, (X-4 List) Canadian Provost Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

Sect. 15(1) Army Act. in the Field, at 0900 hrs. 15 January 1946 absented himself without leave until he was apprehended at UTRECHT, Holland, at 1200 hrs 23 Feb 46.

(Absent 39 days 3 hrs)

In the Field
28 February 1946.

(H.A.C. Rose) Major
T/Officer Commanding
3 Cdn Transit Camp - CFN.

To be tried by Field General Court Martial.

In the Field
Mar. 1946

(H.F. Baker) Lt-Col.
Officer Commanding
1 Cdn Demob Depot
C.F.N.

SUMMARY OF EVIDENCE

In the case of D-177561(L/Pte/Cpl.)Jean Paul GIUBILEI, X-4 list, Canadian Provost Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas.

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

The following documents were laid before the Officer detailed to take Summary of Evidence and are marked as Exhibits "A" and "B" and are initialled by him for the purpose of identification.

"A" A certified true copy of a Declaration of a Court of Inquiry held at 3 Cdn Transit Camp on the 21st February 1946, showing the accused absent from 0900 hrs. 15 January 1946.

"B" A Certificate of arrest of the accused, a t UTRECHT, Holland, at 1200 hrs 23 Feb 1946.

The accused does not question the documents.

D R Saunderson

(D.R. Saunderson)Lieut.
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows:-

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

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

Certified that all the provisions of R.P. 4 (c)(d)(e) and (f) have been complied with. Taken down by me in the presence and hearing of the accused this 28 day of [redacted] 1946, In the Field.

D R Saunderson

(D.R. Saunderson)Lieut.
Officer detailed to take
Summary of Evidence.

LIST OF WITNESSES

In the Case of D-177561(L/Cpl.) Jean Paul GIUBILEI.

(For the Prosecution)

NONE

(For the Defence)

NONE

LIST OF EXHIBITS

In the Case of D-177561 L/Cpl. Jean Paul GIUBILEI.

(For the Prosecution)

"A" A certified true copy of a Declaration of a Court of Inquiry held at 3 Cdn Transit Camp on the 21st February 1946, showing the accused absent from 0900 hrs. 15 January 1946.

"B" A certificate of arrest of the accused at UTRECHT, Holland, at 1200 hrs 23 Feb 1946.

(For the Defence)

NONE

CERTIFICATE OF ACCUSED

I, D-177561 L/Cpl. GIUBILEI, J.P. hereby acknowledge that I received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein.

I also request that an Officer be appointed to act as my Defending Officer at my forthcoming Court-Martial.

(J.P. JIUBILEI)

D-177561 GIUBILEI, Jean Paul

No. Name Sqn, Battery, or Company Corp. C.Pro.C. Date of enlistment 17 Jan 44 GC Badges Service or Proficiency Pay 3/17 MFM 6 (APR 122) 40/F&S/[illegible]

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc (J.H. Watson) Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
TEMPORARY SHEET- Records of previous service not available(.....(J.H. Watson)Lieut.....)								28 Feb 46	

CERTIFIED TRUE COPY OF THE TEMPORARY SHEET IN MY POSSESSION

J H Watson Lieut.

(J.H. Watson)Lieut.
Officer having custody of
Temporary Sheet.

(F70)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-177561	Pte(L/Cpl).	GIUBILEI, J.P.	3 Cdn Transit Camp, CFN

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

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

For Not Known ____ times.
For Not Known ____ times.
For Not Known ____ times.
For Not Known ____ times.

Date of first entry in Field Conduct Sheet Not Known
Date of last entry in Field Conduct Sheet Not Known

[redacted]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for 0 days in civil custody; and for 5 days in military custody, *i.e.*, 0 days in open arrest, 5 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 19 yrs. 10 months

6. The date of his attestation 17 Jan 44

[redacted]

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

[redacted]

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

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

W's 55/900/1802 20,000 3/44 51-4731. Forms/B.296/War/5

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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

Signed this 28th day of February 1946

(J.H. Watson) Lieut.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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

Signed this 28th day of February 1946

(J.M. Watson) Lieut.

1. D 177561 L/Cpl Gubilei J P.

E1

The accused D 177561 Pte (L/Cpl) Gubilei J P. having been duly sworn states:-

I enlisted 17 Jan 44 - Came overseas about 12 Mar 45. I left England around 31 May 45 and came over here to 14 Fd Arty and I served in this theatre since that time. I got married about a month ago on the last day of my leave and came back to camp where I was stationed when I received word that my wife's step-father wanted to throw her out. I had no money to give her to find a place to live. I knew if I would be at her home he would not throw her out. So I stayed there

until she would get her allowance money which I was sure she would get in a couple weeks. Because of illness she could not work. She is too nervous. ~~after~~ She gets her money now from the Govt she can pay her way and live with somebody else. She ~~started~~ getting her allowance the 1 Dec 46. ~~So~~ That is what the Paymaster told me I was maried 9 Jan 46 I had ~~to~~ permission to marry. I am 20 yrs old.

RP 83(B) complied with

E3 3. Guibiler AB

Plea in Mitigation

This soldier definitely has a reason for his absence consider yourself in the same position gentelmen he had only been married a few days and when he sie's his wife again he finds out that her step-father has threatened to ~~thro~~ throw her out. His wife was not well at this time so he remained there to do what he could to help. While he was present his father-in-law was unable to carry out his threats so the soldier rightly thought that his duty lay first with his wife. Consequently he remained there to look after his wife. This girl is a Step-daughter and ~~consequently~~ therefor her father has little or no use for her and would be glad to see her leave. This soldier remained until he was sure her allowance was coming in and she could in some measure look after [illegible] lodgings at this time and therefor can do nothing more than he has to elevate the situation. However gentelmen in view of his good record I would suggest

P.T.O.

that rather than condemn this man
he be given a chance to change
his life and establish a home. It
is evident that although he has committed
a crime he is however not to
be condemned entirely for his actions
in this particular instance I would therefore
ask gentlemen that you be particularly
silent in this case.

Callaghan K.C.

Ex "A"

SUMMARY OF EVIDENCE

Pte

In the case of D-177561 (L/Cpl) Jean Paul GIROILEI, X-4 list, Canadian Provost Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas.

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

The following documents were laid before the Officer detailed to take Summary of Evidence and are marked as Exhibits "A" and "B" and are initialled by him for the purpose of identification.

"A" A certified true copy of a Declaration of a Court of Inquiry held at 3 Cdn Transit Camp on the 21st February 1946, showing the accused absent from 0900 hrs. 15 January 1946.

"B" A Certificate of arrest of the accused, at UTRECHT, Holland, at 1200 hrs 23 Feb 1946.

The accused does not question the documents.

D R Saunderson

(D.R. Saundersbn) Lieut.
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows:-

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

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

Certified that all the provisions of R.P. 4 (c)(d)(e) and (f) have been complied with. Taken down by me in the presence and hearing of the accused this 28 day of FEB, 1946, In the Field.

D R Saunderson

(D.R. Saunderson) Lieut.
Officer detailed to take
Summary of Evidence.

Ex "A" DRS

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 21 st day of February 19 46 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-177561 (L/Cpl) Pte GIUBILEI J.P.

DECLARATION

The Court declare that No. D-177561 (L/Cpl) Pte GIUBILEI J.P. x 4 List (C Prov C) 3 Canadian Transit Camp illegally absented himself without leave in the field at 0900 hrs on the 15 th day of January 1946, that he is still so absent, and that on the 21 Feb 46 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
SEE APPENDIX (A)			

Capt Y. VEZINA President

Lieut D.R. ABBEY Member

Member

Signed at Field

this 21 st day of Feb 19 46

Signature of Commanding Officer H.A.C. ROSE Major

Certified true copy D.R. Sanderson Lieut

Signature of Officer having custody of original record

M.F.D. 235
A.F.B. 115
3530—4-41 (750)
H.Q. 1772-19-207

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163 (1) (JJ).

Ex "B" DRL

I certify that No. D 177561 Rank L/Cpl.
Name Giubilei J.P. of unit Can. Provost Corps H.Q.(A Bn.) 1st C.M.R. Bn.

was arrested at Utrecht at 1200 hrs.

on 21st February 46. (Date).

He was dressed in uniform (~~XXXXXXXXXXXX~~)

Date .....

Signature of Provost Marshall, A.P.M. or other officer into whose custody the above named person was taken on arrest

(Rank) (Unit or appointment).

L.A. Magee Capt.
L.A. Magee
Officer Commanding 2/11 Can. Provost Coy.

NOTES.

1. This certificate must be signed personally by the officer concerned.

2. In no circumstances may it be signed by one officer "for" another or by anyone who does not hold commissioned rank.

3. In no case should the place of apprehension be described as "In the Field". The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the Map reference should be given.

LIST OF WITNESSES

In the Case of D-177561 (L/Cpl) Pte Jean Paul GIUBILEI.

(For the Prosecution)

NONE

(For the Defence)

NONE

LIST OF EXHIBITS

In the Case of D-177561 (L/Cpl) Pte Jean Paul GIUBILEI.

(For the Prosecution)

"A" A certified true copy of a Declaration of a Court of Inquiry held at 3 Cdn Transit Camp on the 21st February 1946, showing the accused absent from 0900 hrs. 15 January 1946.

"B" A certificate of arrest of the accused at UTRECHT, Holland, at 1200 hrs 23 Feb 1946.

(For the Defence)

NONE

CERTIFICATE OF ACCUSED

I, D-177561 (L/Cpl) Pte GIUBILEI, J.P. hereby acknowledge that I received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein.

I also request that an Officer be appointed to act as my Defending Officer at my forthcoming Court-Martial.

(J.P. JIUBILEI)

J.P. Giubilei

Ex. "B" Barlangeon Pres.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

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

Number.	Rank.	Name.	Regiment (or as the case may be).
D-177561	Pte (L/Cpl).	GIUBILEI, J.P.	3 Can Transit Camp, CFN

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

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

For Not Known ____ times.

For Not Known ____ times.

For Not Known ____ times.

For Not Known ____ times.

Date of first entry in Field Conduct Sheet Not Known

Date of last entry in Field Conduct Sheet Not Known

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

*3. The accused at the present time is under sentence for JHW beginning on the JHW day of JHW

4. The accused has been awaiting trial on the present charges for 0 days in civil custody; and for 59 days in military custody, i.e., 0 days in open arrest, 59 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 20 yrs. 10 months

6. The date of his attestation / calling up for military service is 17 Jan 44

7. The service which the accused is allowed to reckon is JHW

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

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

Date of Promotion JHW

In the substantive rank of JHW

In the war substantive rank of JHW

In the acting rank of JHW

*Strike out if not applicable.

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

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

W1 50000/1602 20,000 3/44 31-4715. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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

Signed this 28th day of February 1946

J.H. Watson, Lieut.

(J.H. Watson) Lieut.

D-177561 GIUBILEI, Jean Paul

No. Name | Sqn. Battery, or Company | Corps C.Pro.C. | Date of enlistment 17 Jan 44 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 10/F&S/136 (5419)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc (J.H. Watson) Lieut. | Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				TEMPORARY SHEET- Records of previous service not available		(J.H. Watson)Lieut.		28 Feb 46.	

CERTIFIED TRUE COPY OF THE TEMPORARY SHEET IN MY POSSESSION

J.H. Watson Lieut.

(J.H. Watson)Lieut.
Officer having custody of
Temporary Sheet.

(FTO)

NNN-126

PTE GIVIENS K.A.

DDD-126

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40-P & S/1698 (2864)

Convened by Order of Brig. J.C. Jefferson Comd 50 Dn Inf Bde dated 16 Feb 44 H.M.

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D82964	Pte		Kenneth Abbott	Giviens	R.H.C.

PROCEEDINGS REVIEWED
[signature] Capt
13 Mar 44
REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

PROCEEDINGS REVIEWED
Date 7 Mar 44
[signature] Capt
AJAG
FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

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

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

President	MAJOR	HUGUES MASSUE	R. de MAIS
Member	CAPT	I.H. LOUSON	R.H.C.
Member	LIEUT.	J.D.R. RACINE	R. de MAIS
Judge-Advocate			
Prosecutor	LIEUT.	R. HORWOOD	R.H.C.
Defending Offr	LIEUT.	W. MAGILL	R.H.C.

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

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

A8. The accused D82964 Pte K.A. Giviens before arraignment make(s) (no) ~~[illegible]~~ plea H.M. (1)

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 55(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans. No (4)

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

B3. ~~The Court considers the accused's statement(5). The Court decides (may) to allow accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (may) be informed, and his plea(s) to charge(s) his (these) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

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

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

(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin into Loose Sheets of Record.

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

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

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

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

(1. *RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

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

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

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

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

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

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

(1. *RP 39(D).* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes address(s), statement, evidence and any summing up by the JA under RP 42, 103(2).*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pieces of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No

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

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

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

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No (2)

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 21/4/61

(1. *When several accused tried separately see RP 120. One sentence only, compromised of the punishments or punishments laid down in AA 41, 44 and list provisos, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 130, 182. RP 46-50, 69, 116, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1303, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see notice on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : D 82964 Pte Kenneth Abbott Giviens, R.H.C.

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

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

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

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

Time in confinement awaiting present trial—a total of 2 days, of which 70 days were spent in hospital.(1)

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

Sentence Awarded by the Court : ~~180 days detention~~ H. M.

To undergo detention for 180 days.

(Sgd) ..... Judge-Advocate, if any. 17 Feb 44 Date awarded. (Sgd) [signature] Major President. (RP 45, 50.)

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

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

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

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

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

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

Confirmed

~~I direct that the accused be not confirmed in respect of detention [illegible] further reduce.~~ (1)

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

(Sgd) [signature]

Date FEB 17 1944

Commanding COMD. 5 [illegible] Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D82964 Pte Giviens KA	17 Feb 44	S.S.T. Cantlie Lt. Col. O.C. 1st Bn. The Black Watch (R.H.R.) of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, No. D-82964 Private Kenneth Abbott Giviens, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Overseas, on Active Service, is charged with:

First Charge — Absenting himself without leave,

Sec 15 (1) Army Act

in that he,

in the field, absented himself without leave from Tattoo Roll Call at 2300 hrs 27 Jan 44 till 1845 hrs 14 Feb 44. (Total absence 17 days 19 hrs, 45 mins.)

S.S.T. Cantlie Lt.-Col.
Officer Commanding,
1st Bn The Black Watch
(RHR) of Canada.

In the Field
15 Feb 44

To be tried by G.S.C.M.

16 Feb 44

J.C. Jefferson Brig.
COMD 5 CDN INF BDE.

H.M.

FIELD GENERAL COURT-MARTIAL

CFA66 (To Sec of AFAB) 40/FKS/1697 (2nd/43)

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 82964	Pte	Pte	Kenneth Abbott	GIVENS	R H C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 10 Feb 44 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

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

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

4. ~~[illegible]~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	H Massue (Must be named. RP 106.)	R de Mais (Unit.)

MEMBERS.

Capt	I H Louson	R H C
Lieut (Rank.)	J N R Racine (Named or detailed. RP 106.)	R de Mais (Unit.)

WAITING MEMBER.

Lieut (Rank.)	To be detailed by OC R H C (Named or detailed, if any. RP 106.)	R H C (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in U K (Country.)

(Signed personally. RP 105 to 2) [signature] Lieut. (Rank.)

Date: 16 Feb 44 Commanding OC R H C, 6 CDN. INF. BDE. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for points and notes for use on trial.)

I hereby certify that I have this day examined

D.82964 PTE. RIVIERS. K.A. and in my opi

fit to undergo trial by court martial.

DATE: 17 FEB 44.

(MEDICAL O

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. D-82964 Private Kenneth Abbott Giviens, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Overseas. Charged with one charge under AA 15(1) AWL (7 days 19 hrs 45 mins)

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the Prosecution: D-81971 L/Cpl. Gordon, E.J., 1st Bn The Black Watch (RHR) of Canada, sworn states:

I was "C" Coy Orderly Sgt. on 27 Jan 44. D-82964 Pte. Giviens, K.A. is a member of my Coy. I called Tattoo at 2300 hrs 27 Jan 44 and D-82964 Pte. Giviens, K.A. failed to answer his name. I marked him absent.

The accused declines to cross-examine.

(Sgd) "D-81971 L/Cpl. Gordon, E.J."

SECOND WITNESS for the Prosecution: D-82632 L/Cpl. McCubbin, D., 1st Bn The Black Watch (RHR) of Canada, sworn states:

On 14 Feb 44 I was 2 i/c of the Battalion Guard, and at 1845 hrs 14 Feb 44 D-82964 Pte. Giviens, K.A. reported to me at the Guard Room, sober and properly dressed.

The accused declines to cross-examine.

(Sgd) "D-82632 L/Cpl. McCubbin, D."

THIRD WITNESS for the Prosecution: D-81172 CQMS Hunter, G.R., 1st Bn The Black Watch (RHR) of Canada, sworn states:

I was A/CSM "C" Coy during the absence of D-82964 Pte. Giviens, K.A. who is a member of my Coy, and he was not present from 2300 hrs 27 Jan 44 to 1845 hrs 14 Feb 44.

The accused declines to cross-examine.

(Sgd) "D-81172 CQMS Hunter, G.R."

The accused, having been duly cautioned in accordance with R.P. 4 (e) says:

"Nothing to say".

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 complied with.

In the Field
15 Feb 44.

[signature] Lieut.
Officer detailed
to take summary.

Ex. "A"
H. M.

Request of accused for Defending Officer

"I desire the services of Lieut. W. Magill, if he is available".

In the Field
15 Feb 44

V A Givens Pte.
D-82964,
1st Bn The Black Watch
(RHR) of Canada.

Witness: [signature] Lieut.
1st Bn The Black Watch
(RHR) of Canada.

M.F.M. 6
(A.F.B. 122)
40/P & S/1286 (2637)

No. 762[illegible] Name Givieus K.A. Sqn., Battery, or Company Corps Date of enlistment 5.8.41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Jun 43	Pte		WOAS Conduct to the prejudice of good order and military discipline in that he did not get out of bed at Reveille AA Sec 40	D 82620 L/Cpl Unnett H.C.	3 days C.B.	10 Jun 43	A.C. Stevenson Major	
Field	3 Jul 43	Pte		WOAS Neglect to the prejudice of good order and military discipline in that he, appeared on a C.O.s parade with dirty white brass AA Sec 40	D 72233 Sgt McKinnon L.J. D 81627 Sgt Fuller A.B.W.	2 days C.B.	3 July 43	J.W. Branchett Capt	
Field	15 July 43	Pte		AA Sec 15(c) AWL from 1800 hrs 15 Jul 43 rendering himself in London at 0130 hrs 21 Jul 43 thus increasing expenses in the amt of 7/8 (5 days 7½ hrs)	D 81425 Sgt (L/Cpl) Thomsett, H. 3[illegible] Cpl Lawler P. 1278701 L/Cpl Lawler B	10 days detention	23 Jul 43	G. Rawlings Major	Forfeits 6 days pay by FRI 149(c)(6) 10 days by FRI 149(b)(6) 16 days pay

(P.700.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Aug 43	Pte		AA Sec 15(1) WOAS AWL from 2300 hrs 1 Aug 43 until 0825 hrs 2 Aug 43 (Absent 9 hrs 25 mins)	D 92638 L/Cpl Angell H.C. [illegible]	7 days CB	2 Aug 43	[illegible]	Forfeits 1 days pay by FRI 149(1)(a)
Field	29 Nov 43	Pte		AA Sec 15(1) WOAS AWL from 2300 hrs 29 Nov 43 until 0800 hrs 30 Nov 43 (Absent 9 hrs)	B 42842 L/C Knight E.W. [illegible]	3 days CB 2 days pay	1 Dec 43	G.P. Henderson Lt Col	Forfeits 2 days pay by FRI 149(2) 1 days pay by FRI 149(1)(a)
Field	15 Dec 43	Pte		AA Sec 15(1) AWL from 2300 hrs until 2359 hrs 15 Dec 43 (Absent 59 mins)	Documentary	7 days CB	17/12/43	[illegible] Capt	
In the Fd	13 Jan 44	Pte		AA Sec 40, WOAS an act to the prejudice of good order & military discipline in that he, on 13 Jan 44 was found in a public house during parade house at 1120 hrs	DE 1101 Sgt Gardner J.S. DE 972 [illegible] Hunter [illegible]	3 days pay	17 Jan 44	F.M. Mitchell Maj. A/OC 1 RHC	Forfeits 3 days pay by FRI 149(2)

Certified true copy from the regt [illegible] in custody

Campbell Stuart Capt Adjt. 1 RHC

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	2.10.42	Pte		AA Sec 15 W.O.A.S AWL, in that he, failed to answer defaulters call 1900 hrs 2/10/42	D82523 Sgt Moffat A.C.B	3 days CB	3/10/42	E Metzfeldt Capt	
Field	29 Jan 43	Pte		WOAS AWL in that he was absent from 2300 hrs 29 Jan 43 until apprehended at Bognor at 2200 hrs 4 Feb 43 (Absent 5 days 23 hrs) AA Sec 15(1)	D82526 Cpl Cullington T.C. D81642 Cpl Bannerman H	10 days CB + 10 days pay	10 Feb 43	B R Ritchie Major	Forfeit 6 days pay by FRd 149(1)(a) 4 days pay by FRd 149(1)
Field	13 Feb 43	Pte		AA Sec 10 WOAS Breaking barracks in that he at 1400 hrs 13 Feb 43, when a defaulter left the Cooper AA Sec 15(1) WOAS AWL from 1400 hrs 13 Feb 43 until apprehended by Military Police at Camden at 2300 hrs 14 Feb 43 (Absent 1 day 20 mins)	D81627 Sgt Pullen H.R.W	21 days pay F.P. + 21 days pay	19 Feb 43	S D Cantlie Lt Col	21 days pay by FRd 149(2) 2 days pay by FRd 149(1)(a) 10/1 stoppages of pay by FRd 149(1) Total forfeiture of pay 23 days
Field	25 May 43	Pte		WOAS Conduct to the prejudice of good order and military discipline in that he appeared on Church Parade improperly dressed LR no gaiters AA Sec 40	D81627 Sgt Pullen H.W	2 days CB	25 May 43	J.R. Taylor Capt	

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. D82964 Name Giviens K.A. Sqn., Battery, or Company | Corps | Date of enlistment 5.8.41 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentide Camp	14-5 42	Pte		W.O.A.S. AWL in that he, failed to answer tattoo roll call at 2200 hrs 14.5.42 and remained absent until 2300 hrs 14.5.42 (Absent 1 hr) AA Sec 15(-)	D81013 Sgt Martin, L.V.	3 days C.B.	16-5-42	Lt Col. H.C.A Harvey, V.D	
Laurentide Camp	29-6 42	Pte		W.O.A.S. AWL from 2300 hrs 29.6.42 until 0030 hrs 30.6.42 (Absent 1 hr 30 mins) AA Sec 15(-)	D82706 Cpl Lissemore, C.	7 days C.B.	30.6.42	Lt Col. H.C.A Harvey V.D	
In the Field	17.9.42	Pte		AA Sec 40 Conduct to the prejudice of good order and military discipline, in that he, on the afternoon 17/9/42 did conduct himself in such a manner as to bring discredit to his unit	D81128 Cpl Best H.P. D81656 Pte Sargent J. D81243 Cpl Willoughby J.	7 days C.B.	28.9.42	B.R. Ritchie Maj.	

(P.T.O.)

(Substitite for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED.

No. D-82964 NAME Pte. Giviens, K.A. UNIT 1 R.H.C.

AGE 28 MARRIED OR SINGLE Single No.of Dependants none

DATE OF ATTESTATION 5 Aug 41

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL n/a MILITARY ~~n/a~~ 2 HOSPITAL n/a TOTAL ~~n/a~~ 2

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

n/a

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

Campbell Stewart Capt.-Adjt.
(Officer i/c Records)

1st Bn The Black Watch Unit
(RHR) of Canada.

Dated at In the Field
This 17th day of Feb 1944
(To be dated and signed as of date of trial)

Et "B"
A.M.

52-101

Mt. Gladue, B.

RECORDED AT CMHQ IN AB 160 5L-101

CPA68-13 (2 SHEETS) (AFAPJ)
AD/P & A/1868 (10/44)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Cl Branch CMHQ LT-COL V. STOTT A/Comd 6 CDN INF BDE dated 25 MAY 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M.102832	PTE	CHARLES GLADUE		S.SASK.R.

RECEIVED PROCEEDINGS REVIEWED J.H. Reedy Capt. 30 June 45 REVIEWING OFFICER'S BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) GERMANY on (*date(s)*) 29 MAY 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to CAPT. J.W.HENLEY as interpreter? Ans NO SIR

~~shorthand writer~~

The Interpreter is sworn.(1) ~~He produced his~~ ~~The shorthand writer was sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 26, (& MML p 742.))

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT. COL	J.D. SOUTHAM	2 CDN A.TK. REGT RCA
Member	MAJ.	J.W.K. SHORTREED	R REGT C
Member	MAJ.	J.G. BONGARD	TOR SCOT (MG)
Judge-Advocate	MAJ.	W.B. BATE DJA	CDN SEC I ECM 21 A GP
Prosecutor	LT.	G.W. NICOLS	S. SASK R.
Defending Offr	CAPT	H.A. OSBORN	S. SASK R.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in all cases name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, amend and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol I Fol 1

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*B*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*B*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans .....[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part II of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole para if part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(D) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR.[1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans DO NEITHER, SIR. Do you intend to call witnesses on your behalf ?
Ans YES SIR. Are they witnesses as to character only ? Ans NO SIR.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in paras E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).*)

D7. The Court is closed to consider the finding.[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.[1]
* (*1. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.*)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]
Ans Call character witnesses, sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.[3]
(*1. MFA 355 or AFB 296. 2. Memo 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans Yes sir, my Defending Offr.[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 543-566, Overseas RO 509, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(8), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on Back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : M10282 PTE. CHARLES GLADUE S. SASK R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	- - - - - -
~~2nd~~			
3rd			
~~4th~~			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Wholly~~ ~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for 90 days.

(Sgd) W. B. Bate maj. 29 MAY 45 (Sgd) [signature] Lt Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Lt Col

Date 4 Jun 45 A/Commanding 6 Cdn Tf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

M10282 Pte Gladue, C 5 Jun 45 Geo B Buchanan maj South Sask Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused M102832 Pte Charles GLADUE, South Saskatchewan Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A. Sec 40

WHEN ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field at 2330 hrs 5 May 45 fraternized with Mrs. Margerete Parchem, an inhabitant of Germany, by having sexual intercourse with her at Ofen, Germany.

Geo B. Buchanan Major
~~(V Stott) Lt.Col.~~
Officer Commanding
South Saskatchewan Regiment

In the Field
7 May 45.

To be tried by FGCM.

(V Stott) Lt-col
A/Comd 6 Cdn Inf Bde

25 May 45.

80. Bo. Go.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M102832	Private		Charles	Gladue	S. Sask R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col	J.D. Southam	2 Cdn A Tk Regt.
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Maj.	J.W.K. Shortreed	R Regt C.
Maj.	J.G. Bongard	Tor Scot (M.G)
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt.	N. Sutherland	R de Mais.
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

MAJ.	W. B. BATE DJA	CDN SEC 1 ECH 21 A. GP.
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in GERMANY (Country.)

[signature] (Signed personally. RP 105 fn 2.) Lt. Col. (Rank.)

Dat 25 May 45

A/Commanding 6 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 2) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

HA
WBB.

MEDICAL OFFICERS CERTIFICATE
(K.R. Can Para 557)

I certify that I have this morning examined No. M102832 .....
& Pr. Gladue C. .....of South Saskatchewan Regiment and in
my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field .....

Date May 29/45 .....

C A Benoit Capt
Medical Officer

Offr. Under Instruction.

A.T. Lt. E.J.O. Harvey RCEME attd 2 Cdn A. Tk. Regt RCA.

D.3. First Witness for Pros | Lt. J.C.H. St. Pierre, S. Sask R. duly sworn. is exam by Pros.

I am OC. 1st Pl. C Coy., S. Sask R. At about 2355 hrs on the night of 5 May 45 in company with my Pl. sgt., Sgt. McKee I made a check of the gd. at the billets in my Pl. area. There was one bldg. in which I had set aside two rooms for the use of one sec. of my Pl. thereby segregating the sec. from the civilians inhabiting the house. On looking over the bldg. I opened the door of one of the rooms occupied by these civilians. The acc., whom I recognize, was getting off a bed. He was dressed in his underwear only. The acc. left the room & returned to his quarters. That was the 3rd. night we had been billeted in that house. It was a farm house situated about 3 kms. from the town of Ofen, Germany. There was a German woman in the bed off which the acc. got up. It was dark but I was using a flashlight. The woman in the bed was nearly covered by the bed clothes. She seemed to be wearing a nightgown or a dress of some sort. I do not know her name.

Cross-exam:

I did not visit this farm-house between supper time & 2355 hrs. A sitting-room & a bedroom had been set aside for the sec. I went through the house first before I came to the room in which I found the acc. The reason for my checking the house was that one of the gds. was not at his post, & all the members of the sec. were not in their quarters. I admit this made me angry: it got my ire abit. I went into 2 or 3 rooms before finding the acc. I was looking for the missing men. First I went to the rooms set aside for the men where I questioned Cpl. Keller - the sec. leader. He did not know where the two missing men were. When I opened the door & shone my flashlight in the room, the acc got up & ran past me before I had time to ask him any questions. In that room, there were two ordinary beds, side by side. They practically filled the room which was approx 8'x10'. Anyone in the room would have little room to move around, & would be forced to go close to the beds. They were ordinary bedsteads not just mattresses on the floor. The woman in bed

was partly covered up. She sat up & looked into the light from the flashlight. I did not speak to her, & I do not recall her speaking. All I saw the acc. do was to run out of the room. I reported the incident to my Coy Comd. & the charge against the acc. was laid. The inhabitants of the house made no complaints regarding the presence of the acc. in the bedroom. Someone from the sec. had asked, prior to 5 May 45 to have the sec. moved from the house but no special reasons were given.

No re-exam:

By the Court.

The bedroom door opened outwards. The bed was about 1½' from the door. The side of the bed was facing the door: the foot was practically against the wall. The acc. got off the bed that was farthest away from the door. The woman was in the bed nearest to the door. The acc. & the woman I saw were not on the same bed. The room had one window. It faced the door.

By the JA:

I cannot say if there was anyone in the far bed or not. Tattoo was at 2200 hrs. There was no toilet in the bedroom in which I found the acc. He was not the man who was missing from his post. The two beds were side by side, more or less, acting as one bed.

R.P. 83(B) complied with.

Second Witness Proo. | L. 846014 Sgt. MacKee T.G., S. Sask. R., duly sworn as exam. by Proo.

At about 2359 hrs on 5 May 45 on making a check of my sec. qd. I found the qd. absent. I went to the room in a German farm house set aside for my sec. I clashed with my sec. leader, Cpl. Keller. As a result of what he told me I looked about the house. I saw the acc. whom I recognize came out of a room occupied by some of the German inhabitants & go back to his quarters Lt. St. Pierre was with me. It was he who opened the door out of which the acc. came. The acc. was clad only in his underwear. I did not see who was in the room in question.

Cross-exam:

I was with Lt. St. Pierre when checking the qds. We arrived at the farmhouse together. I left him at the entrance & went back where the sec. leader slept. I was still there when Lt. St. Pierre came to see the sec. leader himself. I was with Lt. St. Pierre from that time until he left the sec. area. After leaving the sec. leader's

room Mr. St. Pierre opened several doors in the house - three in all. He said nothing. None of the doors was locked. There were about 9 German civilians living in that house. It was a one-storey farm house. Everybody slept on the same floor. I do not recall Mr. St. Pierre speaking to anyone in the bedroom. He opened the door & almost instantaneously the acc. ran out of the room. I assume the acc. must have been near the door. He may have had time to cross the room. Mr. St. Pierre said nothing to the acc. then. I left the house about 15 mins later. As far as I know, no one else looked in that bedroom. Mr. St. Pierre was not very excited when he discovered the gd. missing. He found the gd. later. The sec. leader asked to have the sec. moved from the farm house as it was too crowded. The sec. was not moved. I did not inspect the room in which the civilians were sleeping.

No re-exam.

R.P. 83(B) complied with.

Third Witness Pros. | Frau Margerete Parchem, Busselman. Wehnen, Germany. duly sworn is exam. by the Pros. through the Interpreter.

I recognise this soldier (pointing to the acc). I live in Wehnen but I come from Koenigsberg. Ofen is a separate municipality from Wehnen. There were Cdn. soldiers billeted in the house where I was living on 5 May 45. I saw the acc. that night. We were all in bed. I'm not sure of the exact time. It was about 11.00 PM. The acc. came in the room & then approached me as I lay in bed. He was not impudent or anything like that. He asked me if I would let him get into bed. Then we had sexual intercourse. An offr came along & then the soldier left. He was not with me very long.

Cross-exam:

It was dark in the room. The soldier who was with me did not have a light. There was no light in the room, which however was not blacked out. There was some light in the room, enough for me to see the soldier who was in the room. He was there about 10 mins. I was sleeping in a real bed not on a mattress on the floor. There were other German civilians in the room. There were 8 in the room incl. myself. My friend & her children were there too. I did not tell the military that night that intercourse had taken place. The following

Avg. was were taken to the C.O. who asked us what had occurred. I did not volunteer this info. I did not deny having intercourse when I was first asked about it. I admit that at first I told some of the military no intercourse had taken place. The C.O. speaks German. I told him everything that happened when he questioned me. A week later the military obtained a written statement from me. I had moved to a different house by then. We were obliged to move. I have no house of my own. I am a refugee. I have 4 children. My husband was killed in Oct 44.

No re-exam.

By the Court:

I had seen the acc. prior to 5 May 45. He was quartered in the house on 3 May 45. In the interval I saw him two or three times, when he was passing by me. The soldiers were continually passing back & forth by our door. I did not speak to him nor did he speak to me before the night of 5 May 45. I did not know him any better than any of the other Can. soldiers that were there.

By the JA:

I am 34 yrs. old. The acc. did not speak in German. I do not speak English. When a man comes into your room at night & walks up to your bed, you know what he wants. The acc. was fully dressed when he came into the room. He took off his shoes & pants. I do not know if he had his coat on or not. He took his pants & boots away with him when the Offr. arrived.

R.P. 83 (B) complied with.

Pros. did not call Capt. A.P.N. Watkinson. Def. Offr. did not require his presence for cross-exam.

D6. First Witness Def. } B.87396 Cpl. Keller H.K. S. Sask. R. duly sworn & exam by Def. Offr.

I am the sec. leader of No 4 Sec. 1 Pl. C Coy. S. Sask R. On night of 5 May 45 I posted my gd. & retired to bed at approx. 2205 hrs. The acc. whom I recognize, was then in bed & he slept beside me. At about 2345 hrs I was awakened by Pte. St. Pierre & Sgt. Lee Kee. The acc. was not in bed then. When I went to bed he was clad only in his undershirt & bathing trunks. I was not aware that the acc. had got up. No lights had been left burning in our quarters or in the rest of the house. It was a very dark windy night. No moon was shining. (witness draws a sketch of the house - admitted & marked Ex F 1. All the doors had straight handles, not door knobs. Anyone leaving our quarters with-

out a light a wandering through the house, would have no idea where he was unless he counted the doors he passed by. The scullery is the longest room in the house. You had to go straight through it in order to get out of the house. I have known the acc. for 4 mos. He has been in my sec. for 2 mos. I have fought with him. When the acc. is awakened he is always dopey for the following 5-10 mins. After which he would be normal. I asked to have the acc. removed from that house. It was too crowded. The acc. did not like living in the same house with civilians. We were told to stay there. The acc. hated the Germans. He was one of the men who wanted to move out. He had no use for Germans. No cross-exam.

By the Court:

The acc. returned to bed just as I left our quarters. He was dressed then. I do not remember if he had his boots on. I lit a candle after Lt. St. Pierre woke me up. The acc's clothes were still in the room.

By the J.A:

The acc. was not under arrest when he returned to our quarters. I asked him what he was doing in the civvies bedroom. All the women in the house were on the make. The women had been pestering the boys but the boys would have nothing to do with them. That was one of the reasons I wanted to have the sec. moved. The men were not drinking that night.

R.P. 83(B) complied with.

Court adjourned at 1215 hrs.

Court re-opened at 1350 hrs, same members present.

Defense Summary in the case of
M 102832 Pte Charles Gladue.

It has been established that Pte Gladue was in a room that was occupied by civilians - this much was established by the word of a Can Officer who saw him come out of that room. Beyond that there is nothing to go on except the hesitant word of a German woman who said she could see Pte Gladue in a room partially blacked out at around midnight of a very dark night. She could see him as well that she knew he was fully clothed and that he carried the clothes that he took off out with him until when he passed the Officer in the doorway he was dressed only in his underwear. It was two days later that they were questioned as to the happenings that night and for a woman who had her husband killed less than a year ago leaving

her with 4 small children is it too much to suppose that she would consider one Can soldier dishonour a small payment for her suffering.

The officer only saw Gladue get up off the bed and come out of the room. When were the other seven people that were sleeping in that room, ~~in~~ a room no larger than 8 x 10.

~~At the officer saw~~

The whole charge is framed around these Germans answers to questions and not arising from their complaints or from the complaints of others and that the questions were put to them after they had ample time to think over the outcome of such charges to a Can soldier.

Gladue was discovered coming out of a room at 2355 hrs yet he is charged with having sexual intercourse at 2330 hrs. He was ~~on~~ not in the room any longer than 10 mins. From this it

would appear that he was not in the room when the act was committed.

Every time a man opens a door by mistake ~~and~~ it does not follow that he intends to have intercourse with any occupants that happen to be in there.

It has been shown that it would be very easy to open the wrong door and in a dark room direction is easily lost.

H Hadsborn Capt

Prosecution Summary, In the case of

M.102832 Pte. Charles Gladue, South Sask. Regt.

It has been the intention of the prosecution to prove that Pte. Gladue was guilty of fraternization on the night of May 5th 1945. The first witness Lt. J.C.H. St. Pierre has stated that on the night in question he saw Pte. Gladue coming out of a room in which there was a civilian woman, Mrs. Marguerite Paschen. This statement was also supported by the evidence of the Sgt. McKee and by the evidence of the woman herself who admits that she and Pte. Gladue had intercourse on the same night. The defence does not deny that Pte. Gladue was in the room and is attempting to prove that he could have opened the door by mistake in the dark, which is not very likely considering they were billeted in the same house for about three days before the night of the offence. The last witness for the defence brought out the point that Pte. Gladue is always dopey and sleepy after being woke up for guard but on the night of May 5th he hadn't been woke up for guard and was apparently just up of his own accord. In my opinion we have proved two points, first that Pte. Gladue was in the room where there was a German civilian woman and second, that he had intercourse with her; and the defence has never successfully broken down either of those points. I think that without a doubt Pte. Gladue is guilty of fraternization.

Lt. G.W. Nichols

Prosecuting.

J. A. Summing Up.

(a) - Court is sole judge of the facts, as brought out by the evidence adduced at trial.

(b) - Function of JA is to advise Court re law. Court is not bound by JA's views re facts.

(c) - Charge envisaged - conduct to the prejudice both of good order & mil discp. - In absence of any orders expressly defining "fraternisation", the word has its ordinary dictionary meaning - i.e. friendly relationship - association of a social nature.

(d) - If intercourse not proved, could find Acc guilty with a special finding - R.P. 44(D).

(e) - Acc. innocent until proved guilty. - Burden of proof on Pros.

(f) - Acc. entitled to the benefit of any reasonable doubt as to his guilt. "Reasonable doubt" defined.

(g) - Credibility of witnesses.

E1. Second Witness Def. | L. 228014 CSM. Smith, J.A., MM., S. Sask R., duly sworn is exam. by Def Offr.

I have been CSM of C Coy. S. Sask R., since Oct. 43. I came to France on 6 Jul 44. The acc., whom I recognize, was in my coy at the time. During all the fighting, wherever he was with me, he did a fine job. If I ever had to fight again I would like to have the acc or ones with his fighting ability in my coy.

No cross-exam.

By the Court:

I came over with the S. Sask R.

R.P. 83 (B) complied with.

Third Witness Def | L. 846604 Sgt. MacKee T.G., S. Sask R., already sworn is exam by Def Offr.

The acc. has been in my pl. for some months. I always found him to be a good fighting soldier. In the positions we occupied last winter, the acc. was always willing to go out on patrol work. He is a N. American Indian. During the subsequent pushes into Germany I found the acc. more than willing to do his share or more. If I has to go into action again it would be ones like the acc that I would wish to fight with.

No cross-exam.

By the Court:

As a fighting soldier, the acc. always carried out his orders. I have never had any previous trouble with him. I found the acc. to be a good disciplined soldier.

R.P. 83 (B) complied with.

First Witness Def. | B. 87396 Cpl. Keller, H.K. S. Sask R. re-called, already sworn is exam. by Def Offr.

The acc. is one of the best men I have in my sec. He never let me down in anything I ordered him to do. He carried out his orders in full. He never squawked or beefed about anything that had to be done. As a man & a soldier I have a high respect for him.

No cross-exam.

R.P. 83(B) complied with.

Plea in Mitigation of Punishment on behalf of M102832 Pte. Charles Gladue

(12)

It is regrettable that a good soldier must make the last entry to his military career a smudge.

Pte Gladue is a good soldier, his section comd., Pl. Sgt and Coy ~~Sgt-Major~~ told us that and no one should know better than the three men who fought with him through the days when fighting was the "thing". Churchill called those "wonderful days" and the people at home have once ceased to expect anything but victory because they had faith in the Can Army and who is the Can Army if it isn't men who fought like Gladue?

When we are old in the years to the thousands of people who helped win this war, we must not forget the vast minority who fought it with their bare hands and who asked for nothing but the knowledge that they had done their job to the best of their ability. These are the men who used the tools that Churchill asked the World to give him - and they did that "job" he mentioned.

His crime sheet does not show any charges that would mark him as not doing his job as a soldier. Not even the most common of all charges - A.W.L. From that we can safely say that he earned every days pay that it was possible to earn from the time he joined the Army.

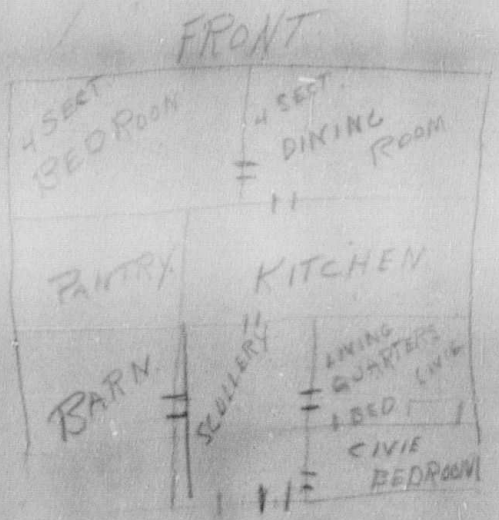
Pte Gladue is one of the few men left who landed with the unit and is with the unit today. He was wounded in the heavy fighting around Falaise but rejoined the unit again before the Spring Offensive and has taken part in every action since the start of that push.

As Regimental Officers I know you would be able to recognize good soldiers when you saw them in action. It is not possible to see these men in action but you have heard what their commanders think of them and from that you will have made up your minds as to their worth.

H Allsborn Capt.
S. Sask. R.

Exhibit "F." JH

Ev. Co. Bates maj.
Judge Advocate.



H. K. Keller.

Ex. 'G'

ARMY FORM B.206.

W. B. Gale maj.
Judge Advocate

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
M62832	Pte	Gladue C	S Sask R

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial for field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 19	One times	One times.
For AA Sec 15(d)	One times	One times.
For AA Sec 40	Nil times	One times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

There are no entries in the conduct sheets of the accused. N/A

2. The accused has not been previously convicted, or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 21 days in military custody, making a total of 21 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 30

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 27 July 42.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____, dated _____, and in his regiment (or corps or department) the rank of _____ dated _____

(*25800) Wt.34898/1750 20,000 10/43 A. & E.W. Ltd. Gp.698
(25908) Wt.55934/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M/102832 Rank Pte Name Gladue C of S Sask Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of May 45

M. D. Dalkinson Capt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of		
In the rank of		
In the rank of		

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25-3-45	Pte		Sec 15 (1) AA AWL from 2430 hrs to 0900 hrs 27 Mar 45 (1 day 10 hrs 30 mins)	Sgt Darnborough	Forf 10 days pay	30 Mar 45	Major Wilkins	Auto forf 2 days pay

CERTIFIED TRUE COPY IN POSSESSION OF UNIT

(A.F.H. Watkinson) Capt & Adjt
South Saskatchewan Regiment

M102832
No

Name GLADUE, C. | Sqn. Battery or Company | Corps CIC | Date of enlistment 27-7-42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet 18-1-43 | Date and date of last drunk 2 18-1-43 | Period not reckoning towards freedom from extra fine N/A | Sheet No One | Signature OC Company, etc J.W. Jackson Lieut | Character Ex. H.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentides				PREVIOUS SHEET DESTROYED 27 Jan 43 on completion of 6 months service.					
Camp	18-5-43	Pte		Conduct to the prejudice AA 40				Lieut.	
Field	28-8-43	Pte		Dirty cup.	Cpl Gartner	3 days CB	19-5-43	Fi[illegible]	
				Drunkenness A.A. 19	Documentary	Fined $15.00	6 Sep 43	Lt-Col	
				AWL from 2230 hrs 28 Aug 43 to 2300 hrs 28 Aug 43 (1/2 hr)AA15(1)		5 days CB		W. Ibbott	
Field	16-3-44	Pte		AA Sec 40 (Conduct to the Prej etc)	Cpl McKie, A.		18-3-44	Major	
				causing a disturbance in Kitchen	Pte Tracey	7 days CB		J.R. Martin	
					Pte Berksetho	forf 7 days			
Field	9-5-44	Pte	4	A.A. Sec 19 Drunkenness	CSM Smith	pay FR&I 149(1)			
						Forf $10.00	10 May 44	Lt-Col	
						14 days CB		F.D. Clift	

(PTO)

SUMMARY OF EVIDENCE

In the case of M-102832 Pte GLADUE, Charles, of the South Saskatchewan Regiment, a soldier of the Canadian Army Overseas, charged with:

(1) WOAS - CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE. - A.A. Sec 40

By direction of the Commanding Officer the evidence is to be taken on oath.

FIRST WITNESS: Lieut. J.C.H. St. Pierre, South Saskatchewan Regiment, Canadian Army Overseas, sworn states:

I am Lieut. J.C.H. St. Pierre of C coy, South Saskatchewan Regiment. On the night of 5 May 45 at approx 2355 hrs I was inspecting the buildings in my platoon area. In one of the houses I had set aside two rooms for one of my sections. At the time stated the section had gone to bed for the night. I then discovered the accused Pte Gladue, C. leaving a bedroom which had been set aside for the occupation of the German inhabitants. In the bedroom in which I saw the accused was one female inhabitant of Germany. Pte Gladue was dressed in his underwear only when I discovered him in the room. Pte Gladue was not supposed to be in the bedroom on any official business at the said time nor was any permission granted him allowing him to enter the bedroom occupied by the German inhabitants. Upon seeing me the accused returned to his own quarters.

The accused declines to cross-examine the witness.

J.C.H. St Pierre

(J.C.H. St. Pierre) Lieut.
South Saskatchewan Regiment

SECOND WITNESS: L-84604 Sgt McKee, T.G., South Saskatchewan Regiment, Canadian Army Overseas, sworn states:

I am L-84604 Sgt. T.G. McKee of C coy South Saskatchewan Regiment. At approximately 2355 hrs 5 May 45 I was accompanying my platoon commander Lt. St. Pierre on a check of the buildings in the platoon area. One of my sections which occupied two rooms of one of the houses had retired for the night. In the same building I saw Pte Gladue, the accused, dressed only in his underwear, coming out of a bedroom which had been set aside for the occupation of the German inhabitants. In the bedroom, at the time I saw the accused leaving, was one female inhabitant of Germany. The accused was not in the room on any official business at the stated time nor had he been given permission to enter the room. After leaving the bedroom Pte Gladue returned to his own quarters.

The accused declines to cross-examine the witness.

T.G. McKee

(L-84604 Sgt McKee, T.G.)
South Saskatchewan Regiment

THIRD WITNESS: Capt. A.P.W. Watkinson, South Saskatchewan Regiment, Canadian Army Overseas, sworn states:

I, Capt. A.P.W. Watkinson, am Adjutant of the South Saskatchewan Regiment. I am in charge of Records and hold the signatures of all officers and ORs of the Battalion on Fraternization. Before the signatures were procured each individual was duly instructed that fraternization with German inhabitants was absolutely forbidden and the meaning of "Fraternization" was duly explained. I hold the signature of M-102832 Pte GLADUE, C.

The accused declines to cross-examine the witness.

A.P.W. Watkinson Capt

(A.P.W. Watkinson) Capt.
South Saskatchewan Regiment

The accused having been duly cautioned in accordance with R.P. 4 (e) states:

"I do not wish to make a statement."

(M-102832 Pte GLADUE, C.)
South Saskatchewan Regiment

The accused does not wish to call witnesses in his defence.

"I, M-102832 Pte GLADUE, C. desire the services of an officer to defend me, if one is available."

(M-102832 Pte GLADUE, C.)
South Saskatchewan Regiment

I certify that the foregoing Summary of Evidence of two pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d), (e) and (f) have been complied with.

In the Field
7 May 45.

(G.B. Gunderson) Lieut.
Officer Detailed to take the Summary.

List of Exhibits - "A" Statement of Mrs. Mergerete Perchem of Busselmann, Wehnen

Statement of the accused M-102834 Pte. GLADUE, Charles:

"This is to certify that I have received gratis a copy of the Charge Sheet, Summary of Evidence and list of witnesses."

C. Gladue.

(M-102834 Pte. GLADUE, C.)
South Saskatchewan Regiment

Mrs Margarete Parchem of
Wehnen, having been sworn

I am Mrs. Margete Pa
Büsselmann, Wehnen
6 May 1911 in Germany
of Germany and reside in the
At approx 2300 hrs the 5 ma
accused, Pte Gladue, who I recognize, came into
without my permission. I was in
bed sleeping, and at the said time
accused awakened me, and asked
I would allow him to sleep with me
gave him my consent and he partly st
himself of his clothes and got into bed
with me. Immediately following we
had sexual intercourse together once
at approx 2355 hrs 5 May 45 the accused
got out of bed and left my room. An
officer then came into my room and
shone a flashlight into my face and
then he departed. That is all I have to say.

Margarete Parchem

The accused declines to cross-examine.

I certify that the foregoing evidence
was translated to and approved by the witness
Mrs Margrete Parchem

[signature]
Interpreter at the APY
13 Prov Det
(Information Bureau)
H. G. SCHÜTTE

Exhibit "A"

21 May 45

Mrs Margerete Parchem of Büsselmann, Wehnen, having been sworn states:

I am Mrs. Margete Parchem of Büsselmann, Wehnen. I was born 6 May 1911 in Germany. I am an inhabitant of Germany and reside in this country.

At approx 2300 hrs the 5 May 45, the accused, P.A. Gladue, who [illegible], came into my room without my permission. I was in my bed sleeping, and at the said time, the accused awakened me, and asked me if I would allow him to sleep with me. I gave him my consent and he partly stripped himself of his clothes and got into bed with me. Immediately following, we had sexual intercourse together once. At approx 2355 hrs 5 May 45 the accused got out of bed and left my room. An officer then came into my room and shone a flashlight into my face and then he departed. That is all I have to say.

Margerete Parchem

The accused declines to cross-examine.

I certify that the foregoing evidence was translated to and approved by the witness Mrs Margrete Parchem

[signature]
Interpreter at the APM
13 Prov Det
(Information Bureau)
H. G. SCHÜTTE

Exhibit "A"

List of Witnesses

For Prosecution:-	Lieut. J.C.H. St. Pierre	- South Sask Regt.
	L84084 Sgt. McKee, T.G.	- South Sask Regt.
	Capt. A.P.W. Wetkinson	- South Sask Regt.
	Mrs. Margerete Parchem	- Busselmann, Wennen.
For Defence:-	Nil	

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of M102832 Pte GLADUE, C., of the South Saskatchewan Regiment, a soldier of the Canadian Army Overseas:

FOURTH WITNESS: Mrs. Margerete Parchem, Busselmann, Wehnen.

A written statement of this witness' evidence purporting to be signed by her, has been read to the accused and is included in this Summary (Attached as Exhibit "A")

Having regard to the exigencies of the service, the attendance of this witness, cannot in my opinion, be readily procured.

The accused does not demand the attendence of this witness.

G.B. Gunderson

(G.B. Gunderson) Lieut.
Officer detailed to take the Summary.

"I, M102832 Pte. Gladue, C., do not demand the attendance of Mrs. Margerete Parchem of Busselmann, Wehnen, at my trial."

C. Gladue.

(M102832 Pte. Gladue, C.)
South Saskatchewan Regiment

I certify that the foregoing Supplementery Summary of evidence of One page was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) and (f) have been complied with.

G.B. Gunderson

In the Field
21 May 45.

(G.B. Gunderson) Lieut.
Officer Detailed to take the Summary.

5D-112.

8

Pte. Glandon, M.

(7)

RECORDED AT CMHQ IN AB 160 50-112

FIELD GENERAL COURT-MARTIAL

CFA96 (To Mtg of AFA2) 40 P & S 1698 (4910) 4/38B

Convened by Order of Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 7 Mar 45

19 APR 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed ... and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-9845	Pte		Maurice	GLANDON	R de Chaud 10 CBR Bn

PROCEEDINGS REVIEWED
20 Apr 45
K.Y. Deib, Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
Maj 45
D. J. Jones
Sec 2 Eds HQ
21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (Military) BELGIUM on (date(s)) 9 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26/108.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fron ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused ~~Do you object to~~ ..... as interpreter ? Ans .....

~~The Interpreter is sworn.(1) Do you object to~~ ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans no (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.G. MacKENZIE, MBE	FGH X-9 List 3 Cdn NETD
Member	LIEUT	Y.J. OUELLETTE	10 CBR BN
Member	LIEUT	G F VIAU	10 CBR BN
Judge-Advocate			
Prosecutor	LIEUT	A.T. MANN	11 CBR BN
Defending Offr	LIEUT	L.R. WILSON	10 CBR BN

Questions by President: Is the Prosecutor a lawyer ? Ans no Is the Defending Offr a lawyer ? Ans no (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused C-9845 Pte Maurice GLANDON before arraignment make(s) (no) (a) plea ..... (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 4 P. 132

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as in discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 80(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*D*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47 *I*

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans no.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*D*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decide (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly~~.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof as a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 91(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete para not used. If accused acquitted on all charges use record alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 46(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans no.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ extract of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex G. respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes I do.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas* 80 309, 2313, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see RP* 40(*C*), *MML p* 132. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*7*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C-9845 Pte Maurice GLANDON R de Chaud 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 54(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which [illegible] days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : ~~To be placed under stoppages of pay to make good cost of [illegible]~~

~~To~~ To undergo 180 days detention

(Sgd) ..... Judge-Advocate, if any. 9/mar/45 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(D). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig

Date 9 Mar 45 Commanding 1 CBRH. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-9845 Pte Maurice GLANDON R de Chaud 10 CBR Bn	1645 hrs 12 Mar 45	[illegible] Lt Ass Adj 10 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

THE accused C-9645 Pte Maurice GLANDON (R de Chaud) on the strength of 43 Coy 10 CER Bn a soldierof the Cdn Army overseas.

is charged with

FIRST CHARGE
A.A. Sec. 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

in that he

In the Field at 2230 hrs 9 Jan 45 absented himself without leave until arrested by the military authorities at Paris at 2335 hrs 10 Feb 45.

Tota l absence 32 days 1 hr 5 mins.

(J. RUNCIE) Lt-Col.,
O.C. 10 C.B.R. Bn.

In the Field
22 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G.S.N. Gostling), Brigadier,
Commander,
2 Canadian Base Reinforcement Group.

In the Field
7 Mar 45

CFA95 (In lieu of AF 1.5)
40/P&S/1697 (2002)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-9845	Pte		Maurice	GLANDON	R de Chaud 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) G.G. MacKENZIE, MBE (Must be named. RP 106.) FGH X-9 List 3 Cdn RETD (Unit.)

MEMBERS.

Lieutenant to be detailed by O C 10 CBR Bn 10 CBR Bn

Lieutenant (Rank.) to be detailed by O C 10 CBR Bn (Named or detailed. RP 106.) 10 CBR Bn (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G.S.N. Gostling)

Date 7 Mar 45

Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate

I certify that I have this day examined C9845 Pte Gl

10CBRBn and in my opinion he is fit/~~unfit~~ RH to undergo tri

Court Martial.

Station Field

Date 9 Mar 45

R H Chalmers
Medical Officer

10CBR
Unit

9 Mar 45

Pleas in Mitigation of Punishment
in the case of

C 9145 Pte Maurice Landon (R de Chant)

Mr President and Members of the Court

This soldier enlisted on 10 Sept 41 and came overseas in March 42. He has been on duty in France since July 44 which service he gave voluntarily. He has made attempts to get into action and has been refused so he became discouraged and went A.W.L.

He has only minor entries on his conduct sheet. He has been held in custody 20 days.

I ask the Court to be lenient in passing sentence.

Maurice Landon
Defending Officer.

E & E.

SUMMARY OF EVIDENCE

Summary of evidence in the case of C-9845 Pte Maurice GLANDON (R de Chaud) on the strength of 43 Coy 10 CBR Bn a soldier of the Cdn Army overseas.

By direction OF the Commanding Officer this evidence is taken on oath.

The accused is informed of his rights.

DOCUMENTARY Evidence

The Declaration of the Court of Enquiry, relating to the accused was read over to him, marked Exhibit "A" signed by me and attached hereto.

R.P. Stewart Lt.
(R.P. STEWART) Lt.,
C.H. of O.,
Officer detailed to take
Summary of Evidence

The Certificate of Apprehension A.A. 163 (1)(J) relating to the accused, was read over to him by me, marked Exhibit "B" and attached hereto.

R.P. Stewart Lt.
(R.P. STEWART) Lt.,
C.H. of O.,
Officer detailed to take
Summary of Evidence

FIRST WITNESS Prosecution

F-2517 L/Cpl Thiessen, P. No. 6 Cdn L of C Provost Section.

A written statement of this witnesses evidence, purporting to be signed by him, has been read over to the accused and is included in this summary attached hereto as Exhib "C". "a ving regard to the distance and loss of time involved, the attendance of this witness cannot, in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

R.P. 4 (g) complied with.

R.P. Stewart Lt.
(R.P. STEWART) Lt.,
C.H. of O.,
Officer detailed to take
Summary fo Evidence

SECOND WITNESS
Prosecution

P-21329 L/Cpl Power, R.A. No. 6 Cdn L of C Provost Section.

A written statement of this witnesses evidence, purporting to be signed by him, has been read over to the accused and is included in this summary attached hereto as Exhibit "C". Having regard to the distance and loss of time involved, the attendance of this witness cannot, in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

R.P. 4(g) complied with.

(R.P. STEWART) Lt.,
C.M. of O.
Officer detailed to take
Summary of evidence

DOCUMENTARY
Evidence

The Cdn Military Staff Permanent Pass, relating to the accused produced as documentary evidence, was read over to the accused, marked Exhibit "D" signed by me and attached hereto

(R.P. STEWART) Lt.,
C.M. of O.
Officer detailed to take
Summary of Evidence

The accused having been cautioned as follows; Do you wish to make a statement or give any evidence on oath ? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give, will be taken down in writting and may be used in evidence.

Makes the following statement-

I went absent because the M.O. refused to allow me to proceed on draft, my eye was sore one week when I was warned for draft. The M.O. took me off the draft, and also the following week he took me off again, the following week, I went to see the M.O. and he still refused to allow me to go on draft. I felt my eyes where in good shape.

(M. GLANDON) C-9845 Pte.

In the Field
20 Feb 45

The Accused declines to call any witnesses and reserves his defence

~~I do desire the services of a Defending Officer~~

~~In the Field~~
~~22 Feb 45~~

~~(M. GLANDON) C-9845 Pte~~

Certified that R.P. 4(c)(d)(e)(f)(g) have been complied in this summary of Evidence consistion of two pages.

(R.P. STEWART) Lt.,
C.M. of O.
Officer detailed to take
Summary of Evidence

In the Field
22 Feb 45

RECORD of the Declaration of a Court of Inquiry assembled at THE FIELD on the 3rd day of Febuary 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C9845 Pte GLANDON, M.

DECLARATION

The Court declare that No. C9845 Pte GLANDON, M.
X-4 LIST 10 CDN BASE RFT BN
illegally absented himself without leave From 2200 hrs 9 Jan 45
at THE FIELD on the 9 day of Jan 45
(and is still so absent)
that he is still so absent, and that on the 31 Jan 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
SEE ATTACHED SHEET			

A/Capt R.L. Harrison President

Lieut S.L. Schafran Member

Signed at THE FIELD

this 3rd day of Feb 1945

Lieut N.H. Chate Member

Signature of Commanding Officer

Certified true copy [signature]

(C.M.G. ARTHURS) Capt
Adjt 10 C.B.R. Bn.

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
25M—6-43 (750)
H.Q. 1772-39-257

This is Exhibit "N" referred to by me in the summary of evidence in the case of Pte G [illegible] taken before me this 10th day of [illegible]
[illegible]
[illegible]

43 Coy, 10 Cdn Base Rft Bn

3 Feb 45

The following is a list of deficiencies of kit of C.9845 Pte Glanton, M. when inspected by C/QMS Larose, R.M. of 43 Coy 10 Cdn Base Rft Bn.

	100%	75%
Anklets, web	.99	.74¼
Blouses, Battle Dress	5.35	3.93¾
Trousers, Battle Dress	5.29	4.04¾
Boots, Ankle	5.46	4.09
Caps, Field Service	.56	.42
Drawers, woollen	1.20	.90
Gloves, knitted, drab	.47	.35¼
Greatcoat, drab	11.55	8.66¼
Jersey, pullover	1.79	1.44¾
Shirts, angola, drab	2.03	1.52¼
Vests, woollen	1.20	.90
Socks, prs (3)	1.11	.82¼
Badges, cap	.09	.06¾
Bags, kit, universal	1.02	.76½
Braces	.28	.21
Brush, hair	.34	.25½
Brush, shaving	.37	.27¾
Brush, shoe polishing	.28	.21
Brush, tooth	.11	.08¼
Cap, comforter	.34	.25½
Comb, hair	.04	.03
Disc, Identity No. I Green	.01	.00¾
Disc, Identity No. I Red (2)	.01	.00¾
Dressing, Field	.24	.18
Fork N.S. Table	.07	.05¼
Heldall	.19	.14¼
Housewife, complete	.17	.12¾
Knife, clasp	.86	.64½
Knife, table	.15	.11¼
Razor, safety	.06	.04½
Spoon N.S. dessert	.07	.05¼
Towels, Hand (2)	.64	.48
Dubbin, protective No. I 2 oz	.74	.55½
Belts/W.E.	.82	.62¼
Bottle, water	.30	.22½
Braces, W.E. L&L	.30	.22½
Braces, W.E. R & L	.37	.27¾
Carriers, water bottle/W.E.	.19	.13¾
Frogs, web and bayonet	1.79	1.34¼
Haversack	1.50	1.12
Helmet Steel	1.84	1.32
Packs	1.19	.89¼
Pouches, Basic (2)	.64	.48
Straps, shoulder, haversack L & R	.13	.09¾
Straps, web supporting	.35	.24¾
Tins, mess	.43	.32¼
Veils, camouflage, face	.15	.11¼
Helmet steel, net camouflage	2.94	2.20½
Sheets, ground	3.07	2.30¼
Blankets, (1)	.13	.09¾
Mugs, drinking	.06	.04½
Detectors, gas sleeves	.45	.33¾
Eyeshields A/G	.15	.11¼
Ointment A/G	3.26	3.44¼
Respirators A/G Light	2.76	2.07
Gas capes No.I	0.06	.04½
Bottles, Oil MK V Bakelite	25.03	18.77¼
Pistol Revolver Colt "5" Barrel 38	15.48	34.11
Rifle MK IV No. I	21.66	.84¾
Scabbard, bayonet MK II No. I	.61	.45¾
Scabbard, Bayonet MK No.I MK IV		
Totals	$138.74	$104.05½

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY that No C-9845 Rank Pte. Name GLANDON, M.

Unit 10th. Bn. No.2. C.B.R.G. was arrested at Paris (Place)

at 23.35 (hour) on 10-Feb-45. (date) and that at the time of his arrest he was wearing (military uniform) xxxxxxxxxxxxxxxxxxxx

Signature of Provost-Marshal, Assistant Provost Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

C. Beaulne Capt.
(C. BEAULNE)
D.A.P.M.
CDN MIL STAFF - PARIS

Field
10-Feb-45.

This is "Exhibit B" referred to in the Summary of Evidence in the case of Pte Glandon taken before me this 20th day of Feb 1945
R.P. Stewart Lt. Officer detailed to take Summary.

"C"

CHARGE

ARMY FORM B 2
(See King's Reg.)

10th. Bn. No.2. C.B.R.G. Regiment
(Battery
(Squadron
(Troop or
(Company)

43rd. Coy.

CHARGE against No. C-9845 Rank Pte.

Name GLANDON, M.

Place Date of Offence

OFFENCE W.O.A.S. was A.W.O.L. from ?

until apprehended by the

Cdn. Provost Corps in the Olypia Tavern,

Paris at about 23.35 hrs on the 10-Feb-45.

(2) Being in illegal possession of a Paris

Permanent Pass. Same Time Date and Place.

Names of Witnesses: [illegible] Cap. Feb 17/45

F-2517 L/C. Thiessen, P. No.6. Cdn. LofC. Prov. Sec

F-21329 Cpl. Power, R.A. No.6. Cdn. LofC. Prov. Sec

Signature of O.C. Battery,)
Squadron, Troop or Company)

Punishment)
Awarded)

By whom)
Awarded)

This is "Exhibit C" referred to me in the summary of evidence in the case Pte Glandon taken before me this 20th day of Feb 1945

[illegible] Lt
Officer detailed to take Summary

Statement of EVIDENCE in the case of

C-9845 Pte. GLANDON,M.
43rd. Coy. 10th. Bn. No.2..C.B.R.G.

Sir;

At Paris at about 23.35 hrs on the 10-Feb-45. I was on special duty in company with Cpl. Power, R.A. in the Olympia Tavern when I saw the above mentioned soldier.

I approached him and requested to see his pass, he produced the attached pass which was issued to him while he was stationed with Can. Military Staff Paris. On further questioning he admitted that he was A.W.O.L. from 10th. Bn. No.2. C.B.R.G.

I placed him under arrest and escorted him to the Caserne Mortier where he was handed over to the N.C.O. i/c to be detained.

Field
10-Feb-45.

.....P. Thiessen.....L/C.
(F-2517 Thiessen, P.)
No.6. Cdn. L of C. Provost Section

Sir;

I have read over and corroborate the above statement.

Field
10-Feb-45.

.....Cpl.
(F-21329 Power, R.A.)
No.6. Cdn. L of C. Provost Section

REMARKS

HQ CDN MIL STAFF - PARIS

PERMANENT PASS

The bearer, C/9845 Pte. GLANDON, M. is on the strength of HQ CDN MILITARY STAFF - PARIS, and is stationed in PARIS. He is authorized to enter ROGER & GALLET BLDG, 62 RUE FAUBOURG ST HONORE, where he is employed.

Date of Issue 15 Sep 44

M. Glandon
Sig of Bearer.

Official Stamp

J.G. McQUEEN Lt-Col
AA & QMG,
HQ Cdn Mil Staff,
Paris.

This is "Exhibit D" referred to in the Summary of Evidence in the case of P.C. Blandin taken before me this 20th day of Feb. 1945

R. P. S. Stewart Lt.
Officer detailed to take Summary.

E/F

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
C.9845	Pte	Maurice GLANDON	10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a total for field general court martial this summary may be compiled from the field conduct sheet. The conduct sheets mentioned should be produced in court with this statement but not appended to the proceedings.

† See para. 877, K.R., 1940.

* The notation herein stated should correspond with the number of entries in the conduct sheets, promissory being given in the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1)	3 times	5 times.
For A.A. 11	1 times	1 times.
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~
~~Number of instances of gallantry or distinguished conduct~~		
~~There are no entries in the conduct sheets of the accused.~~		

2. ~~The accused has not been previously convicted, or~~ ~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 26 days in military custody, making a total of 26 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 22 yrs 1 mth 27 days

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 16 Sep 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3yrs 5mths 6days

8. The accused is entitled to deferred pay or gratuity in respect of 3yrs 5mths 6 days service.

9. The accused is entitled to reckon 3yrs 5mths 6 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~or entitled to, no military decoration or military award (or is in possession of, or entitled to (state any military decoration or reward)).~~ CVSM & Clasp

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ ~~, dated~~ ~~and in his regiment (or corps or department) the rank of~~ ~~dated~~

(*25808) Wt.34898/1730 20,000 10/43 A.& E.W.Ltd. Gp.698
(25808) Wt.55934/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of MAR 1945

[signature] Capt

43. The accused has served as a non-commissioned officer [illegible] without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

No C9845 Name GLANDON, M. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 19 Sep 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/138 (1439)

Date of last entry in Company Conduct Sheet 31 Jan 42 | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Mar. 43	Gnr.		Sheet destroyed 5 Jun 43 a s of A/T. FROM Gun Piquet duty from 1800 hrs. 21 Mar.43 until 0005 hrs 22 Mar.43 (Absent 6 hrs. and 5 Minuets., A.A. S. 15 (1).	19 Mar. 42, Last entry 31 Jan 42	Sgt. E. Lyness 5 Days C.B.	22 Mar. 43	Major J.W. Brice	Cases of Drunkenness-nil Ffts 1 days. Pay FR&I 149 (1)(a).
Field	20 Dec 43	Gnr.		WOAS, A.W.I. from 1200 hrs, 20 Dec 43 until 2350 hrs, 26 Dec 43. Cost of return to unit 5 shillings and 2 pence. (Absent 6 days, 11 hrs, 50 mins) A.A. Sec. 15(1).	Sgt. Jenkins, C. Documentary	Ffts 21 days pay FR&I 149 (2)(a)-toppages of pay in the Amt. £0-5-2.	8 Feb 44	Lt-Col. J.F. Plow	Ffts. 7 dys pay FR&I 149 (1)(a). Total Ffts. 28 dys pay.

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	11Mar 44	Gnr		Sec.15(1)A.A.WOAS AWL from 1400 hrs 11 Mar 44 to 0950 hrs 15 Mar 44 (3 days 19 hrs 50 min)	Bdr. Tobin. Document.	28 days F.P. 28 days pay.	17Mar44	Lt. Col. A.C.Hood.	For 28 dys pay. FR&I 149(2) Forf 4 days pay FR&I 149(1)a.
Field	4 Jun 44	Pte		A.A.11-WOAS Neglect to comply with camp order p.II,6CIRU Pt II ordersd/25-5-44-in that, 1400hrs 4 Jun 44, was in Leeds withouta pass.	Documentary	5 days pay	12 Jun 44	Lt Col. CLINGAN	
Field	9 Aug 44	Pte		A.A.15(1) AWL from 0015 hrs 9 Aug 44 to 0830 hrs 9 Aug 44 (1hr 15 mins)	Sgt CHIASSON J.	5 days C.B.	9 Aug44	Capt R.H. Bibeau	
Field	26/11	Pte		WOAS AWL. In that he absented himself withoub leave from 0915 hrs 26 Nov 44 until 0940 hrs 26 Nov 44. (Absent 25 mins) A.A. Sec. 15(1)	BSM HARDING CSM BERUBE	7 da ys C.B.	27/11/44	E.S.Perkin Capt.	

No C9045 Name GLANDON, M. Sqn, Battery, or Company Corps R.C.A. Date of enlistment 19 Sep 41 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAM/136 (34280)

Date of last entry in Company Conduct Sheet 26 Nov 44 No and date of last drunk n/a Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY [signature] Capt Officer in charge Regimental Books					
Field	9 Jan 45	Pte		A.A. Sec 15 (1) AWL from 2230 hrs 9 Jan 45 until 2335 10 Feb 45. TTA: 32 dys; 1 hr; 5 mins.	Documentary	180 dys detn	9 Mar 45	F.G.C.M.	

(P2)

Date: 22 Feb 45

C-9845 Pte MAURICE GLANDON
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me _____.
(Date)

2. (a) I request that _____ If available, be appointed. OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) F. Glandon
C-9845 Pte Maurice GLANDON

I hereby certify that _____ was appointed to defend _____ at his forthcoming trial by Court Martial and that the said _____ was notified that he was Defending Officer on _____
(Date)

_____
(Adjutant)
10 Cdn. Base Rft. Dn.,

LIST OF WITNESSESS

PROSECUTION
Documentary

F-2517 L/Cpl Thiessen, P. 6 Cdn L of C Provost Section

F-21329 L/Cpl Power, R.A. " " " " " " "

DEFENCE

Nil

LIST OF EXHIBITS

EXHIBITS

"A" Declaration Court of Enquiry
"B" Certificate of Apprehension
"C" Documentary Evidence
"D" Pass for H.Q. Cdn Military Paris

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE SUMMARY OF EVIDENCE, THE CHARGE SHEET, THE LIST OF WITNESSES AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT AT MY TRIAL BY COURT MARTIAL.

M. Glandon
(M. GLANDON) C-9845 Pte

XX-75

PYREX GLASS S.

XX-75

CPA66 (In lieu of AFA8)
40 (P.A.S. 1668 (2014))

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G. Francomar Comd "D" Gp, CRU dated 8 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-65893	Pte	Sidney	GLASS	4 CIRU QOR of C.

Proceedings Reviewed
H Hausom Capt
Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 Dec 43 / 5 Dec 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

FOR

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns in RPs. For guidance as to procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

FOR

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

FOR

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

FOR

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) Do you object to FOR as shorthand writer? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If an objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col.	F. D Turcotte	HQ CRU.
Member	Capt.	W. H Hamphill	3 CIRU.
Member	Lieut	S. Fiales	3 CIRU.
Judge-Advocate			
Prosecutor	Lieut	W. H. Naylor	4 CIRU
Defending Offr	"	A E. Robinette	4 CIRU.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 60 (8) and fn 2 were not followed. See D. p 2.)

A8. The accused before arraignment make(s) (has) (~~has~~) plea but asks for an adjournment. Adj not allowed. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Fact I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CHARGE SHEET

The accused, No. B-65893, Pte. SIDNEY GLASS, of the Queen's Own Rifles, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A.Sec.6(2)(f)

WHILE ON ACTIVE SERVICE, Leaving his post without orders from his superior officer,

in that he
in the Field, at 0545 hours, 6 December 1943, after being posted as sentry on No. 6 Post of the Regimental Guard, left his post without orders from his superior officer.

(J.H. Christie) Col.,
Officer Commanding,
4 Cdn Inf Rft Unit, C.A.O.

IN THE FIELD
6 DECEMBER 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
8 DEC 1943

XX-75

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P & S/1898 (2864)

Convened by C... of Brigadier G. Francoeur Comd "D" Gp, CRU dated 8 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-65893	Pte	Proceedings Reviewed	Sidney	GLASS	4 CIRU QOR of C.

G. Hanson Capt
Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 Dec 43 15 Dec 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

FDT ~~A1.~~ The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 61-70, 73, 74, 94, 103, 119, 132.)

FDT A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

FDT A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

FDT A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans ...~~

The Interpreter is sworn.(1) Do you object to FDT as shorthand writer? Ans ...
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc.

President	Lt-Col.	J. D. Tweedie	HQ CRU.
Member	Capt.	W. H. Hemphill	3 CIRU.
Member	Lieut	S. Fidler	3 CIRU.
Judge-Advocate			
Prosecutor	Lieut	W. H. Naylor	4 CIRU
Defending Offr	"	A. E. Robinette	4 CIRU.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ... before arraignment make(s) (~~not~~ ~~in~~) plea but asks for an adjournment - see note attached (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 mark and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to attend see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D3 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form E above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

D9. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D10. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*e*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 75(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 136, 182, *RP* 46-58, 69, 118, 119(*A*), *KR Can* 308, 330, 562-564. *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused ultimately under sentence of imprisonment or detention see AA* 44(15), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-65893 Pte Glass, Sidney - 4 CIRU - QOR of C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 6(2)(f)	Not guilty	Guilty	
2nd			
3rd			
4th	15 Dec 43	15 Dec 43	J O Lucas Lt Col President
5th			
6th			

(Note: As to findings for lesser offences see AA 51, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF B296.)

Time in confinement awaiting present trial—a total of days, of which days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF 8355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) (Sgd)
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 761.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 757-761, KR Con 561-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd)

Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, No. B-65893, Pte. SIDNEY GLASS, of the Queen's Own Rifles, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A.Sec. 6(2)(f)

WHILE ON ACTIVE SERVICE, Leaving his post without orders from his superior officer,

in that he -

in the Field, at 0545 hours, 6 December 1943, after being posted as sentry on No. 6 Post of the Regimental Guard, left his post without orders from his superior officer.

(J.H. Christie) Col.,
Officer Commanding,
4 Cdn Inf Rft Unit, C.A.O.

IN THE FIELD
6 DECEMBER 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
8 DEC 1943

F.D.F.

FIELD GENERAL COURT-MARTIAL

CFA 30 (In lieu of AFA 3)
40/PAM/697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 47, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-65893	Pte		Sidney	GLASS	4 CIRU QOR of C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 DEC 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-col. (Rank.)	F. D. Tweedie (Must be named. RP 106.)	HQ CIRU (Unit.)

MEMBERS.

A Captain	to be detailed by CO	3 CIRU
A Lieutenant (Rank.)	to be detailed by CO (Named or detailed. RP 106.)	3 CIRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 8 DEC 43

(Signed personally. RP 105 fn 2.)

Brigadier. (Rank.)

Commanding "D" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B65898

PTE GLASS S of #4 C.I.R.U

and in my opinion, he is Fit to undergo trial by Court Martial.

Station FIELD

Date 9-12-43 (Sgd.) Mr. Babyrnand Capt.
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/o Jan 42)

Medical Officer's Certificate. 4C/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B65898
PTE GLASS S. of #4 C.I.R.U.
and in my opinion, he is Fit to undergo trial by Court Martial.
Station FIELD
Date 9-12-43 (Sgd.) Mr. Sabyerand Capt.
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/o Jan 42)

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B.65892
PTE. GLASS, S. of F.H.C.L.R.V.
and in my opinion, he is fit to undergo trial by Court Martial.
Station. FIELD.
Date. 15 Dec. 1943. (Sgd.) (Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

Before arrangement the defending officer states that he was detailed to defend the accused only at 1630 hours 8 Dec. 43.; That on interviewing the accused he ascertained that 4 witnesses were necessary to his defence & that arrangements had not been made for their attendance; that they are on the ranges today.

He requests an adjournment to permit him to prepare his defence.

The prosecutor does not object.

Court adjourned to 0900 hours 15 ~~8~~ Dec 43 at the same place.

401.

401.

The COURT reassembled at 0900 hrs 15 Dec 43 at the same place, with the same President, Members, Prosecutor and Defending Officer present.

The accused is brought before the Court. The Prosecutor produces medical certificate that the accused is fit to undergo trial by Court-Martial.

The President to the accused: Do you object to D106837, Sgt Preston, W.E., as shorthand writer? Ans No. The shorthand writer is sworn.

FIRST WITNESS — B77177, Sgt Greenwood, R.S., 4 CIRU sworn states:-

For the Prosecution

On the night 5 Dec 1943 I was Guard Commander of the Regimental Guard of 4 CIRU from 1630 hrs until 1630 hrs 6 Dec 43.

At approximately 0430 hrs 6 Dec 43 Pte Glass, the accused, was sent to his post. At approximately 0600 hrs 6 Dec 43 was notified by the RP that he had placed the accused in close arrest.

Cross-examination

I did not post Glass at 0430 hrs on the 6 Dec

Cpl Fraser was in the Guard Room when Pte Glass was sent out

He was on duty at the time.

Cpl Fraser did not accompany any of the Guards to their posts at 0430 hrs.

I believe that I am aware of the Standing Orders of Posting of Guards.

I did not read the Orders to the Guard

Sgt Thompson was the Warrant Officer, who mounted the Guard, read the Orders to the Guard just after 1630 hrs and then witness is shown the paper. This is a copy of the Orders read by the WO. The accused was present when the Orders were read.

Cross-examination

The whole order was not read. The details applicable to the picquet were read. The particulars as far as the post is concerned were not read. Paragraph 1 was not read. The last note of para 2 was read; paras 3, 4, 5, and 6 were not read; paras 7 and 8 were read; paras 9 and 10 were read; paras 11, 12 and 13 were read

Instructions for Park Picquet were read over and received in evidence and marked exhibit "A".

In the opinion of the Court is it not necessary to comply with Rule 83 (b)

The Prosecutor call L/Cpl Fraser. It is noted that Fraser was not a witness on the Summary. The Defending Officer admist that he has received necessary notice and abstract.

SECOND WITNESS — B130563, L/Cpl Fraser, R.J., 4 CIRU, sworn states:-

For the Prosecution

I was 2 i/c Guard Sunday Dec 5,43 from 1630 hrs until 1630 hrs Monday Dec 6, 1943. After the Orderly Sgt read out the instructions for the Guard, we marched to the Guard Room and I took the first rank for the first shift; then we paraded around to the post, starting at number 1 and 5 and 4 and when we got to number 6 and 7 I sent Pte Glass down to number 3. We were half an hour late and then I had to post three men. I walked back with the old Cpl of the Guard through number 3 post and Pte Glass was at his post.

When I told Pte Glass to go to number 3 post, we were about 50 yds from that post. I do not think that the boundaries of each post were explained to the accused.

At 0430 hrs, 6 Dec, I was asleep.

In the opinion of the Court is it not necessary to comply with Rul 83 (b)

THIRD WITNESS — B78811, L/CPL Hambley, R.F., 4 CIRU, sworn states:-

For the Prosecution

Sir, at approximately 0530 hrs, 6 Dec I was on petrol, I am employed as RP. At approximately 0500 hrs, 6 Dec 43, I was on petrol duty with L/Cpl McConville in the Camp Area. Approaching one of the Sentry Posts, which I believe is Number 6, we were not challenged. We approached the veh park and again were not challenged, proceeded to look for the sentries and found two soldiers asleep in the veh, namely, station wagon parked in the vehicle park; discovered one rifle leaning against left-hand side of the vehicle and all doors of the vehicle were locked. L/Cpl McConville then took the rifle over to the Guard Room and on his return we woke up the two soldiers. I knocked several times on thewindow and one soldier sitting behind the steering wheel. I asked them whom they were They told me their names were Pte Egan and Pte Glass. I asked Pte Egan whose post he was on and he said it was the Vehicle Park, which, I believe, is number 7 post. I then asked Pte Glass of the post he was on and he told me number 6. I placed them under close arrest and escorted them to the Guard Room. Pte Egan had his rifle inside the vehicle with him. I carried same over to the Guard Room. Pte Glass did not have his bayonet with him and on questioning, he informed me that he had left it in the Guard Room.

Cross-examination

L/Cpl McConville took the rifle to the Guard Room . I was standing by the vehicle waiting for his return. I am positive that the men were asleep. I could not see their faces from their crouched-over position. Glass was on the left-hand side of the car

Cross-examination (Cont'd)

The numbers of the posts are not changed frequently to my knowledge.

By the Court

Number 3 post is discribed in the instructions to thepicquet as being situated on the west end entrance of Waterloo West Barracks, Middle Hill. The post I refer to is number 6 post is at one end of the vehicle garage and next to the Command Post. When I was on guard about a month ago, that was number 6 post. I do not know what the number of that post now is according to the Guard Orders. In the opinion of the Court is it not necessary to comply with Rule 83 (b)

FOURTH WITNESS

For the Prosecution

B39602 L/Cpl McConville, W.J., 4 CIRU, sworn states:-

I am on the RP of 4 CIRU. In the morning on 6 Dec at 0545 hrs we were on a patrol. We came up to number 6 sentry post and the sentry did not challange us. We went over to number 7 post and were not challanged, so we then shone the light around the vehicles and saw two men in a vehicle crouched downand a rifle standing beside it. Cpl Hambley picked the rifle up and I took it to the Guard Room, and turned it over to the Sgt of the Guard. Then went back to Cpl Hambley and took the two men to the Guard Room.

Cross-examination

The accused is one of the men.

The Station wagon was about 100 yrds from the post I refer to as number 6.

The veh garage is about 100 yrds long. There is a post at each end of the veh park.

I tried the door on the left-hand side of the veh. It was locked. I shone the light in the face of the accused. He did not move. I did not see his eyes.

In the opinion of the Court, it is not necessary to comply with Rule 83 (b)

THE CASE OF THE PROSECUTION IS CLOSED

President to the Prosecutor: What about the sentry whom the the accused is alleged to have relieved ? I could see no useful purpose in calling him.

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.C.

INSTRUCTIONS FOR BARRACK PICQUET

1. This picquet will consist of 1 Sergeant, 1 Corporal, 24 Privates. Their tour of duty will be for 24 hours; 2 hours on, 4 hours off. There will be 8 posts. The picquet will be quartered in the Guard Room at the main entrance Gun Hill. The picquet will mount at 1615 hours daily.

2. No. 1 Post: situated at the Main Entrance to Waterloo East Bks.
No. 2 Post: situated at the Entrance to Talavera Barracks, Hospital Hill.
No. 3 Post: situated at the West Entrance of Waterloo West Bks, Middle Hill (next to W'loo West Command Post).
No. 4 Post: situated at North-West Entrance to Waterloo East, Bks, near Unit Theatre.
No. 5 Post: situated at the South-East Entrance to Waterloo Bks, East, near British Medical Inspection Room.
No. 6 Post: situated at Vehicle Park, Waterloo West Parade Square.
No. 7 Post: situated at Entrance to Talavera at Inniskilling Quarters.
No. 8 Post: ~~situated~~ 1 man to patrol Campbell Road from Hospital Hill, front of A.T.S. Quarters, to end of quarters, from time of mounting until 0700 hrs, when he will then serve as Roving Patrol for all three barracks.

NOTE: No persons, other than A.T.S., will be allowed to enter these quarters or loiter near them.

3. All vehicles from this Unit will be checked for work ticket, despatcher's signature on such work ticket, and that number on vehicle corresponds with that on the work ticket.

4. All civilians will be checked for identification and nature of business. If identity is not satisfactory, they will be turned over to the Provost at the Unit Guard Room.

5. No unescorted women will be allowed in camp, except those having business with the N.A.A.F.I. Store.

6. All soldiers from other units making enquiries will be checked for identification before any information is given. THIS IS IMPORTANT AND MUST BE CHECKED THOROUGHLY.

7. All passes to be checked after Tattoo, and if party has no pass, they will be escorted to Guard Room. If they have late pass, this must be turned in at Coy Orderly Room by holder.

8. Picquet will not leave his post without being properly relieved. He will pay all compliments, no matter how the officer is dressed. He will take charge of, and safeguard, all Government property, within his view. During the hours of daylight, he will walk his beat in a smart and soldierly manner. In case of fire, he will immediately notify the N.C.O. of the Guard. He will report to the N.C.O. of the Guard all unusual occurrences, whether of a suspicious nature or not. He will NOT converse with civilians. Civilians asking questions will be referred to the N.C.O. of the Guard.

9. Picquet on duty at vehicle entrances, will assume duty of Traffic Control, to protect the passage of troops and vehicles across public roads.

10. Picquet will inspect gas detectors at intervals, by day and by night.

(Continued over)

6 Dec 43

This is to certify that I have received the following documents, free of charge.

1 Copy Summary of Evidence
1 Copy Charge Sheet
1 Copy List of Witnesses.

S. Glass.....
B 65893 Pte. Glass, S.

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.C.

INSTRUCTIONS FOR BARRACK PICQUET

1. This picquet will consist of 1 Sergeant, 1 Corporal, 24 Privates. Their tour of duty will be for 24 hours; 2 hours on, 4 hours off. There will be 8 posts. The picquet will be quartered in the Guard Room at the main entrance Gun Hill. The picquet will mount at 1815 hours daily.

2. No. 1 Post: situated at the Main Entrance to Waterloo East Bks.
No. 2 Post: situated at the Entrance to Talavera Barracks, Hospital Hill.
No. 3 Post: situated at the West Entrance of Waterloo West Bks, Middle Hill (next to W'loo West Command Post).
No. 4 Post: situated at North-West Entrance to Waterloo East, Bks, near Unit Theatre.
No. 5 Post: situated at the South-East Entrance to Waterloo Bks, East, near British Medical Inspection Room.
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No. 8 Post: situated 1 man to pasrol Campbell Road from Hospital Hill, front of A.T.S. Quarters, to end of quarters, from time of mounting until 0700 hrs, when he will then serve as Roving Patrol for all three barracks.

NOTE: No persons, other than A.T.S., will be allowed to enter these quarters or loiter near them.

3. All vehicles from this Unit will be checked for work ticket, despatcher's signature on such work ticket, and that number on vehicle corresponds with that on the work ticket.

4. All civilians will be checked for identification and nature of business. If identity is not satisfactory, they will be turned over to the Provost at the Unit Guard Room.

5. No unescorted women will be allowed in camp, except those having business with the N.A.A.F.I. Store.

6. All soldiers from other units making enquiries will be checked for identification before any information is given. THIS IS IMPORTANT AND MUST BE CHECKED THOROUGHLY.

7. All passes to be checked after Tattoo, and if party has no pass, they will be escorted to Guard Room. If they have late pass, this must be turned in at Coy Orderly Room by holder.

8. Picquet will not leave his post without being properly relieved. He will pay all compliments, no matter how the officer is dressed. He will take charge of, and safeguard, all Government property, within his view. During the hours of daylight, he will walk his beat in a smart and soldierly manner. In case of fire, he will immediately notify the N.C.O. of the Guard. He will report to the N.C.O. of the Guard all unusual occurrences, whether of a suspicious nature or not. He will NOT converse with civilians. Civilians asking questions will be referred to the N.C.O. of the Guard.

9. Picquet on duty at vehicle entrances, will assume duty of Traffic Control, to protect the passage of troops and vehicles across public roads.

10. Picquet will inspect gas detectors at intervals, by day and by night.

(Continued over)

11. The Guard will not leave the Guard Room when off duty, and will be dismissed in a body when relieved by the oncoming Guard.

12. The Guard and reliefs will be paraded to all meals, except late lunch, which will be picked up by the Cpl. and necessary men at 2130 hours.

13. Pipe barriers at entrances will be lowered at dark, and only lifted when vehicle has been properly identified, and will be immediately lowered.

(J.H. Christie) A/Col.,
Commanding Officer,
4 Cdn Inf Reinforcement Unit,
C.A.O.

:LN

LIST OF WITNESSES

In the case of B-65893, Pte. Glass, S., 4 C.I.R.U.

FOR THE PROSECUTION

1. B-77117 Sgt. Greenwood, R.S., 4 C.I.R.U.

2. B-78811 L/Cpl Hambley, R.F., 4 C.I.R.U.

3. B-36902 L/Cpl McConville, W.J., 4 C.I.R.U.

FOR THE DEFENCE

1. B-65893, Pte. Glass, S., 4 C.I.R.U., the Accused.

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(O). 4C/24

7 DECEMBER 43 .....194....

I, No. B-65893, Pte. GLASS, S. ....., wish to have
(Rank) (Name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of ~~S. Glass~~ Sieur Robarette Q.A.R.
if he is available

(Sgd.) ...S. Glass.....

6 Dec 43

This is to certify that I have received the following documents, free of charge.

1 Copy Summary of Evidence
1 Copy Charge Sheet
1 Copy List of Witnesses.

S. Glass.....
B 65893 Pte. Glass, S.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-65893, Pte. Glass, S. of the Queen's Own Rifles, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS

For the Prosecution

No. B-77177, Sergeant Greenwood, R.S. on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am B-77177, Sergeant Greenwood, R.S., on the strength of No. 4 C.I.R.U.. I was Guard Commander of the Regimental Guard at No. 4 C.I.R.U. from 1630 hrs, 5 DEC 43 until 1630 hrs, 6 DEC 43. At 0430 hrs, 6 DEC 43, the accused, B-65893, Pte. Glass, S., whom I now recognize, was detailed by me to take over Post No. 6. At approximately 0600 hrs I was notified by L/Cpl McConville, W.J. that he had placed two members of the Guard under close arrest.

The accused declines to cross-examine this witness.

R.S. Greenwood Sgt.
B-77177, Sgt. Greenwood, R.S.

SECOND WITNESS

For the Prosecution

No. B-78811, L/Cpl Hambley, R.F., on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am B-78811, L/Cpl Hambley, R.F. and am employed on the Regimental Police at No. 4 C.I.R.U. At approximately 0545 hrs, 6 DEC 43, I was on patrol duty in the Camp area in company with L/Cpl McConville, W.J.. As we approached No. 6 sentry post, we were not challenged and could not see the sentry. We then approached No. 7 post and again we were not challenged. Upon checking the vehicles in the vehicle park, I found a rifle leaning against a Station Wagon. I looked inside the wagon and found two soldiers asleep in the front seat. I woke them up and found them to be the missing sentries from No. 6 and No. 7 posts. One of them was the accused, Pte. Glass, S. whom I now recognize, and the other was Pte. Egan, J.O.. The rifle I found belonged to B-65893, Pte. Glass, S. who should have been on No. 6 post. He was approximately 100 yards away from his place of duty. The other soldier was B-70386, Pte. Egan, J.O. who should have been on No. 7 post. He had his rifle in the Station Wagon with him. I had to knock quite heavy on the window to waken them up. I then placed the two soldiers under close arrest and escorted them to the Regimental Military Police Guard Room. I detailed L/Cpl McConville, W.J. to report the matter to the N.C.O. i/c of the Guard.

The accused declines to cross-examine this witness.

R.F. Hambley
B-78811, L/Cpl Hambley, R.F.

THIRD WITNESS

For the Prosecution

B-36902, L/Cpl McConville, W.J. on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

I am L/Cpl. McConville, W.J. on the strength of No. 4 C.I.R.U. and I am employed on the Regimental Police for that Unit. At approximately 0545 hrs, 6 Dec 43 I was on patrol of the Camp area with L/Cpl Hambley. When we proceeded to No. 6 sentry post, the sentry there did not challenge us. At that moment we went over to No. 7 sentry post and the sentry there did not challenge us. Then we started looking for the sentries. We looked around the vehicle and saw a rifle standing up against a vehicle. Then we shined a light on the vehicle. The two sentries were in it asleep. They were the accused, B-65893, Pte. Glass, S. whom I now recognize, and Pte. Egan, J.O.. L/Cpl Hambley then took the rifle to the guard room and then proceeded back to where the two soldiers were sleeping. Then L/Cpl Hambley knocked on the window to wake the sentries up and we put them under close arrest. After I took them to the guard room I reported to Sgt. Greenwood, R.J., the Guard Commander, and advised him that we had the two accused under close arrest for being off their post.

The accused declines to cross-examine this witness.

.....
B-36902, L/Cpl McConville, W.J.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing, and may be given in evidence."

The accused elects to make a statement.

The accused, No. B-65893, Pte. Glass, Sidney, of the Queen's Own Rifles, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, states: "We were not asleep. We thought that the light was from the other sentry at his post by 'E' Company Lines."

.....
B-65893, Pte. Glass, S.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

A.E. Robinette Lieut
(A.E. Robinette) Lt.
Officer detailed to take the Summary of Evidence.

IN THE FIELD
6 DEC 1943.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-65893, Pte. Glass, S. of the Queen's Own Rifles, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS

For the Prosecution

No. B-77177, Sergeant Greenwood, R.S. on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am B-77177, Sergeant Greenwood, R.S., on the strength of No. 4 C.I.R.U.. I was Guard Commander of the Regimental Guard at No. 4 C.I.R.U. from 1630 hrs, 5 DEC 43 until 1630 hrs, 6 DEC 43. At 0430 hrs, 6 DEC 43, the accused, B-65893, Pte. Glass, S., whom I now recognize, was detailed by me to take over Post No. 6. At approximately 0600 hrs I was notified by L/Cpl McConville, W.J. that he had placed two members of the Guard under close arrest.

The accused declines to cross-examine this witness.

R.S. Greenwood Sgt.
.....
B-77177, Sgt. Greenwood, R.S.

SECOND WITNESS

For the Prosecution

No. B-78811, L/Cpl Hambley, R.F., on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am B-78811, L/Cpl Hambley, R.F. and am employed on the Regimental Police at No. 4 C.I.R.U. At approximately 0545 hrs, 6 DEC 43, I was on patrol duty in the Camp area in company with L/Cpl McConville, W.J.. As we approached No. 6 sentry post, we were not challenged and could not see the sentry. We then approached No. 7 post and again we were not challenged. Upon checking the vehicles in the vehicle park, I found a rifle leaning against a Station Wagon. I looked inside the wagon and found two soldiers asleep in the front seat. I woke them up and found them to be the missing sentries from No. 6 and No. 7 posts. One of them was the accused, Pte. Glass, S. whom I now recognize, and the other was Pte. Egan, J.O.. The rifle I found belonged to B-65893, Pte. Glass, S. who should have been on No. 6 post. He was approximately 100 yards away from his place of duty. The other soldier was B-70386, Pte. Egan, J.O. who should have been on No. 7 post. He had his rifle in the Station Wagon with him. I had to knock quite heavy on the window to waken them up. I then placed the two soldiers under close arrest and escorted them to the Regimental Military Police Guard Room. I detailed L/Cpl McConville, W.J. to report the matter to the N.C.O. i/c of the Guard.

The accused declines to cross-examine this witness.

R.F. Hambley
.....
B-78811, L/Cpl Hambley, R.F.

THIRD WITNESS

For the Prosecution

B-36902, L/Cpl McConville, W.J. on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

I am L/Cpl. McConville, W.J. on the strength of No. 4 C.I.R.U. and I am employed on the Regimental Police for that Unit. At approximately 0545 hrs, 6 Dec 43 I was on patrol of the Camp area with L/Cpl Hambley. When we proceeded to No. 6 sentry post, the sentry there did not challenge us. At that moment we went over to No. 7 sentry post and the sentry there did not challenge us. Then we started looking for the sentries. We looked around the vehicle and saw a rifle standing up against a vehicle. Then we shined a light on the vehicle. The two sentries were in it asleep. They were the accused, B-65893, Pte. Glass, S. whom I now recognize, and Pte. Egan, J.O.. L/Cpl Hambley then took the rifle to the guard room and then proceeded back to where the two soldiers were sleeping. Then L/Cpl Hambley knocked on the window to wake the sentries up and we put them under close arrest. After I took them to the guard room I reported to Sgt. Greenwood, R.J., the Guard Commander, and advised him that we had the two accused under close arrest for being off their post.

The accused declines to cross-examine this witness.

.....
B-36902, L/Cpl McConville, W.J.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing, and may be given in evidence."

The accused elects to make a statement.

The accused, No. B-65893, Pte. Glass, Sidney, of the Queen's Own Rifles, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, states: "We were not asleep. We thought that the light was from the other sentry at his post by 'E' Company Lines."

.....
B-65893, Pte. Glass, S.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

.....
(A.E. Robinette) Lt.
Officer detailed to take the Summary of Evidence.

IN THE FIELD
6 DEC 1943.

QQQ-108

PTE GLAZER GW

H 108
H. H. Usher Major

RECEIVED 10 JUL 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 QQQ-108

Correspondence to be PINNED here

Army Form A.3

CANADIAN SECTION 9 JUN 1944 2nd ECHELON

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

A Order convening the Court.

On Active Service, this Twenty-fourth day of April, 19 44

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ MS

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~I am unable to appoint:-~~

~~(1. Three Officers to form the Court.)~~

~~(2. A Field Officer as President.~~ MS

~~(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:-~~ MS

PROCEEDINGS REVIEWED
10 Jul 44
M R Marshall Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

103

President

Rank	Name	Regiment
Major	H.H. Usher	Hast & PEIR

Members

Rank	Name	Regiment
Captain	G.W. Beal	48 Highrs
Lt.	W.D. Lawrence	R.C.R.
Lt.	D.E. Little	R.C.R.

Waiting Member

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled.

D.C. Spry

*Signed (D.C. Spry) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B 79496 PRIVATE GLAZER, George William, 48th Highlanders of Canada.	FIRST CHARGE A.A. Sec 15 (1) SECOND CHARGE A.A. Sec 9 (1)	Guilty Guilty	Guilty Guilty ~~F.A. [illegible]~~ HHU Imp without hard labour [illegible] 27-4-44 HHU	I confirm the finding and sentence of the Court on the first charge. I do NOT confirm the finding and ~~sentence~~ MS on the Second Charge. I ~~[illegible]~~ the sentence of the Court so that it shall read: "Imprisonment without hard labour for eighteen months" D.C. Spry Brig 6 May 44.

~~*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):~~

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer *(to be recorded on separate sheet if necessary)* :—

(Signed) D.C. Spry
(D.C. Spry) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer (e)

(Signed) H.H. Usher major
(H.H. Usher) Major
Hast & PER.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for a FIELD General ~~and District~~ HHU Courts-Martial.

Proceedings of a Field General Court-Martial held at in the field

on the 27th day of April 1944 by order of

Brig. D. C. Spry

Commanding 1 Cdn. Inf Bde

dated the 24th day of April 1944

President.

Major H. H. Usher, Hast & PER

Members.

Capt. G. W. Beal, 48 Highrs.

Lt. W. D. Lawrence, R.C.R.

, ~~Judge Advocate~~ HHU

Trial of*

B-79496 Pte. GLAZER, GEORGE WILLIAM.
48 Highrs. of Can.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ..... is not available to serve owing to .....~~ HHU

~~....., waiting member takes his place as a member of the Court.~~ HHU

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. B. S. Eby, M.C. 48 Highrs.

HHU ~~Counsel or~~ defending officer† Lt. E. G. D. Wacher, 48 Highrs.

At 9.30 o'clock the Trial commences.

The order convening the Court is read, and is marked "B" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

3057. Wx.W40820(2) 10,000 wts. 12/41. K. & H., Ltd. G657/11. Forms 49/20

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

The accused having pleaded Guilty to both ~~charges~~ charges, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

48TH HIGHLANDERS OF CANADA

B2

CHARGE SHEET

The Accused B.79496 Pte. George William GLAZER "A" Coy 48th Highlanders of Canada, a soldier of the Canadian Army Overseas, C.M.F., while on active service, is charged with:

1st CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave 2359 hrs 28 Dec 43 until he surrendered himself to his Unit at 1000 hrs 5 Mar 44. (Time absent 73 days, 10 hrs and 1 min)

2nd CHARGE
A.A. Sec 9 (1)

When on Active Service, disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office,

in that he,
In the Field, ITALY, at approx 1330 hrs 11 Mar 44 when ordered by Sjt. CANDY to go to Tac H.Q. for fatigues, wilfully refused to go saying "I will not go", he did not go.

(I.S.JOHNSTON) Lt-col,
Commanding Officer,
48th Highlanders of Canada.

In the Field,
4 Apr 44.

To be tried by Field General Court Martial.

(D.C. Spry) Brigadier
Comd., 1 Cdn Inf Bde.

In the Field
24 Apr 44.

MEDICAL CERTIFICATE (KR (Can) 557))

I certify that I have this morning examined No B.79496

Pte. GLAZER, C.W. of 48 Highrs. and, in my opinion,

he is fit to undergo trial by Court-Martial.

Station Inthe Field, ITALY

Date 27 Apr 44.

Medical Offr

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused A-79496 Pte Glazer, George William, 48 Brigade. is found guilty of both charges.

†The summary (or abstract) of evidence is read, marked "Z" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. ~~The accused in mitigation of punishment says:—~~ Yes, Sir.

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

I would like to call a witness as to character. *Answer.*

Evidence as to character.

B-88086 A/CPL. ANDERSON, W.C. 48 Highland Coy, being duly sworn, states—

"I met Pte Gleyer in the rest camp in Sicily. I have soldiered with him up until the NORO and I have never heard any complaints about him, and he has done a good job for his Coy and his Pl."

The Prosecution declined to cross-examine this witness.

Q. by Defence.

Q1- Were you in Pte with the accused?
A1- I was.
Q2- Do you think that you were in a good position to judge the accused's work and behaviour?
A2- Yes, Sir.

F

Sentence.

Sentence

The Court sentence the accused

B-79496 Private GLAZER, GEORGE WILLIAM, 48 Highs of Canada, to suffer ~~field~~ HHCC ~~imprisonment~~ for a term of two years. ~~without hard labour~~

~~F.P. 2 YEARS.~~ H.H.C.

Signed in the field, this 27th day of April 1944

H. H. Usher, major
President.

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

Finding.*

The Court is closed for the consideration of the finding.

The Court find that the accused

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Capt R. A. Eby, N.C. 48 Highrs. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes, sir.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "D" signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes, sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes, sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes, sir.

(Instruction.—If by reason of the nature of the service of the accused in a non-parliamentary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment not in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

The Defence declines to Cross-Examine the Witness

Question to the accused.

Do you wish to address the Court? *Answer.* Yes, sir ("E")

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused

Sentence

B-79496 Private GLAZER, GEORGE WILLIAM, 48, Highs of Canada, to suffer ~~field~~ HHC ~~imprisonment~~ for a term of two years. without hard labour

~~F.P. 2 YEARS~~ H.H.C.

Signed in the field, this 27th day of April 1944

H. H. Usher, major
President.

CASE OF
B79496 PTE GLAZER - G.W. - 48TH HIGHRS
— having been duly sworn:

Plea in mitigation of punishment 1st Charge

When we went into the attack just outside San Leonardo we took up posns. beside the rd. and started to dig slit-trenches and I had my slit-trench half finished when the German A/Tk knocked out a tank just beside us. and just as the men got out our own barrage fell on this and I yelled to the tank fellow to get in the slit-trench with me and the road was shelled along our slit-trench and the tank man got hit in the arm and in the side and after the barrage cleared off I told the fellow that it was over and he got up & I seen he was wounded & from the wound & the shelling well I started to cry as it had been the first attack I had ever been in and from the shellin' & all the noise I guess I went sort of crazy for a time and didnt realize what I was doin'. After this I left my unit. Previous to the attack I had got a letter from home saying that my real sister had left home with some fellow she had met and there was just the two of us & that hit me worse than the shells.

Plea in mitigation of Punishment 2nd Charge

When I refused to obey the order I had been out that morning to Tac H.Q. and it had rained part of the morning and I had mud right up to my putties and by

refusin' to go I thought Sgt Coady, would
get us a pair of rubber boots as I had
seen fellas wearin' rubber boots around
ORTONA. That is the only reason I refused

Case of B79496 PTE GLAZER - G.W

E H.H. Usher major

STATEMENT BY THE DEFENDING OFFICER

~~I was~~
I point out that the Accused has been in the army three years and is a volunteer. Further he joined the Service at 16 yrs of age and is now 19 yrs of age. He joined the unit in Sicily and had not been out until 22 Dec 43. The occasion of the A.W.L. was his first attack. In addition the news from home stating that his only sister had left home and I would suggest that he was emotionally upset and not responsible for his actions at the time. In regard to the second charge the Accused refused with the express intention of securing a pair of rubber boots, knowing that these were intended only for front line soldiers & that he was engaged in work at Pac H.Q. He felt that he was entitled to a pair. The fact that certain Q Staff were wearing rubber boots in ORTONA furthered the above statement

Summary of Evidence in the case of B-79496 Pte Glazer G. W. "A" Coy 48th Highlanders of Canada.

C (H. H. Usher, Major)

By direction of Major D. A. MacKenzie Officer Commanding 48th Highlanders of Canada all evidence is taken on oath

1st Witness for the prosecution: (1st Charge) B-89937-C.S.M. Keeler. G.R. 48th Highlanders of Canada "A" Coy having been duly sworn states: On 22 Dec 43 at approximately 2359 hrs. Pte Glazer was reported absent to me, by the Pl Sgt. I went over with him and checked the Pl. I reported him absent to the Coy Commander as of 2359 hrs. I checked the Pl. daily until 27th Dec 43. He was still absent on the 27 Dec. 43, I was wounded and evacuated. I returned to the Company again on the 12th Jan. 44. I checked the Pl's with the Pl's sgt's, with their nominal rolls and found Pte Glazer still absent. I checked the Pl's daily until 27th Jan 44, when Sgt. Harker joined us. I reported Pte Glazer as being absent to him. He did not return during these dates.

G.R. Keeler
B-89937 C.S.M. Keeler G.R. M.M.

The accused declines to cross examine this witness.

3rd witness for the Prosecution: (1 St. Charge) B. 103101 - Pte Adair C.H. 48th Highlanders of Canada "A" Coy having been duly sworn states:- When C. S. M. Keeler was evacuated to "B" Echelon 27 Dec 43. I was with the Pl. between 27 Dec 43 and 12 Jan 43. I did not see Pte. Glazer between the above dates. If he had been with the Pl. during that period I would have see him

C H Adair
B-103101 Pte. Adair C.H.

The accused declines to cross examine this witness.

4th witness for the Prosecution: (1 St. Charge) B. 74089 Sgt. Candy S.J. (Mack) 48th Highlanders of Canada Reg. Police Sgt. having been duly sworn states: I am Reg. Provost Sgt. of the 48th Highlanders of Canada. In my capacity as Regimental Provost Sgt. Pte. Glazer surrendered himself to me on the 3rd March 1944 at approximately 1000 hrs. I then put him under close arrest.

A.J. Candy
B. 74089 Sgt. Candy S.J.

The accused declines to cross examine this witness.

3rd witness for the Prosecution (1st Charge) :- B. 63775: SGT. Harker J. "A" Coy 48th Highlanders of Canada having been duly sworn states:- I joined the 9 Pl. 27th Jan 44. Pte Glazer was reported. A.W.O.L. to me at the time. I called the roll every day since 27th Jan. 44 until 31st March 44. Pte Glazer was not present during the above period. Had he returned I would have known it. He did not return.

Q- Did you know Pte Glazer before.
A- No Sir?
Q- How did you know he was a member of your Pl?
A- I was told he was A.W.O.L. I got the Pl roll from the Officer.
Q- at anytime were you told anything about Pte Glazer?
A- Not a thing.

J. Harker
B-63775-SGT Harker J.

The accused declines to cross examine this witness.

The accused declines to make a statement

1st witness for the Prosecution (2nd Charge) :- B. 73158. L/Cpl. Hallard J.L. 48th Highlanders of Canada "Regimental Police" having been duly sworn states:- On saturday 11 March 44. at 1330 hrs. I went into the guard room and asked for the same 4 men I had out

Pte Witness for the Prosecution (2nd Charge)

at T.A.C H.Q in the morning. Pte Porter then brought up the question of rubber boots; I then told him that only men in the front line were issued with rubber boots. I then turned around and told them all that it was impossible for them to have rubber boots, they then all refused to go out to T.A.C. H.Q. Pte Glazer is one of these 4 men ~~[illegible]~~ refusing to go. I then went out and called the Regimental police Sgt. Candy and told him I was having trouble with the men in the guard room. when he asked me what the trouble was I told him the men had refused to work at T.A.C H.Q. Sgt. Candy and I went back into the guard room and Sgt. Candy spoke to the men individually and asked each one of them if they would all go to work. They all refused. Sgt. Candy & I went out of the guard room to return a few seconds later. Sgt. Candy then gave each man a direct order to go to T.A.C H.Q. Each man refused to do so. Pte Glazer is one of these. Then Sgt Candy laid the charge.

Joe Hallard L/Cpl
B-7215 S.F./Cpl. Hallard J.P.

The accused declines to cross examine this Witness.

2nd witness for the prosecution: (2nd charge) B. 74089 - SGT Candy S. J. 48th Highlanders of Canada Reg. Police SGT. having been duly sworn states: On March 11th 1944 1300 hrs. L/Cpl Hallard came to me with a complaint that the men in the guard room refused to go to work at T.A.C.H.Q. I immediately went to the guard room to find out what the trouble was. I asked them if it was true that they had refused to go to T.A.C. H.Q. and they all replied "yes". I then took their names and numbers and went out of the guard room with L/Cpl Hallard and immediately returned to the guard house with L/Cpl Hallard and gave them a direct order individually to each of the men. Pte Glazer is one of them. He refused to go and did not go.

H. J. Candy
B-74089 SGT. Candy S. J.

The accused declines to cross examine this witness.

The accused HAVING BEEN CAUTIONED IN ACCORDANCE WITH RPQ(E) declines to make a statement.

The accused reserves his defence.

Certified that Rules of Procedure & (b), (c) (d) (e) and (f) have been complied with.

Taken down by me in the field this 31st day of March 1944 in the presence and hearing of the accused.

J. A. M. MacNeil
Lieut. J. A. M. MacNeil.
48th Highlanders of Canada

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122). 40/P & /3136 (2068)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	23 Apr 44			W.O.A.S. Refusing to obey an order given by an superior officer. A.A. Sec 9 (2)		28 days F.P.	25 Apr 44	Major D.A.MacKENZIE	Forf 28 days pay 149(1)b

I as Officer i/c Regimental Records certify that this a true and exact copy of the Substitute sheet.

(BLAIR.S.KEY) Capt,
Adjutent,
48th Highlanders of Canada.

(P.T.O.)

D 7/7/44 Adjutant, Major

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name.	Regiment (or as the case may be)
B.79496	Pte.	GLAZER, G.W.	48th Highlanders of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary must be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not opened by the prosecutor.

† See section 46(1), A.A. 1881.

* See sections 46(1) and 47(1) A.A. 1881 as to the entries which should appear with the accused's character, and as to previous trials and convictions which may be proved when the case is one in which evidence of character is admissible, and as to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

* Within last 12 months. *Since Enlistment.

For	..... times	..... times.
For	..... times	..... times.
For	NO M.P.R. 6 available ..... times	..... times.
For	..... times	..... times.
For	AA. 9 (2) ONCE ..... times	..... times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence of 28 days beginning on the 25th day of April 1944 by O/C

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and 52 (sic) days in military custody, making a total of 52 days, of which N/A days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs. 9 mon. 16 days.

6. The date of his attestation specified in his record of service is 17 Mar 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon 3 yrs, [illegible] days service for the purpose of determining his rewards, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award or is in possession of or entitled to (*state any military decoration or award*)

N/A

11. (*If the accused is a warrant officer*.) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer*.) The accused holds in the army the rank of N/A dated and in his regiment (or corps or department) the rank of N/A dated

(Signature of officer)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.79496 Rank Pte. Name GLAZER, [illegible] of 48 Highrs Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NO M.F.M. 6 AVAILABLE		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of April 44

[signature] Capt., & Adjt.
48th Highlanders of Canada.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years,

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Certified True Copy

for [signature] (R. Cordeau) Capt. Spare copy

"H.H. Usher" Major.

QQQ-108.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-fourth day of April, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for [illegible]~~] "DCS"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~[illegible]~~]

*~~[illegible]~~ "DCS"

*~~[illegible]~~ "DCS"

for ~~[illegible]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

Waiting Member.

signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	H.H. Usher	Hast & PEI

Members.

Rank.	Name.	Regiment.
Captain	G.W. Beal	49 Highrs
Lt.	W.D. Lawrence	R.C.R.
Lt.	D.E. Little	R.C.R.

*Signed "D.C. Spry"
(D.C. Spry) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B 79496 PRIVATE GLAZER, George William, 48th Highlanders of Canada.	FIRST CHARGE A.A. Sec 15 (1)	Guilty	Guilty	I confirm the finding and sentence of the Court on the First charge. I do not confirm the finding on the Second Charge. I mitigate the Sentence of the Court so that it shall read:
	SECOND CHARGE A.A. Sec 9 (1)	Guilty	Guilty Imp without hard labour 2 years 27-4-44 "HHU"	"Imprisonment without hard labour eighteen months."
				"D. C. Spry" Brig 6 May 44.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(*Signed*) "D.C. Spry" (D.C. Spry) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer (*e*).

(*Signed*) "H.H. Usher, Major" (H.H. Usher) Major
Asst & PER.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(~~1. The members of the Court 2. The witnesses~~ "HHU"

*(~~4. The officers under instruction~~) "HHU"

were duly sworn.

*Omit if not applicable.

Signed this 27th day of April 19 44.

"H.H. Usher, Major"
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 765 M.M.L., 1929.

~~I hereby certify that the terms of Article 6(2) of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~19~~

"H.H.U."
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the entry made in the margin hereof with reference to prison or detention barracks be struck out.~~) "DOS"

Signed this sixth day of May 1944.

"D.C. Spry"
Confirming Officer.
(D.C. Spry) Brigadier
Comd., 1 Cdn Inf Bde.

(*a*) Promulgated and extracts taken in the case of B79496 Pte Glazer G.W. 48 Highrs.
(Dated) May 14, 1944 (Signed) "S.S. Sley" Capt 48th Highrs

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

MFM 6
(AFB 122)
40/PAS 138 (3438)

No B-79496 Name GLAZER, G.W.H. Sqn, Battery or Company | Corps C.I.C. | Date of enlistment 17 Mar 41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N.A. | No and date of last drunk N.1 | Period not reckoning towards freedom from extra fine N.A. | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Original			Sheet destroyed 17 Sept 41	Last Entry	21 July 41 –	Drunkeness nil –		
Debert, N.S.	4 Nov 41	Pte		Improperly dressed A.A. Sec 40	Cpl Farquhar	3 dys. C.B.	4 Nov 41	Punchard Capt	
Halifax, N.S.	16 Dec 41	Pte		A.A. Sec 15 (1) AWL from 2320 hrs 16 Dec 41 to 0100 hrs 17 Dec 41	Sgt Garrett	4 dys C.B.	18 Dec 41	Punchard Capt	
Halifax, N.S.	17 Jan 42	Pte		A.A. Sec 15 (1) AWL at Tattoo	Cpl Fitzgerald, W.	3 dys C.B.	19 Jan 42	Punchard Capt	
Halifax, N.S.	20 Feb 42	Pte		A.A. Sec 15 (1) AWL at Tattoo	Cpl Foster	3 dys C.B.	21 Feb 42	Punchard Capt	
Halifax, N.S.	13 Mar 42	Pte		A.A. Sec 15 (1) AWL from 1800 hrs 12 Mar 42 to 1500 hrs 18 Mar 42	Lt. LaPrairie.	14 days Detention	27 Mar 42	Lt Col Duthie	
Mulgrave, N.S.	7 May 42	Pte		A.A. Sec 8 (2) Insubordination + obscene language.	15 Prov Coy. Lt/Cpl Taylor	7 days C.B.	8 May 42	Hendrie Lt.	
Mulgrave, N.S.	29 July 42	Pte		A.A. Sec 15 (1) AWL from 0100 hrs 29 July 42 to 1500 hrs 5 Aug 42	Cpl Foster	14 dys C.B.	21 Aug 42	Lt/Col Clarke	
Debert, N.S.	25 Sept 42	Pte		A.A. Sec 15 (1) AWL at Tattoo	Sgt Walker	7 dys C.B.	26 Sept 42	Bell - Capt	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Jan 43	Pte		A.A Sec 7(2) Failed to double when ordered to do so by superior officer. A.A 15(4) breaking barracks	Lt. Gordon	7 days C.B.	13 Jan 43	Lt Leonard	
Field	9 Apr 43	Pte			Sgt Rinkney	7 days C.B.	13 Apr 43	Hemphreys	
Field	19 July 43	Pte		A.A Sec 40 Conduct to the Prejudice	Sgt Hales	2 days C.B.	20 July 43	D.S. Mills, Capt	
Field	23 July 43	Pte		Failed to shave for Parade.		3 days C.B.	27 July 43	D.S. Mills, Capt	
				A.A Sec 40 Conduct to the Prejudice (Uniform improperly laid out.					

48TH HIGHLANDERS OF CANADA

B2

CHARGE SHEET "H.H. Usher, Major"

The Accused B.79496 Pte. George William GLAZER "A" Coy 48th Highlanders of Canada, a soldier of the Canadian Army Overseas, C.M.F., while on active service, is charged with:

1st CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave 2359 hrs 22 Dec 43 until he surrendered himself to his Unit at 1000 hrs 5 Mar 44. (Time absent 73 days, 10 hrs and 1 min)

2nd CHARGE
A.A. Sec 9 (1)

When on Active Service, disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office,

in that he,
"DCS" In the Field, ITALY, at approx 1330 hrs 11 Mar 44 when personally ordered by Sjt. CANDY to go to Tac H.Q. for fatigues, wilfully refused to go saying "I will not go", he did not go.

"Ian S Johnston"
(I.S.JOHNSTON) Lt-col,
Commanding Officer,
48th Highlanders of Canada.

In the Field,
4 Apr 44.

To be tried by Field General Court Martial.

"D.C. Spry"
(D.C. Spry) Brigadier
Comd., 1 Cdn Inf Bde.

In the Field
24 Apr 44.

"H H 4"

MEDICAL CERTIFICATE (KR (Can) 557))

I certify that I have this morning examined No B.79496
Pte. GLAZER, G.W. of 48 Highrs. and, in my opinion,
he is fit to undergo trial by Court-Martial.

Station In the Field, ITALY

Date 27 Apr 44.

"W.N. Byers Capt"
Medical Offr

A

Army Form A9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for FIELD General and District Courts-Martial.

"HHU"

Proceedings of a Field General Court-Martial held at in the field on the 27th day of April 19 44 by order of Brig. D.C. Spry

Commanding 1 Cdn. Inf Bde

dated the 24th day of April 19 44

President.

Major H.H. Usher, Hast & PER

Members.

Capt. G.W. Beal 48 Highrs.

Lieut. W.D. Lawrence, R.C.R.

"HHU"

~~Judge Advocate~~

Trial of* B-79496 Pte. GLAZER, George William
48 Highrs of Can.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ---------- is not available to serve owing to~~ "HHU"

~~, waiting member takes his place as a member of the Court.~~ "HHU"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. B.S. Eby, M.C. 48 Highrs.

"HHU" ~~Counsel‡ or~~ defending officer† Lt. E.G. D. Washer, 48 Highrs

At 9.30 o'clock the Trial commences.

The order convening the Court is read, and is marked "B", signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

"HHU"

The President, members and judge-advocate are duly sworn.

~~The following officers, under instruction, are duly sworn.~~

"HHU"

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Guilty *Answer.*

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

"HHU" *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

"HHU" *Answer.*

The accused having pleaded Guilty to both charges, the provisions of Rule of Procedure 15 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

SUPPLEMENTARY

No B-74946 Name GLAZER, G.W. Sqn. Battery or Company | Corps C.I.C | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Apr 44	Pte		W.O.A.S. Sec 4(2) A.A. Disobeying a lawful command in that he, when ordered to dig, refused to do so.	Cpl. Schott	28 days F.P. 28 days Pay FR&I 149(1) b	24 Apr 44	Major D.A. Mackenzie	
Field	22 Dec 43	Pte		W.O.A.S. A.A. Sec 15(1) - AWL from 2359 hrs 22 Dec 43 to 1000 5 Mar 44 (Absent 73 days, 10 hrs & 1 min.)	Documentary Sgt. Harker L/Cpl. Hallard				
	11 Mar 44			2nd Charge W.O.A.S. A.A. Sec 7 (1) - Disobeying an order given by his superior officer, in that he when ordered to go to Tac H.Q. for fatigues, refused by saying "I will not go," he did not go.	Sgt Candy L/Cpl Hallard	18 months imprisonment without hard labour For F. 548 days Pay FR&I 149(1) b	27 Apr 44	F.G.C.M.	Forts 74 days pay FRI 149(1)a Forts 51 days pay FRI 149 (1)(c)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE EXTRACT FROM M.F.M. 4

[illegible]

(J.E. Campbell) Capt.
for Officer I/C
[illegible], [illegible], 2ND [illegible]

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ "HHU"

The accused A.79496 Pte Glazer, George William, 48 Highrs. is found guilty of both charges.

†The summary (or abstract) of evidence is read, marked "C" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes Sir.

~~The accused in mitigation of punishment says:~~

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

"HHU"

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

"HHU"

Do you wish to give evidence yourself or to call any witnesses as to character ? *Question to the accused.*

I would like to call a witness as to character. *Answer.*

B-88086 A/Cpl. ANDERSON, W.C. 48 Highrs of Can. being duly sworn, states-- *Evidence as to character.*

"I met Pte Glazer in the rest camp in Sicily. I have soldiered with him up until the MORO and I have never heard any complaints about him, and he has done a good job for his Coy and his Pl."

The Prosecution declines to cross-examine this witness.

Q. by Defence.

Q1 Were you in 9 Pl with the accused?
A1 I was

Q2 Do you think that you were in a good posn to judge the accused's work and behaviour?
A2 Yes, sir.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

"HHU"

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt. B.S. Eby, MC, 48 Highrs. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, sir.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "D" signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes, sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes, sir.

Cross-examined by the accused.

The Defence declines to Cross-examine the Witness.

Question to the accused.

Do you wish to address the Court? *Answer.* Yes, sir ("E")

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused *Sentence.*

B-79496 Private GLAZER, George William
48 Highrs of Canada, to suffer
imprisonment for a term of two years.
without hard labour.

Signed in the field, this 27th day of April 1944.

"HH Usher," Major
President

"C" "H.H. Usher," Major

Summary of Evidence in the case of B-79496 Pte Glazer, G.W. "A" Coy 48th Highlanders of Canada.

By direction of Major D.A. MacKenzie Officer Commanding 48th Highlanders of Canada all evidence is taken on oath.

1st Witness for the Prosecution: (1st Charge) B-89937 CS.M. Keeler G.R. 48th Highlanders of Canada "A" Coy having been duly sworn states:

On 22 Dec 43 at approximately 2359 hrs. Pte Glazer was reported absent to me by the Pl sgt. I went over with him and checked the Pl. I reported him absent to the Coy Commander as of 2359 hrs. I checked the Pl. daily until 27th Dec 43. He was still absent on the 27 Dec. 43. I was wounded and evacuated. I returned to the Company again on the 12th Jan.44. I checked the Pl's with the Pl's sgts, with their nominal rolls and found Pte Glazer still absent. I checked the Pl's daily until 27th Jan 44, when Sgt. Harker joined us. I reported Pte Glazer as xxx being absent to him. He did not return during these dates.

"G.R. Keeler"
B-89937 C.S.M. Keeler GR, M.M.

The accused declines to cross-examine this witness.

2

2nd Witness for the Prosecution: (1st Charge) B103101 Pte Adair C.H. 48th Highlanders of Canada "A" Coy having been duly sworn states:-

When C.S.M. Keeler was evacuated to "B" Echelon 27 Dec 43 I was with the Pl. between 27 Dec 43 and 12 Jan 43. I did not see Pte. Glazer between the above dates. If he had been with the Pl. during that period I would have see him.

"CH Adair"
B-103101 Pte Adair, C.H.

The accused declines to cross-examine this witness.

4th Witness for the Prosecution: (1st Charge) B-74089 Sgt. Candy S.J. 48th Highlanders of Canada Reg. Police Sgt. having been duly sworn states:

I am Reg. Provost Sgt. of the 48th Highlanders of Canada. In my capacity as Regimental Provost Sgt. Pte Glazer surrendered himself to me on the 5th March 1944 at approximately 1000 hrs. I then put him under close arrest.

"S.J. Candy"
B-74089 Sgt. Candy S.J.

The accused declines to cross-examine this witness.

2

3rd Witness for the Prosecution (1st Charge) B-63775 Sgt. Harker J. "A" Coy 48th Highlanders of Canada having been duly sworn states:

I joined the 9 Pl. 27th Jan 44. Pte Glazer was reported A.W.O.L. to me at the time. I called the roll every day since 27th Jan 44 until 31st March 44. Pte Glazer was not present during the above period. Had he returned I would have known it. He did not return.

Q: Did you know Pte Glazer before.
A: No Sir?

Q: How did you know he was a member of your Pl?
A: I was told he was A.W.O.L. I got the Pl roll from the Officer.

Q: At any time were you told anything about Pte Glazer?
A: Not a thing.

"J. Harker"
B-63775 Sgt Harker, J.

The accused declines to cross-examine this witness.

The accused declines to make a statement.

1st Witness for the Prosecution (2nd Charge) — B-73158 L/Cpl. Hallard J.L. 48th Highlanders of Canada "Regimental Police" having been duly sworn states:

On Saturday 11 March 44 at 1330 hrs I went into the guard room and asked for the same 4 men I had out

---

1st Witness for the Prosecution (2nd Charge) — at T.A.C.H.Q. in the morning. Pte Porter[1] then brought up the question of rubber boots. I then told him that only men in the front line were issued with rubber boods. I then turned around and told them all that it was impossible for them to have rubber boots, they then all refused to go out to T.A.C. H.Q. Pte Glazer is one of these 4 men refusing to go. I then went out and called the Regimental Police, Sgt. Candy and told him I was having trouble with the men in the guard room. When he asked me what the trouble was I told him the men had refused to work at T.A.C. H.Q. Sgt. Candy and I went back into the guard room and Sgt. Candy spoke to the men individually and asked each one of them if they would all go to work. They all ~~xxxxxxx~~ refused. Sgt. Candy & I went out of the guard room to return a few seconds later. Sgt. Candy then gave each man a direct order to go to T.A.C. H.Q. Each man refused to do so. Pte Glazer is one of these. Then Sgt Candy laid the charge.

"Joe Hallard" L/Cpl.
B-73158 L/Cpl. Hallard J.L.

The accused declines to Cross-examine this witness.

2nd Witness for the Prosecution: (2nd Charge) — B.74089 Sgt Candy S.J. 48th Highlanders of Canada. Reg. Police Sgt. having been duly sworn states[4]:

On March 11th, 1944 1330 hrs L/Cpl Hallard came to me with a complaint that the men in the guard room refused to go to work at T.A.C. H.Q. I immediately went to the guard room to find out what the trouble was. I asked them if it was true that they had refused to go to TAC H.Q. and they all replied "yes". I then took their names and numbers and went out of the guard room with L/Cpl Hallard and immediately returned to the guard house with L/Cpl Hallard and gave them a direct order individually to each of the men. Pte Glazier is one of them. He refused to go and did not go.

"S.J. Candy"
B-74089 Sgt. Candy S.J.

The accused declines to cross-examine this witness.

The accused having been cautioned in accordance with RP 4(e) declines to make a statement.

The accused reserves his defence.

Certified that Rules of Procedure 4(b),(c)(d)(e) and (f) have been complied with.

Taken down by me "In the Field this 31st day of March 1944 in the presence and hearing of the accused.

"J.A.M. MacNeil"
Lieut. J.A.M. MacNeil,
48th Highlanders of Canada

"HHU"

No | Name | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badge | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

MFM 6 (AFB 122) 40/PAS/135 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field.	23 Apr 44			W.O.A.S. Refusing to obey an order given by an superior officer. A.A.Sec9 (2)		28 days F.P.	25 Apr 44	Major DA MacKENZIE	forf 28 days pay 149(1)b

I as Officer i/c Regimental Records certify that this is a true and exact copy of the Substitute sheet.

"Blair S. Eby"
(BLAIR S. EBY) Capt,
Adjutant,
48th Highlanders of Canada.

(PTO)

CASE OF "[illegible]"

B 79496 Pte GLAZER G.W. - 48th HIGHRS.

having been duly sworn:

Plea in Mitigation of Punishment: 1st Charge

When we went into the attack just outside San Leanordo we took up posns beside the rd. and started to dig slit trenches and I had my slit trench half finished when the German A/Tk knocked out a tank just beside us and just as the men got out and our own barrage fell on this and I yelled to the tank fellow to get in the slit-trench with me and the road was shelled along our slit-trench and the tank man got hit - in the arm and in the side and, after the barrage cleared off I told the fellow that it was over and he got up & I seen he was wounded & from the wound & the shelling well I started to cry as it had been the first attack I had ever been in and from the shellin' & all the noise I guess I went sort of crazy for a time and didn't realize what I was doin'. After this I left my unit. Previous to the attack I had got a letter from home saying that my real sister had left home with some fellow she had met and there was just the two of us & that hit me worse than the shells.

Plea in Mitigation of Punishment: 2nd Charge

When I refused to obey the order I had been out that morning to TAC H.Q. and it had rained part of the morning and I had mud right up to my puttees and by refusing to go I thought Sgt Cassy would get us a pair of rubber boots as I had seen fellas wearing rubber boots around ORTONA. That is the only reason I refused.

Case of B79496 Pte GLAZER G.W.

"E" "H.H. Usher" Major

STATEMENT BY THE DEFENDING OFFICER

I point out that the Accused has been in the Army three years and is a volunteer. Further he joined the Unit in Sicily and had not been out until 22 Dec 43. The occasion of the A.W.L. was his first attack. In addition the news from home stating that his only sister had left home, and I would suggest that he was emotionally upset and not responsible for his actions at the time. In regard to the second charge the Accused refused with the express intention of securing a pair of rubber boots, knowing that these were intended only for trench-line soldiers & that he was engaged in work at TAC H.Q. He felt that he was entitled to a pair. The fact that certain Q Staff were wearing rubber boots in ORTONA furthered the above statement.

NCM-139
TPR GLEASON C.G.

A-80 Gen-139

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General ~~and District~~/Garr. Courts-Martial.

Proceedings of a General Court-Martial held ~~at~~ in the Field on the 3rd day of September 19 43 by order of Colonel G Hedley Basher, OBE, ED Commanding 1 Cdn Base Rft Depot dated the 30th day of August 19 43. President.

Lt-col R A Lindsay, CIC, 2 Bn, 1 CBRD

Members.

Major F M Nash, ED, CAC, 1 Bn, 1 CBRD

Major J A A G Vallee, CIC, 1 Bn, 1 CBRD

Major W Piche, CAC, 3 Bn, 1 CBRD

Capt T H Knight, CIC, 2 Bn, 1 CBRD

Major K G Morden, DJA, Cdn Sec GHQ 1 Ech, Judge Advocate.

Trial of* D-77967 Tpr GLEASON, Cornelius, Gerald, CAC, 3 Bn, 1 CBRD.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

~~XXXX

The President, members and judge-advocate are duly sworn.

Questions by President to accused: Do you object to Lieut G D Lamothe acting as interpreter? No, sir.
The interpreter is duly sworn.
Do you object to B-92851 Cpl Phillips G L and Sgt (C-30019) D H Coghill acting as shorthand writers? No, sir.
The shorthand writers are duly sworn.
The witnesses withdraw.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CHARGE SHEET

R. Lindsay Wat. B. 2.

The accused D77967 Tpr CORNELIUS GERALD GLEASON on strength 3 Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY MURDER

in that he

at approximately 1600 hrs, on the 14th day of August, 1943, at or near El Arrouch, Algeria, murdered Merareb Hamid Ben Segeni, a native of Algeria.

Vincent McKenna

(VINCENT McKENNA) Lt-Col., M.C., E.D.,
Commanding Officer, No.3 Bn.,
No.1 Cdn Base Rft Depot.

In the field,
18 Aug 43.

To be tried by General Court Martial

30 Aug 43.

G. Kelley Basher. Colonel
Commandant, 1 Cdn Base Reinforcement Depot

First Witness (cont'd)

A.7 Yes, sir. About fifty yards this side of the brigde I heard the first shot. About ten yards past the bridge on the El Arrouch side I dismounted the party from the truck. I saw one man with a rifle running up the road towards El Arrouch. I ran after him, with the guard. I noticed he fired three shots into the bushes. I caught up to him and recognized him as Tpr Gleason. I ordered him to lay down his rifle and he didn't appear to understand me so I took the rifle off him forcibly. I started to bring him back to camp; he seemed to be incapable of walking. I commandeered a truck coming in the direction of the hospital. On arrival here I took Tpr Gleason to the MIR and placed him under close arrest. He was held in close arrest until he was returned to Depot that night.

Q.8 Tell the Court at what time this took place.

A.8 Approximately two o'clock, sir.

Q.9 Did you hear any other shots fired?

A.9 No, sir.

Q.10 How long have you been in this area?

A.10 At the present time I have only been here two days, I was here for a week before.

Q.11 With the Courts permission I have a drawing compiled on a small scale which I would like to submit as evidence. It was drawn up by Lieut McIsaac and I would like to have the witness point out the various spots to which he refers on this plan.
Will you take a look at this Sgt Staddon. Does that seem to be a fair picture of the ground around here, or the area I should say?

A.11 Except for one or two details, sir.

Q.12 Would you indicate to the Court, first of all, the position where you were when you heard the first shot?

A.12 I heard the first shot at the point marked "A".

Q.13 Will you also point out on the plan where you and the guard got out of the truck?

A.13 That point marked "B" on the map, sir.

Q.14 And also where you saw the accused firing the shots?

A.14 Approximately at the point marked "C".

Q.15 Will you point out to the Court where you actually apprehended the accused?

A.15 Approximately at point marked "Y" on the sketch, sir.

Cross-Examined by Defending Officer:

Q.16 Was there a doctor at the MIR room?

A.16 A sergeant on duty only, sir.

Q.17 What was his name?

A.17 Baker, sir.

Q.18 Do you know whether a doctor examined the accused?

A.18 I believe there was one did, sir.

C

Proceedings on Plea of Not Guilty:

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? No, sir.

Answer.

The prosecutor makes an opening address [hands in a written address which is read, marked "G", signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. F-86161 Sgt Staddon R, 3 Bn, 1 CBRD,

being duly sworn, is examined by the prosecutor.

Q.1 What is your name?

A.1 F-86181 Sgt Staddon R, 3 Bn, 1 CBRD, sir.

Q.2 Do you remember the day of the 14th of August?

A.2 Yes, sir.

Q.3 What were your duties on that day?

A.3 I hnd just relieved the old guard commander at 15 Cdn Gen Hosp.

Q.4 And you were in the process of taking over?

A.4 Yes, sir.

Q.5 Do you recognize the accused?

A.5 Yes, sir.

Q.6 Will you tell the court in your own words what happened that afternoon?

A.6 I had just come up from the Cork Forest and went to wash up. I heard quite a commotion and I went to investigate and saw one man run out of the camp with his rifle and one man run down the camp area, inside, with his rifle. I noticed that the man who went outside the gate appeared to be drunk. I turned out the guard to follow him. [redacted] After speaking to them I commandeered an English truck that was coming down the road and drove down to the bridge.

Q.7 This was the road between 15 Gen Hosp and El Arrouch?

Cross-Examined by Defending Officer (cont'd):

Q.19 Do you know the name of the doctor?

A.19 No, sir.

Q.20 How long after he was put in arrest was it before he was examined?

A.20 Approximately ten minutes, sir.

Questioned by Judge-Advocate:

Q.21 Sergeant, you say the accused was examined ten minutes after his return?

A.21 Yes, sir. Sergeant Baker was there and he called the duty MO, as he told me afterwards.

Q.22 You don't know that to your own knowledge?

A.22 No, sir.

Q.23 When you caught up with the accused how far ahead of you on the road was the accused when you stopped the truck at point "B"?

A.23 Approximately seventy-five yards, sir.

Q.24 You saw him firing?

A.24 Yes, sir.

Q.25 Was he running up the road?

A.25 He stopped to fire and then ran up the road.

Q.26 And when you overpowered him and turned to come back to camp you say he couldn't walk, yet he was running down the road?

A.26 Yes, sir.

Q.27 Why couldn't he walk?

A.27 I have no idea, sir. He just couldn't seem to stand on his feet.

Q.28 You saw him running down the road?

A.28 Yes, sir.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Second Witness for Prosecution: K-65975 Tpr Pisacreta T M, 3 Bn, 1 CSRD, being duly sworn is examined by the Prosecutor:

Q.29 Tpr Pisacreta, do you remember the afternoon of the 14th of August?

A.29 Yes, sir.

Q.30 What were your duties on that afternoon?

A.30 I was off duty, sir.

Q.31 And what were your duties at 15 Cdn Gen Hosp?

A.31 We were on guard duty, sir.

Q.32 Do you recognize the accused?

A.32 Yes, sir.

Second Witness (cont'd)

Q.33 Would you tell the Court in your own words what happened on that afternoon?

A.33 I was laying on my bunk and Sgt Staddon called out the guard and I got up and got my ammunition and rifle. I went down to the guard tent and Tpr Lawley was there. I went down the road and jumped an English truck and from there we rode down to where Gleason was doing the shooting.

Q.34 Where were you when the shooting took place?

A.34 We had just got off the truck, about one hundred and fifty feet from where he was.

Q.35 Did you hear any shots fired while on the way down?

A.35 No, sir. I went behind the cactus to see what he was shooting at. There wasn't a thing to be seen.

Q.36 How many shots did you hear fired?

A.36 About five, sir. I came out from behind the cactus and Tpr Gleason was running up the road. When I caught up to him Sgt Staddon and Tpr Smith had disarmed him. They took him down to another English truck and drove him back to camp.

Q.37 Who actually took him down?

A.37 Sgt Staddon and Tpr Smith. The next I saw Tpr Gleason was at camp.

Q.38 Did you hear any other shots fired then, other than the five referred to?

A.38 No, sir.

Q.39 Approximately what time did all this take place?

A.39 About three o'clock, sir.

Q.40 Would you examine this plan of the area and point out to the Court where you got out of the truck, secondly, where the truck was stopped?

A.40 The truck stopped at "B", sir. The shots were fired at about "C".

Questioned by Judge-Advocate:

Q.41 And where was the accused?

A.41 Just about here (indicating "Y" on the sketch).

Re-Examined by Prosecutor:

Q.42 Where did you say he fired the shots - was he running?

A.42 He was stopped and weaving back and forth and he fired through the hedge.

Cross-Examined by Defending Officer:

Q.43 You said that you saw Gleason afterwards, at the camp?

A.43 Yes, sir.

Q.44 Where?

A.44 At the guard tent, sir.

Q.45 Did you talk to him?

A.45 Yes, sir.

Second Witness (cont'd)

Q.46 Describe the conversation.

A.46 There was Tpr Lawley and myself. We tried to tell him what had happened, but he didn't remember anything.

Q.47 What was Gleason's condition?

A.47 Something like mad, sir.

Q.48 Can you give any detail? Describe it.

A.48 We were talking to him. He kept arguing back and forth and kept wanting to get his rifle all the time. That is all I had to do with him.

Q.49 Did he say anything that would lead you to believe he recalled the shooting up the road?

A.49 No, sir.

Q.50 Did you mention the shooting to the accused?

A.50 Yes, sir.

Q.51 And he didn't remember?

A.51 No, sir.

Questioned by the Court:

Q.52 Did you go through the hedge to see what he was firing at?

A.52 The truck had stopped and Gleason was about one hundred and fifty feet up the road from us.

Questioned by Judge-Advocate:

Q.53 How close was he to the cactus when he was firing?

A.53 About the width of this tent (between eighteen and twenty feet).

Q.54 He wasn't right beside the hedge?

A.54 No, sir.

Q.55 How was he firing?

A.55 From his hip and up and weaving.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Witness for Prosecution: D-129354 Tpr Smith K R, 3 Bn, 1 CBRD, having been duly sworn is examined by the Prosecutor:

Q.56 Tpr Smith, do you remember the afternoon of August 14th?

A.56 Yes, sir.

Q.57 What were your duties on that day?

A.57 We were told to fall out.

Q.58 What were you doing in this area?

A.58 I was a member of the guard, sir.

Q.59 Do you recognize the accused?

A.59 Yes, sir.

Q.60 Will you tell the Court in your own words what happened on

Third Witness (cont'd)

Q.60 (cont'd) August 14th?

A.60 I was in my tent and the guards were told to fall out with rifles and skeleton web. We started running down the road, Lawley leading. Sgt Staddon was with us. Sgt Staddon flagged a truck. We all got on it and it drove us down the road. As we were getting off I heard a shot.

Q.61 This is before you dismounted?

A.61 Just as we were getting off.

Q.62 Did you see who fired that shot?

A.62 No, sir. Tpr Gleason was firing through the cactus and firing high. Sgt Staddon, Tpr Pisacreta, and myself started going after Tpr Gleason. He seemed to be out of his head all the time and started running down the road. The three of us went after him and disarmed him. He was out of his head. We started walking back towards camp. Sgt Staddon flagged a truck and brought us back into camp. We took Tpr Gleason over to the MIR and then we escorted him back to his tent and placed a guard over him. He was still out of his head. He didn't remember any details of the shooting. We had to explain that to him that night.

Q.63 What time did all this take place?

A.63 Approximately midday afternoon, sir.

Q.64 You refer to firing. Can you tell the Court approximately the number of shots that were fired?

A.64 Seven of eight, sir.

Q.65 There is a drawing here. Could you point out to the Court the place where you got off the truck?

A.65 Approximately here, sir (indicating position on diagram).

Q.66 Point out the position of the accused when you first saw him firing.

A.66 At point "C", sir.

Q.67 What happened after you saw the accused firing the shots?

A.67 We ran up to him and disarmed him.

Q.68 He started running up the road?

A.68 Yes, sir, and we caught and disarmed him.

Questioned by the Court:

Q.69 You didn't go across the hedge to see if he had fired at anything?

A.69 No, sir.

Q.70 Was Gleason a member of your guard?

A.70 Yes, sir.

Q.71 Same guard?

A.71 Yes, sir.

The Defending Officer declines to cross-examine the witness.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Fourth Witness for Prosecution: F-67691 Pte Kitely R J, 15 Cdn Gen Hosp, being duly sworn is examined by the Prosecutor:

Q.72 Pte Kitely, do you remember the afternoon of the 14th of August?

A.72 Yes, sir.

Q.73 Would you describe to the Court what you were doing that afternoon?

A.73 That afternoon, sir, I was in the town of El Arrouch between the hours of two and four.

Q.74 What did you do then?

A.74 We came down the main street, sir, and stood around, probably a little over half an hour.

Q.75 What did you actually do?

A.75 We went down to a field, sir, and saw an Arab lying on the ground. We turned him over and looked at him. He was wounded and I immediately applied first aid.

Q.76 And after this what did you do?

A.76 We took him up to the hospital, sir.

Q.77 What hospital?

A.77 No 184, sir.

Q.78 Did they take him in as a patient?

A.78 No, sir.

Q.79 What did you do after that?

A.79 We took him up to 15 Gen Hosp

Q.80 What time did this take place? What time did you find this Arab?

A.80 Between two and three, sir, I would say.

Q.81 You took him to 15 Gen Hosp?

A.81 Yes, sir.

Q.82 Did you ever see him again?

A.82 Yes, sir.

Q.83 When?

A.83 Next morning, sir.

Q.84 What was his condition?

A.84 He was dead, sir.

Q.85 Was it the same Arab you brought in?

A.85 Yes, sir.

The Defending Officer declines to cross-examine the witness.

Questioned by Judge-Advocate:

Q.86 Where did you find the wounded Arab?

A.86 Between one hundred and fifty or two hundred feet, sir, in

Kg &.

Fourth Witness (cont'd)

A.86 (cont'd) off the road going to El Arrouch. It was behind the cemetary, sir, off on the left hand side as you go in the field.

Q.87 Where did you find the body?

A.87 About down here, sir (indicating on sketch).

Q.88 If you went to the scene, could you show us exactly where the body was found?

A.88 Yes, sir.

Q.89 Where was the Arab wounded?

A.89 In the left side, sir, just under the arm pit about three inches down under the arm pit, sir, in the lung.

Q.90 Was he bleeding?

A.90 Yes, sir.

Q.91 There was blood on the ground?

A.91 Yes, sir.

Q.92 Did it appear that he had moved to there?

A.92 The way he was lying when we found him, sir, I don't think he went very far.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Fifth Witness for Prosecution: B-93942 Pte Clarke W E, 15 Cdn Gen Hosp, being duly sworn is examined by the Prosecutor:

Q.93 Pte Clarke, do you remember the afternoon of the 14th of August?

A.93 Yes, sir.

Q.94 Tell the Court in your own words what you were doing.

A.94 Pte Kitely and I proceeded from the camp area, here, to a cage in El Arrouch. When we entered the cafe we saw the accused man with two other soldiers.

Questioned by Judge-Advocate:

Q.95 What time was this?

A.95 Around two, sir.
After half an hour the accused and his friends left the cafe. We sat there for awhile ourselves and then decided to take a walk down the street. After walking around we went back to the CMP with an Arab.

Q.96 What did you do after that?

A.96 From there we camd down the road leading to the 15th Gen Hosp and we saw a crowd standing in the field. Pte Kitely and I went over to the crowd to investigate and we found a wounded Arab there. We tore strips from his clothing and gave him first aid. Just about then the Gendarmes drove up with a vehicle. We placed the ~~xxxx~~ man in a vehicle and brought him to 104 Gen Hosp. They wouldn't admit him so we brought him here, where he was admitted. From then on, the next time I saw him he was dead in the morgue.

Examined by the Prosecutor:

(cont'd)

Fifth Witness (cont'd:

Examined by Prosecutor:

Q.97 What time did you find the wounded Arab?

A.97 I'm not quite sure - I would say between three and four.

Q.98 There is a plan of the area here. Would you point out to the Court approximately the position where you found him?

A.98 Yes, sir. When we got here (indicating "X" on sketch) we saw the crowd.

Q.99 You say you found this Arab. Describe, generally, his condition.

A.99 Yes, sir. He had a fairly large wound on the left side, about two inches below the arm pit. It was a wound about two and one half to three inches square.

Q.100 Was the Arab bleeding?

A.100 A little at the time, sir. He had lost most of his blood.

Q.101 Did the condition of the ground give you any indication that he had moved?

A.101 I didn't pay any attention, sir. I don't think he had, sir. He probably fell over the little slope at the bottom of which he was lying.

The Defending Officer declines to cross-examine the witness.

Questioned by the President:

Q.102 How far do you estimate it was off the road where you found the body?

A.102 Approximately seventy five yards, sir.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Sixth Witness for Prosecution: Gendarme Georges Quinzain, being duly sworn is examined by the Prosecutor:

Q.103 What is your name?

A.103 Gendarme Georges Quinzain.

Q.104 What is your official duty?

A.104 A member of the military police.

Q.105 Where are you stationed?

A.105 At El Arrouch.

Q.106 Do you remember the afternoon of August 14th?

A.106 Very well.

Q.107 Would you describe your actions that afternoon?

A.107 It was about 1530 hours when I went to the square and saw an Arab covered with blood so I took this Arab in arrest. With this Arab I arrested another Arab. In the place there were two English MPs. From there I saw a number of British soldiers running towards El Arrouch. About 1600 hours, from information received, I went out to look for a wounded Arab. And, not finding anything, I went back. About fifteen minutes later I again went out to look for this wounded

Sixth Witness (cont'd)

A.107 (cont'd) Arab and found him about 120 metres on the left of the road and about 200 metres from the cemetary. I went there and as I saw he was bleeding I picked him up and put him in a jeep and brought him to the 104 Gen Hosp. They wouldn't admit him, so I brought him to 15 Gen Hosp. I never saw him again.

The Defending Officer declines to croxx-examine the witness.

Questioned by the Court:

Q.108 What time did you find the Arab?

A.108 At 1650 hours.

Q.109 Did the man look as if he had moved?

A.109 No, sir. He looked as if he lay where he fell.

Q.110 Point out the spot where you found the body.

A.110 Midway between the road and cemetary (indicated by marking "Z" on diagram).

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Seventh Witness for Prosecution: Boudjedida Ali Ben Baunedessa, being duly sworn, is examined by the Prosecutor:

Q.111 What is your name and where do you live?

A.111 My name is Boudjedida Ali Ben Baunedessa and I live at the dam.

Q.112 What did you do on the morning of August 15th?

A.112 In the morning I worked at the dam. I only came here in the afternoon. I came here, picked up my nephew, and brought him up to my village where I buried him.

Q.113 What was the name of your nephew?

A.113 Merareb Hamid Ben Segeni.

Q.114 What was his condition when you picked him up?

A.114 He was dead.

The Defending Officer declines to cross-examine the witness.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Prosecutor:

Major Kergin is ill and cannot appear as a witness. I propose to call, in his stead, the man who assisted him. If this request is refused we could go up and see him, at his bedside.

Defending Officer:

Perfectly satisfactory, sir.

Eighth Witness for Prosecution: Capt W A Morton, 15 Cdn Gen Hosp, having been duly sworn, is examined by the Prosecutor:

Q.115 Capt Morton, were you on dutyin the hospital the afternoon of August 14th?

A.115 I was.

Eighth Witness (cont'd)

Q.116 Did you treat an Arab who was brought in?

A.116 I assisted at the treatment.

Q.117 Could you tell the Court the condition of the man and what you treated him for?

A.117 I was called shortly after six l'clock by Major Kergin because his assistant was out of the camp. I saw the patient, an Arab, for the first time when he was on the operating table, at approximately 1830 hours. He was conscious, in a state of severe shock for which he was being treated by infusion of blood serum. When the operation commenced, he was found to have a large wound in the left lower front of his chest wall which Major Kergin found to involve fracture of ribs and considerable wounding of the lung tissue itself. The haemorrhage was stopped and the wound closed. At the end of the operation I personally thought the patient's general condition as good as could be expected.

Q.118 Would you give the Court some indication of the nature of the wound?

A.118 There was a large lacerated wound which was about ten inches long, gaping, bleeding freely, and a lot of tissue appeared to have been blown right out. Some physical form of violence had removed this tissue across this chest wall. I think a bullet could have caused it. There was no bullet found in the wound.

The Defending Officer declines to cross-examine the witness.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

At 12:25 o'clock the Court adjourns to re-assemble at 2:00 l'clock, 3 Sep 43.

At 2:00 o'clock, 3 Sep 43, the Court re-assembles. The accused is brought before the Court.

Pursuant to AA 53 (7), the Court took a view of the scene of the alleged shooting as shown on exhibit "H" in the presence of the prosecutor, the accused, the Defending Officer and the Judge-Advocate. Sgt Staddon and Tpr Smith stood on the place marked "C". Gendarme Georges Quinzain, Pte Clarke and Pte Kitely stood at the place marked "Z" on exhibit "H".

Prosecutor:

The prosecution does not wish to call any more witnesses.

Defending Officer to Court:

I beg to move, as the defence has the right to under the rules, that there is no evidence, or shallI say not sufficient evidence, to justify conviction. I base this on this proposition: two things appear to have been proved - one, that the accused was seen on a road with a rifle which he was firing - two, that a dead Arab, or a wounded Arab, who subsequently died, was discovered in the area in the same afternoon. I can find no reference in any of the egidence which links the two and until that evidence appears, I feel it is unnecessary for the defence to say more.

Prosecutor to Court:

As regards the motion of the Defence Counsel, I think it was brought out in evidence by Sgt Staddon that the accused was firing a rifle more or less indiscriminately along the road leading from El Arrouch to the 15 Gen Hosp, and the Arab was found in the vicinity in which this man had fired. I think it is a ligical consequence to assume that there is a definite connection between the firing of these shots and the finding of this Arab. While we have occupied this area, it does not give us leave or license to go around giving an imitation of a "4th of July" celebration every day. That should be taken into consideration.

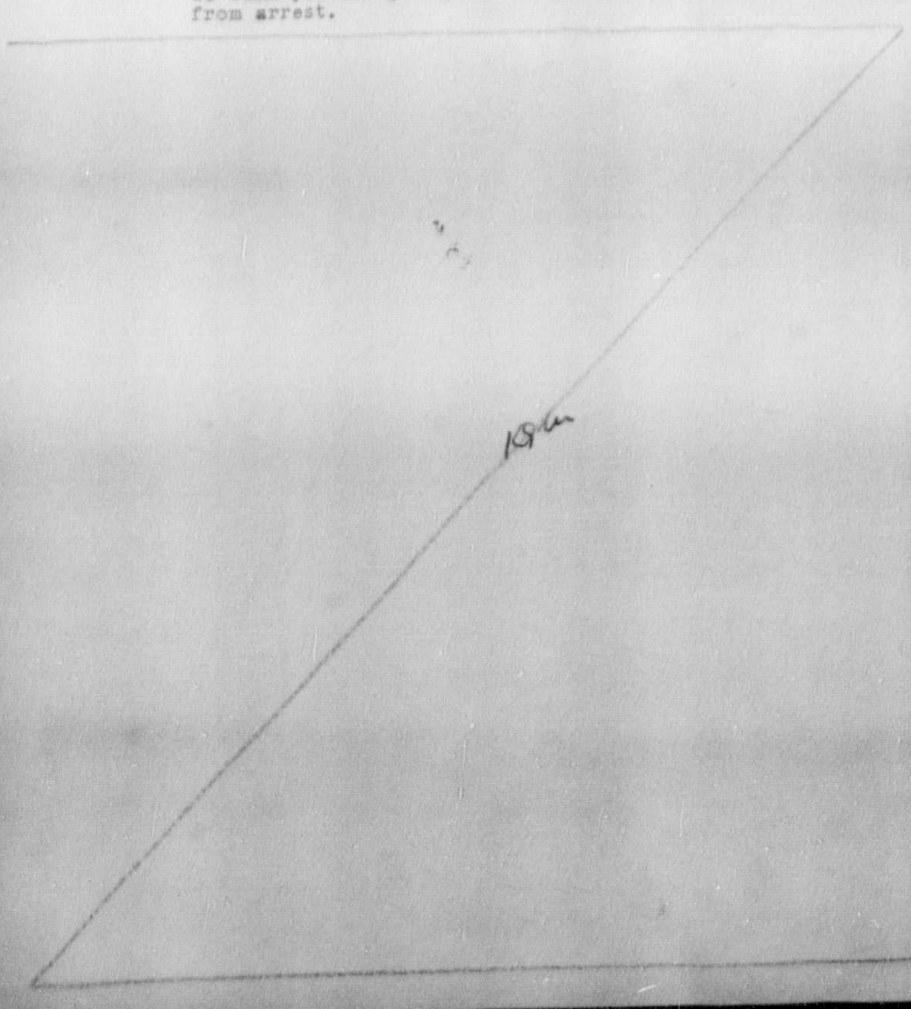
Court closed 2:50 o'clock to consider Defending Officer's motion.

Court re-opened at 3:00 o'clock.

The accused is brought before the Court.

President to accused:

The Court, having considered the motion of the Defence Counsel, has allowed the motion. Therefore, Tpr Gleason, we find you not guilty of the charge and you are released from arrest.



E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~XXXX

F

Sentence.

The Court sentence the accused

Sentence.

Kgu.

Army Form A 47

COURTS-MARTIAL

Form of Order for the assembly of a General ~~District~~ Court Martial.

ORDERS BY Colonel G. Hedley Basher, O.B.E., E.D.

Commanding ~~xx~~ 1 Cdn. Base. Rft. Depot.

(Place and Date) In the Field. 30 August, 43.

The detail of officers as mentioned below will assemble at 15 Cdn Gen Hosp on the 3rd day of September, 1943. for the purpose of trying by a general court-martial the accused person [~~xxxxx~~ named in the margin [~~xxxx

List of Witnesses.

TRIAL OF D77967 Tpr. Gleason, Cornelius, Gerald.

(For the Prosecution)

F86181	Sgt.	Staddon, R.	No. 3 Bn., 1 C. B. R. D.
14416254	Rfmn.	McCafferty, P.	Attd. to 104 General Hospital.
K65975	Tpr.	Pisacreta, T.M.	No. 3 Bn., 1 C. B. R. D.
D129354	Tpr.	Smith, K. R.	No. 3 Bn., 1 C. B. R. D.
F67691	Pte.	Kitely, R. J.	15 Cdn Gen Hospital.
B93942	Pte.	Clarke, W. E.	15 Cdn Gen Hospital.
Georges Quinzain,		Gendarme,	El Arrouch.
Boudjedida Ali Ben Baunedessa,			El Arrouch.
Major F. G. Kergin,		R.C.A.M.C.,	(Surgical Specialist).
F45601	Tpr,	MacBeth, G. M.	No. 3 Bn., 1 C. B. R. D.
B25887	Tpr.	Lawley, A. E.	No. 3 Bn., 1 C. B. R. D.

(For the Defence)

NIL.

I hereby certify that I have this morning examined D77967 TPR.....
GLEASON C. G. ...3 Bn., 1 C.N.R.D. andthat in my opinion he is fit to
undergo trial by Court Martial.

In the Field,

This 3rd day of

September 1943.

W. S. Woolnerlept
(R.C.A.M.C)

OPENING ADDRESS BY PROSECUTOR "G"

The accused, Tpr Gleason, is charged with, when on active service committing a civil offence, that is to say, murder, in that he, at approximately 1600 hrs on the 14th day of August, 1943, at, or near, El Arrouch, Algeria, murdered Merareb Hamid Ben Segeni, a native of Algeria.

It is the intention of the prosecution to prove, by calling witnesses, that the accused was, at approximately 1600 hrs, improperly firing his rifle on the road, and in such a position that it was possible for him to shoot the deceased. The accused was apprehended by the personnel of the guard of the 15th Gen Hospital.

The prosecution will also show that the deceased, Merareb Hamid Ben Segeni, was found in the neighbourhood at approximately 1600 hrs, seriously injured, the result of a gun shot wound in the chest.

The prosecution claims that the accused, Tpr Gleason, shot the deceased, Mehareb Hamid Ben Segeni and under the circumstances it amounts to murder.

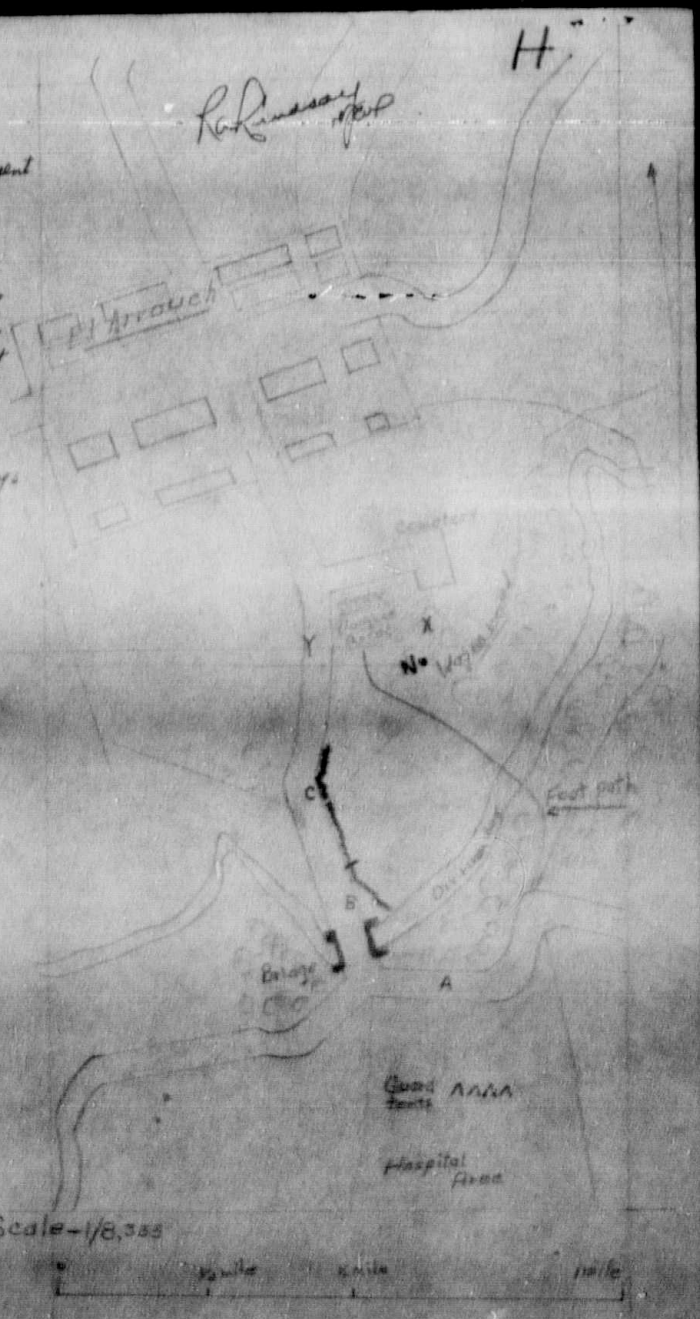
It is respectfully suggested that the Court take advantage of the provisions of AA 53 ss 7, and RP 63, which permits them to view the scene of the alleged crime.

Exhibit No. 1

All single black (pencil) lines represent wagon roads.

The irregular, heavy blue line, extending from a point near the bridge, and past the point "C", represents a tall cactus hedge.

The light blue markings represent scattered trees and shrubbery.



SUMMARY OF EVIDENCE IN THE CASE OF:

D.77967 Trooper GLEASON, C.G., on the strength of "A" Coy 3 Bn., 1 Cdn Base Rft Depot.

By direction of Commanding Officer evidence will be taken upon oath.

First Witness For the Prosecution

F.86181 Sgt. Staddon, R, having been duly sworn, states:

On the afternoon of 14 Aug 43, I was Commander of the Guard at 15 Gen. Hospital El Arousch. I was at the ablution stand and I heard quite a commotion in the guard lines and saw two armed men leaving the lines. One went outside the camp area, the other remained within the area. As a result of information which I received and seeing that the men were drunk I turned out the guard, and went to investigate a disturbance which had broken out down town. I commandeered a truck which was coming down the road towards us, and proceeded towards El Arousch. About 50 yards from the bridge I heard one shot. I dismounted from the truck at the bridge and saw one man staggering up the road, and saw him fire his rifle a number of times, from the hip, and the rifle was well above the horizontal. Coming close to him, I recognised him as Tpr. Gleason. I spoke to him and ordered him to lay down his rifle. Apparently he did not understand me, and he seemed to be in a dazed condition. Since he couldn't understand my commands, I disarmed him forcibly. He was incapable of walking, so I commandeered a truck and took him back to camp. I had him sent to the Medical Inspection Room, and placed him under close arrest. On returning to camp I took Tpr Gleason's bayonet from him. I made my report to the registrar, Major Neilson.

Sgd. R Staddon

The accused declines to cross examine the witness.

14416524 Rfmn McCafferty, P. having been duly sworn states:

I am Rfmn McCafferty P 14416254 attached to No. 104 Gen Hospital for Guard Duty.

2nd Witness (Prosecution)

On 14 Aug 43, I saw a crowd of Arabs following Tprs Gleason, MacBeth and Lawley down the street and coming near the tower, I saw [redacted] one of the Arabs strike one of the Tprs. I saw him turn to defend himself and another Arab came from behind and hit the Tpr with a stick. The M.Ps came down and followed the Arabs. The three tprs returned to camp.

Mcafferty A.J.

The accused declines to cross-examine the witness

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D.77967 Trooper GLEASON, C.G., on the strength of "A" Coy 3 Bn., 1 Cdn Base Rft Depot.

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Sgd. R Staddon

The accused declines to cross examine the witness.

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McCafferty P.

The accused declines to cross-examine the witness

Third Witness For the Prosecution

K.65975 Tpr Pisacreta, T.M., having been duly sworn, states:

On 14 Aug 43, I was lying down on my bunk, when I heard: "Fall out the guard". I picked up my rifle and ammunition, and with Tpr Lawley started after Tpr Gleason who was running down the road like mad. We stopped an English truck and followed Gleason with it. We stopped about 100 yards behind Tpr. Gleason and saw him shooting into the cactus. He was firing from the hip, and upwards and was weaving back and forth. I heard no shots previous to this. I ran behind the cactus to see what he was shooting at, but couldn't see a thing. I came out to the road again and Tpr Gleason was running up the road, and we started chasing him. We caught up to him, and Sgt. Staddon jumped him from behind. Smith was helping to hold Gleason down, while I took his rifle. Tpr. Gleason was taken down the road, put in the truck and taken back to camp. The next time I saw him he was at the camp and we started explaining to him what had happened and it didn't seem to make any sense to him. He said he didn't remember seeing us there or a thing that had gone on. I saw SBM. Trooper Gleason fire the shots at the [illegible] marked "C" on exhibit No. 1.

Sgd. [signature]

The accused declines to cross-examine the witness.

Fourth Witness For the Prosecution

D.129354 Tpr. Smith, K.R., having been duly sworn, states:

On 14 Aug 43, I was in camp at 15 Gen. Hospital, and the guard was told to fall out. We fell out with rifle and skeleton web and started running down the road and Tpr. Lawley was leading us. Sgt. Staddon was with us and he flagged a truck. As we were getting off the truck there was one shot fired. Tpr. Gleason started running down the road and we ran after him. A few more shots were fired and Sgt Staddon, myself and Tpr. Pisacreta got hold of Gleason and he seemed to be out of his head. The three of us disarmed him. He was still out of his head when we disarmed him and we started to bring him back, walking along the road. Sgt Staddon flagged another truck and brought him back to camp, and he was still out of his head. He was taken over to the M.I.R. Afterwards he was returned to his tent, and a guard placed over him. He was still out of his head, recognizing no one and remembering no details when he was returned to his tent. He did not seem to come to his right senses until late in the evening, and the disturbance took place about midafternoon. The truck stopped, and we dismounted at the [illegible] marked "B" on exhibit No. 1.

Sgd. [signature]

Accused declines to cross-examine the witness.

Fifth Witness for the Prosecution

F67691 Pte Kitely, R.J. having been duly sworn states:

On 14 Aug 43 between 1430 and 1600 hrs, I was in the town of El Arousch. As a result of information which I received, I went with a friend to the M.Ps and asked them to investigate a fight between some Arabs and 3 Canadian soldiers. As a result of some information, which we received later, we went to a field near the town and found an Arab laying there, with a bullet wound in the left side. We gave him first aid and brought him to the 104th Gen Hosp, but they would not accept him, so we took him to our own hospital - 15th Cdn Gen Hosp. The body of the dead Arab shich I saw on 15 Aug 43, was that of the wounded Arab, who we picked up on the previous day.

Sgd R.J. Kitely .....

The accused declines to cross examine the witness.

Sixth Witness for the Prosecution

B93942 Pte Clarke, W.E. having been duly sworn states:

On 14 Aug 43, I saw Tprs Gleason, Lawley and Mac Beth, in a cafe in El Arousch, about 1.30 P.M. Then, about half an hour afterwards, they left the cafe. After some time, Pte Kitely and I left the cafe and took a walk down the street. As a result of information which we received, we went to investigate some trouble in a field near the town. We saw a crowd around a spot in the field and proceeded over there, and found an Arab lying there, wounded, and we gave him first aid. The wound was on the left side, about 4" below the armpit. After we had given him first aid, a gendarme arrived on the scene with a vehicle, so we placed the Arab in it and proceeded to the 104th Gen Hosp. They would not accept him, so we took him to our own hospital the 15 Cdn Gen Hosp, where he was admitted. I did not hear any shots at any time.

The body of the dead Arab, which I saw on 15 Aug 43, was the body of the wounded Arab, we brought to the hospital 14 Aug 43. We found the wounded Arab at the spot marked "X" on exhibit No. 1.

L.B.N.

sgd. William E. Clark ...

The accused declines to cross examine the witness.

Seventh Witness for the Prosecution

Georges Quinzain, Gendarme, having been duly sworn states:

(Translation by Lieut G.D. Lamothe) L.B.M. Duly sworn as interpreter

On 14 Aug 43 at about 1500 hrs, as a result of information which I received, I went to investigate a fight near the tower in El Arousch, accompanied by two British Provost Corporals. I saw an Arab covered with blood, who was running away. I also saw a number of British soldiers running in the direction of the hospital. I apprehended this bleeding Arab and one of his friends, whom I brought in as a witness.

At about 1615 hrs, as a result of information received, I went to a field about 225 yards from the

cemetery and found a wounded Arab and two Canadian soldiers were with him, administering first aid. I saw that he was taken to the 15th Cdn Gen Hosp. I did not know this Arab's name.

sgd.....[signature].....

Accused declines to cross examine the witness.

Eighth Witness for the Prosecution

Translation by Lieut G.D. Lamothe of testimony of Boudjedida Ali Ben Baunedessa.

The body which I took away from 15th Cdn Gen Hosp was the body of my nephew, Merareb Hamid Ben Segeni.

Sgd [signature]

Accused declines to cross examine the witness.

Ninth Witness for the Prosecution

Major F.G. Kergin, RCAMC (Surgical Specialist) having been duly sworn states:

On 14 Aug 43 at about 1715 hrs, I was called to see an Arab, who was suffering from a gun shot wound of the chest. The patient was suffering from haemhorrage and severe shock. The wound was immediately dressed and resuscitation undertaken. After about 2 hrs his condition was such as to permit operative treatment, which was urgently necessary, because of the nature of the wound.

At operation, the wound was found to be a tangential wound of the left anteriar chest, which had fractured the fourth rib, blown out an area of the chest wall about 3" by 1½" and caused a deep laceration of the lung, from which there was profuse haemhorrage. The lung and chest wall were rapidly sutured. The patient stood the operation fairly well, but in spite of further resuscitation his condition deteriorated and he died at 0230 hrs 15 Aug 43.

The cause of death was gun-shot wound of the chest with severe haemhorrage and shock.

sgd.....[signature].....

Accused declines to cross examine the witness

Tenth Witness for the Prosecution

F45801 Tpr MacBeth, having been duly sworn states:

On 14 Aug 43, sometime in the afternoon, Tpr Lawley, Gleason and I, left the wine shop in El Arousch and started back for barracks, and just as we were crossing the street by the water fountain, a crowd of Arabs gathered around us. They were talking, but we did not know what they were saying and we started to move away. Lawley was behind me and I heard a sound and turned around. He was lying on the cement and there was wine all over his shirt and blood all over his head. I went to his help and was hit with something. Then Gleason dragged Lawley and I out of the fight, over to the fountain and washed our heads off. We then started back to barracks again and that is all I remember.

I could distinguish glass breaking when I heard the noise behind me and saw Lawley on the pavement.

sgd. [signature].....

Accused declines to cross examine the witness.

Seventh Witness for the Prosecution

B25887 Tpr Lawley, A.I. having been duly sworn states:

On 14 Aug 43 between 1300 and 1330 hrs, Tprs MacBeth, Gleason and I, left the cafe in El Arousch to go back to barracks. We walked down the street a piece and were about to cross the road, when some Arabs came across the street towards us. They stopped us and one of them began to speak. We could not understand their language and started to move past them, when something struck me on the back of the neck. I saw MacBeth turn and he took a pace when he went down. The next thing I remember was after Gleason ducked my head in the trough. We went the rest of the way into camp. When we got into the hut, MacBeth either lay down or collapsed on his bed, and Gleason shouted "They've hurt Red", and he seemed to go out of his head and grabbed his rifle and started across the field towards the road. I went after him to try and stop him, I caught up to him, just as he reached xxxxxx the fence around the camp, but he went over the fence, so I had to return to the tents, where the sergeant was turning out the guard. We started down the road after him and the Sergeant stopped a truck, which took us down as far as the bridge. Gleason was staggering and falling, trying to go up the road. I ran ahead and stopped him, but I couldn't hold him, as he seemed to be barack, and he couldn't understand what I was talking about at all. Then the sergeant jumped him from behind and with the help of two others, disarmed him.

I saw Tpr Gleason fire three shots, but he fired them as he was staggering up the road and they were fired into the air.

sgd. W. Lawley

The accused declines to cross examine the witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4(E)

Reserves his defence.

Certified that Rule of Procedure 4(C) (D) (E) & (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 18th day of August, 1943, at 15th Cdn General Hospital, El Arousch and at #3 Bn., 1 C.B.H.D.

L. B. MacIsaac

(L. B. MacIsaac) Lieut
Officer detailed to take the summary

AIR MAIL

CDN 56/20/C.M./2

10 Sep 43

Senior Officer
Canadian Military Headquarters
2 Cockspur Street
London S W 1

(Att: DJAG)

GCM
D-77967 Tpr Gleason C G (A-80)
3 Bn, 1 CBRD

1. A certified copy of m/n proceedings are enclosed, herewith; the original was sent to you on 8 Sep 43.

(K G Morden) Major
for Senior Officer
Cdn Sec GHQ 1 Ech

A-80 Gem-139

Certified a true copy. Lt Commander Major DJA Cdn Sec GHQ 1 Ech

5 Sep 43

Army Form A 9

A

Form of Proceedings for General ~~and District~~ Courts-Martial.

Proceedings of a General Court-Martial held ~~at~~ in the Field on the 3rd day of September 19 43 by order of Colonel G Hedley Basher, OBE, ED

Commanding 1 Cdn Base Rft Depot

dated the 30th day of August 19 43.

President.

Lt-col R A Lindsay, CIC, 2 Bn, 1 CBRD

Members.

Major F M Nash, ED, CAC, 1 Bn, 1 CBRD

Major J A A G Vallee, CIC, 1 Bn, 1 CBRD

Major W Piche, CAC, 3 Bn, 1 CBRD

Capt T H Knight, CIC, 2 Bn, 1 CBRD

Major K G Morden, DJA, Cdn Sec GHQ 1 Ech, Judge Advocate.

Trial of* D-77967 Tpr GLEASON, Cornelius, Gerald, CAC, 3 Bn, 1 CBRD.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt H J McDougall, Cdn Sec GHQ 2 Ech

Counsel‡ or defending officer† Capt W S Haney, 1 Bn, 1 CBRD, Barrister-at-law.

At 10.30 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No, sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q1261. [illegible] 40,000 sets. 1-40. K. & R., Ltd. [illegible] Form A 9-10.

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Questions by President to accused: Do you object to Lieut G D Lamothe acting as interpreter? No, sir.
The interpreter is duly sworn.
Do you object to B-92891 Cpl Phillips G L and Sgt (E-30019) D H Coghill acting as shorthand writers? No, sir.
The shorthand writers are duly sworn.
The witnesses withdraw.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (B), the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CHARGE SHEET. R A Brindley Lt. Col B2

The accused D77967 Tpr CORNELIUS GERALD GLEASON on strength 3 Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY MURDER

in that he

at approximately 1600 hrs, on the 14th day of August, 1943, at or near El Arrouch, Algeria, murdered Merareb Hamid Ben Segeni, a native of Algeria.

Vincent McKenna

(VINCENT McKENNA)Lt-Col., M.C.,E.D.,
Commanding Officer, No.3 Bn.,
No.1 Cdn Base Rft Depot.

In the field,
18 Aug 43.

To be tried by General Court Martial

30 Aug 43

G Fidney Barker Colonel
Commandant, 1 Cdn Base Reinforcement Depot

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? No, sir.

Answer.

The prosecutor makes an opening address [hands in a written address which is read, marked "G", signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

F-86181 Sgt Staddon R, 3 Bn, 1 CBRD,

being duly sworn, is examined by the prosecutor.

Q.1 What is your name?

A.1 F-86181 Sgt Staddon R, 3 Bn, 1 CBRD, sir.

Q.2 Do you remember the day of the 14th of August?

A.2 Yes, sir.

Q.3 What were your duties on that day?

A.3 I had just relieved the old guard commander at 15 Cdn Gen Hosp.

Q.4 And you were in the process of taking over?

A.4 Yes, sir.

Q.5 Do you recognize the accused?

A.5 Yes, sir.

Q.6 Will you tell the court in your own words what happened that afternoon?

A.6 I had just come up from the Cork Forest and went to wash up. I heard quite a commotion and I went to investigate and saw one man run out of the camp with his rifle and one man run down the camp area, inside, with his rifle. I noticed that the man who went outside the gate appeared to be drunk. I turned out the guard to follow him. After speaking to them I commandeered an English truck that was coming down the road and drove down to the bridge.

Q.7 This was the road between 15 Gen Hosp and El Arrouch?

First Witness (cont'd)

A.7 Yes, sir. About fifty yards this side of the brigde I heard the first shot. About ten yards past the bridge on the El Arrouch side I dismounted the party from the truck. I saw one man with a rifle running up the road towards El Arrouch. I ran after him, with the guard. I noticed he fired three shots into the bushes. I caught up to him and recognized him as Tpr Gleason. I ordered him to lay down his rifle and he didn't appear to understand me so I took the rifle off him forcibly. I started to bring him back to camp; he seemed to be incapable of walking. I commandeered a truck coming in the direction of the hospital. On arrival here I took Tpr Gleason to the MIR and placed him under close arrest. He was held in close arrest until he was returned to Depot that night.

Q.8 Tell the Court at what time this took place.

A.8 Approximately two o'clock, sir.

Q.9 Did you hear any other shots fired?

A.9 No, sir.

Q.10 How long have you been in this area?

A.10 At the present time I have only been here two days, I was here for a week before.

Q.11 With the Courts permission I have a drawing compiled on a small scale which I would like to submit as evidence. It was drawn up by Lieut McIsaac and I would like to have the witness point out the various spots to which he refers on this plan.
Will you take a look at this Sgt Staddon. Does that seem to be a fair picture of the ground around here, or the area I should say?

A.11 Except for one or two details, sir.

Q.12 Would you indicate to the Court, first of all, the position where you were when you heard the first shot?

A.12 I heard the first shot at the point marked "A".

Q.13 Will you also point out on the plan where you and the guard got out of the truck?

A.13 That point marked "B" on the map, sir.

Q.14 And also where you saw the accused firing the shots?

A.14 Approximately at the point marked "C".

Q.15 Will you point out to the Court where you actually apprehended the accused?

A.15 Approximately at point marked "Y" on the sketch, sir.

Cross-Examined by Defending Officer:

Q.16 Was there a doctor at the MIR room?

A.16 A sergeant on duty only, sir.

Q.17 What was his name?

A.17 Baker, sir.

Q.18 Do you know whether a doctor examined the accused?

A.18 I believe there was one did, sir.

Cross-Examined by Defending Officer (cont'd):

Q.19 Do you know the name of the doctor?

A.19 No, sir.

Q.20 How long after he was put in arrest was it before he was examined?

A.20 Approximately ten minutes, sir.

Questioned by Judge-Advocate:

Q.21 Sergeant, you say the accused was examined ten minutes after his return?

A.21 Yes, sir. Sergeant Baker was there and he called the duty MO, as he told me afterwards.

Q.22 You don't know that to your own knowledge?

A.22 No, sir.

Q.23 When you caught up with the accused how far ahead of you on the road was the accused when you stopped the truck at point "B"?

A.23 Approximately seventy-five yards, sir.

Q.24 You saw him firing?

A.24 Yes, sir.

Q.25 Was he running up the road?

A.25 He stopped to fire and then ran up the road.

Q.26 And when you overpowered him and turned to come back to camp you say he couldn't walk, yet he was running down the road?

A.26 Yes, [illegible].

Q.27 Why could [illegible]'t he walk?

A.27 I have no idea, sir. He just couldn't seem to stand on his feet.

Q.28 You saw him running down the road?

A.28 Yes, sir.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Second Witness for Prosecution: K-65975 Tpr Pisacreta T M, 3 Bn, 1 CBRD, being duly sworn is examined by the Prosecutor:

Q.29 Tpr Pisacreta, do you remember the afternoon of the 14th of August?

A.29 Yes, sir.

Q.30 What were your duties on that afternoon?

A.30 I was off duty, sir.

Q.31 And what were your duties at 15 Cdn Gen Hosp?

A.31 We were on guard duty, sir.

Q.32 Do you recognize the accused?

A.32 Yes, sir.

2nd Witness (cont'd)

Q.33 Would you tell the Court in your own words what happened on that afternoon?

A.33 I was laying on my bunk and Sgt Staddon called out the guard and I got up and got my ammunition and rifle. I went down to the guard tent and Tpr Lawley was there. I went down the road and jumped an English truck and from there we rode down to where Gleason was doing the shooting.

Q.34 Where were you when the shooting took place?

A.34 We had just got off the truck, about one hundred and fifty feet from where he was.

Q.35 Did you hear any shots fired while on the way down?

A.35 No, sir. I went behind the cactus to see what he was shooting at. There wasn't a thing to be seen.

Q.36 How many shots did you hear fired?

A.36 About five, sir. I came out from behind the cactus and Tpr Gleason was running up the road. When I caught up to him Sgt Staddon and Tpr Smith had disarmed him. They took him down to another English truck and drove him back to camp.

Q.37 Who actually took him down?

A.37 Sgt Staddon and Tpr Smith. The next I saw Tpr Gleason was at camp.

Q.38 Did you hear any other shots fired then, other than the five referred to?

A.38 No, sir.

Q.39 Approximately what time did all this take place?

A.39 About three o'clock, sir.

Q.40 Would you examine this plan of the area and point out to the Court where you got out of the truck, secondly, where the truck was stopped?

A.40 The truck stopped at "B", sir. The shots were fired at about "C".

Questioned by Judge-Advocate:

Q.41 And where was the accused?

A.41 Just about here (indicating "Y" on the sketch).

Re-Examined by Prosecutor:

Q.42 Where did you say he fired the shots - was he running?

A.42 He was stopped and weaving back and forth and he fired through the hedge.

Cross-Examined by Defending Officer:

Q.43 You said that you saw Gleason afterwards, at the camp?

A.43 Yes, sir.

Q.44 Where?

A.44 At the guard tent, sir.

Q.45 Did you talk to him?

A.45 Yes, sir.

nd Witness (cont'd)

Q.46 Describe the conversation.

A.46 There was Tpr Lawley and myself. We tried to tell him what had happened, but he didn't remember anything.

Q.47 What was Gleason's condition?

A.47 Something like mad, sir.

Q.48 Can you give any detail? Describe it.

A.48 We were talking to him. He kept arguing back and forth and kept wanting to get his rifle all the time. That is all I had to do with him.

Q.49 Did he say anything that would lead you to believe he recalled the shooting up the road?

A.49 No, sir.

Q.50 Did you mention the shooting to the accused?

A.50 Yes, sir.

Q.51 And he didn't remember?

A.51 No, sir.

Questioned by the Court:

Q.52 Did you go through the hedge to see what he was firing at?

A.52 The truck had stopped and Gleason was about one hundred and fifty feet up the road from us.

Questioned by Judge-Advocate:

Q.53 How close was he to the cactus when he was firing?

A.53 About the width of this tent (between eighteen and twenty feet).

Q.54 He wasn't right beside the hedge?

A.54 No, sir.

Q.55 How was he firing?

A.55 From his hip and up and weaving.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Witness for Prosecution: D-129354 Tpr Smith K R, 3 Bn, 1 CSRD, having been duly sworn is examined by the Prosecutor:

Q.56 Tpr Smith, do you remember the afternoon of August 14th?

A.56 Yes, sir.

Q.57 What were your duties on that day?

A.57 We were told to fall out.

Q.58 What were you doing in this area?

A.58 I was a member of the guard, sir.

Q.59 Do you recognize the accused?

A.59 Yes, sir.

Q.60 Will you tell the Court in your own words that happened on

rd Witness (cont'd)

Q.60 (cont'd) August 14th?

A.60 I was in my tent and the guards were told to fall out with rifles and skeleton web. We started running down the road, Lawley leading. Sgt Staddon was with us. Sgt Staddon flagged a truck. We all got on it and it drove us down the road. As we were getting off I heard a shot.

Q.61 This is before you dismounted?

A.61 Just as we were getting off.

Q.62 Did you see who fired that shot?

A.62 No, sir. Tpr Gleason was firing through the cactus and firing high. Sgt Staddon, Tpr Pisacreta, and myself started going after Tpr Gleason. He seemed to be out of his head all the time and started running down the road. The three of us went after him and disarmed him. He was out of his head. We started walking back towards camp. Sgt Staddon flagged a truck and brought us back into camp. We took Tpr Gleason over to the MIR and then we escorted him back to his tent and placed a guard over him. He was still out of his head. He didn't remember any details of the shooting. We had to explain that to him that night.

Q.63 What time did all this take place?

A.63 Approximately midday afternoon, sir.

Q.64 You refer to firing. Can you tell the Court approximately the number of shots that were fired?

A.64 Seven of eight, sir.

Q.65 There is a drawing here. Could you point out to the Court the place where you got off the truck?

A.65 Approximately here, sir (indicating position on diagram).

Q.66 Point out the position of the accused when you first saw him firing.

A.66 At point "C", sir.

Q.67 What happened after you saw the accused firing the shots?

A.67 We ran up to him and disarmed him.

Q.68 He started running up the road?

A.68 Yes, sir, and we caught and disarmed him.

Questioned by the Court:

Q.69 You didn't go across the hedge to see if he had fired at anything?

A.69 No, sir.

Q.70 Was Gleason a member of your guard?

A.70 Yes, sir.

Q.71 Same guard?

A.71 Yes, sir.

The Defending Officer declines to cross-examine the witness.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 91(a)

The witness withdraws.

Fourth Witness for Prosecution: F-67691 Pte Kitely R J, 15 Cdn Gen Hosp, being duly sworn is examined by the Prosecutor:

Q.72 Pte Kitely, do you remember the afternoon of the 14th of August?

A.72 Yes, sir.

Q.73 Would you describe to the Court what you were doing that afternoon?

A.73 That afternoon, sir, I was in the town of El Arrouch between the hours of two and four.

Q.74 What did you do then?

A.74 We came down the main street, sir, and stood around, probably a little over half an hour.

Q.75 What did you actually do?

A.75 We went down to a field, sir, and saw an Arab lying on the ground. We turned him over and looked at him. He was wounded and I immediately applied first aid.

Q.76 And after this what did you do?

A.76 We took him up to the hospital, sir.

Q.77 What hospital?

A.77 No 184, sir.

Q.78 Did they take him in as a patient?

A.78 No, sir.

Q.79 What did you do after that?

A.79 We took him up to 15 Gen Hosp

Q.80 What time did this take place? What time did you find this Arab?

A.80 Between two and three, sir, I would say.

Q.81 You took him to 15 Gen Hosp?

A.81 Yes, sir.

Q.82 Did you ever see him again?

A.82 Yes, sir.

Q.83 When?

A.83 Next morning, sir.

Q.84 What was his condition?

A.84 He was dead, sir.

Q.85 Was it the same Arab you brought in?

A.85 Yes, sir.

The Defending Officer declines to cross-examine the witness.

Questioned by Judge-Advocate:

Q.86 Where did you find the wounded Arab?

A.86 Between one hundred and fifty or two hundred feet, sir, in

Fourth Witness (cont'd)

A.86 (cont'd) off the road going to El Arrouch. It was behind the cemetary, sir, off on the left hand side as you go in the field.

Q.87 Where did you find the body?

A.87 About down here, sir (indicating on sketch).

Q.88 If you went to the scene, could you show us exactly where the body was found?

A.88 Yes, sir.

Q.89 Where was the Arab wounded?

A.89 In the left side, sir, just under the arm pit about three inches down under the arm pit, sir, in the lung.

Q.90 Was he bleeding?

A.90 Yes, sir.

Q.91 There was blood on the ground?

A.91 Yes, sir.

Q.92 Did it appear that he had moved to there?

A.92 The way he was lying when we found him, sir, I don't think he went very far.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Fifth Witness for Prosecution: B-93942 Pte Clarke W E, 15 Cdn Gen Hosp, being duly sworn is examined by the Prosecutor:

Q.93 Pte Clarke, do you remember the afternoon of the 14th of August?

A.93 Yes, sir.

Q.94 Tell the Court in your own words what you were doing.

A.94 Pte Kitely and I proceeded from the camp area, here, to a cage in El Arrouch. When we entered the cafe we saw the accused man with two other soldiers.

Questioned by Judge-Advocate:

Q.95 What time was this?

A.95 Around two, sir. After half an hour the accused and his friends left the cafe. We sat there for awhile ourselves and then decided to take a walk down the street. After walking around we went back to the CMP with an Arab.

Q.96 What did you do after that?

A.96 From there we came down the road leading to the 15th Gen Hosp and we saw a crowd standing in the field. Pte Kitely and I went over to the crowd to investigate and we found a wounded Arab there. We tore strips from his clothing and gave him first aid. Just about then the Gendarmes drove up with a vehicle. We placed the ~~xxxx~~ man in a vehicle and brought him to 104 Gen Hosp. They wouldn't admit him so we brought him here, where he was admitted. From then on, the next time I saw him he was dead in the morgue.

Examined by the Prosecutor:

(cont'd)

5th Witness (cont'd:

Examined by Prosecutor:

Q.97 What time did you find the wounded Arab?

A.97 I'm not quite sure - I would say between three and four.

Q.98 There is a plan of the area here. Would you point out to the Court approximately the position where you found him?

A.98 Yes, sir. When we got here (indicating "X" on sketch) we saw the crowd.

Q.99 You say you found this Arab. Describe, generally, his condition.

A.99 Yes, sir. He had a fairly large wound on the left side, about two inches below the arm pit. It was a wound about two and one half to three inches square.

Q.100 Was the Arab bleeding?

A.100 A little at the time, sir. He had lost most of his blood.

Q.101 Did the condition of the ground give you any indication that he had moved?

A.101 I didn't pay any attention, sir. I don't think he had, sir. He probably fell over the little slope at the bottom of which he was lying.

The Defending Officer declines to cross-examine the witness.

Questioned by the President:

Q.102 How far do you estimate it was off the road where you found the body?

A.102 Approximately seventy five yards, sir.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Sixth Witness for Prosecution: Gendarme Georges Quinzain, being duly sworn is examined by the Prosecutor:

Q.103 What is your name?

A.103 Gendarme Georges Quinzain.

Q.104 What is your official duty?

A.104 A member of the military police.

Q.105 Where are you stationed?

A.105 At El Arrouch.

Q.106 Do you remember the afternoon of August 14th?

A.106 Very well.

Q.107 Would you describe your actions that afternoon?

A.107 It was about 1530 hours when I went to the square and saw an Arab covered with blood so I took this Arab in arrest. With this Arab I arrested another Arab. In the place there were two English MPs. From there I saw a number of British soldiers running towards El Arrouch. About 1600 hours, from information received, I went out to look for a wounded Arab. And, not finding anything, I went back. About fifteen minutes later I again went out to look for this wounded

Sixth Witness (cont'd)

A.107 (cont'd) Arab and found him about 120 metres on the left of the road and about 200 metres from the cemetary. I went there and as I saw he was bleeding I picked him up and put him in a jeep and brought him to the 104 Gen Hosp. They wouldn't admit him, so I brought him to 15 Gen Hosp. I never saw him again.

The Defending Officer declines to croxx-examine the witness.

Questioned by the Court:

Q.108 What time did you find the Arab?

A.108 At 1650 hours.

Q.109 Did the man look as if he had moved?

A.109 No, sir. He looked as if he lay where he fell.

Q.110 Point out the spot where you found the body.

A.110 Midway between the road and cemetary (indicated by marking "Z" on diagram).

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Seventh Witness for Prosecution: Boudjedida Ali Ben Baunedessa, being duly sworn, is examined by the Prosecutor:

Q.111 What is your name and where do you live?

A.111 My name is Boudjedida Ali Ben Baunedessa and I live at the dam.

Q.112 What did you do on the morning of August 15th?

A.112 In the morning I worked at the dam. I only came here in the afternoon. I came here, picked up my nephew, and brought him up to my village where I buried him.

Q.113 What was the name of your nephew?

A.113 Merareb Hamid Ben Segeni.

Q.114 What was his condition when you picked him up?

A.114 He was dead.

The Defending Officer declines to cross-examine the witness.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

Prosecutor: Major Kergin is ill and cannot appear as a witness. I propose to call, in his stead, the man who assisted him. If this request is refused we could go up and see him, at his bedside.

Defending Officer: Perfectly satisfactory, sir.

Eighth Witness for Prosecution: Capt W A Morton, 15 Cdn Gen Hosp, having been duly sworn, is examined by the Prosecutor:

Q.115 Capt Morton, were you on dutyin the hospital the afternoon of August 14th?

A.115 I was.

Eighth Witness (cont'd)

Q.116 Did you treat an Arab who was brought in?

A.116 I assisted at the treatment.

Q.117 Could you tell the Court the condition of the man and what you treated him for?

A.117 I was called shortly after six 1'clock by Major Kergin because his assistant was out of the camp. I saw the patient, an Arab, for the first time when he was on the operating table, at approximately 1830 hours. He was conscious, in a state of severe shock for which he was being treated by infusion of blood serum. When the operation commenced, he was found to have a large wound in the left lower front of his chest wall which Major Kergin found to involve fracture of ribs and considerable wounding of the lung tissue itself. The haemorrhage was stopped and the wound closed. At the end of the operation I personally thought the patient's general condition as good as could be expected.

Q.118 Would you give the Court some indication of the nature of the wound?

A.118 There was a large lacerated wound which was about ten inches long, gaping, bleeding freely, and a lot of tissue appeared to have been blown right out. Some physical form of violence had removed this tissue across this chest wall. I think a bullet could have caused it. There was no bullet found in the wound.

The Defending Officer declines to cross-examine the witness.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with RP 83(B).

The witness withdraws.

At 12:25 o'clock the Court adjourns to re-assemble at 2:00 1'clock, 3 Sep 43.

At 2:00 o'clock, 3 Sep 43, the Court re-assembles. The accused is brought before the Court.

Pursuant to AA 53 (7), the Court took a view of the scene of the alleged shooting as shown on exhibit "H" in the presence of the prosecutor, the accused, the Defending Officer and the Judge-Advocate. Sgt Staddon and Tpr Smith stood on the place marked "C". Gendarme Georges Quinzain, Pte Clarke and Pte Kitely stood at the place marked "Z" on exhibit "H".

Prosecutor:

The prosecution does not wish to call any more witnesses.

Defending Officer to Court:

I beg to move, as the defence has the right to under the rules, that there is no evidence, or shall I say not sufficient evidence, to justify conviction. I base this on this proposition: two things appear to have been proved - one, that the accused was seen on a road with a rifle which he was firing - two, that a dead Arab, or a wounded Arab, who subsequently died, was discovered in the area in the same afternoon. I can find no reference in any of the evidence which links the two and until that evidence appears I feel it is unnecessary for the defence to say more.

Prosecutor to Court:

As regards the motion of the Defence Counsel, I think it was brought out in evidence by Sgt Staddon that the accused was firing a rifle more or less indiscriminately along the road leading from El Arrouch to the 15 Gen Hosp, and the Arab was found in the vicinity in which this man had fired. I think it is a ligical consequence to assume that there is a definite connection between the firing of these shots and the finding of this Arab. While we have occupied this area, it does not give us leave or license to go around giving an imitation of a "4th of July" celebration every day. That should be taken into consideration.

Court closed 2:50 o'clock to consider Defending Officer's motion.

Court re-opened at 3:00 o'clock.

The accused is brought before the Court.

President to accused:

The Court, having considered the motion of the Defence Counsel, has allowed the motion. Therefore, Tpr Gleason, we find you not guilty of the charge and you are released from arrest.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ KGM

The Court find that the accused D-77967 Tpr Gleason, Cornelius Gerald, CAC, 3 Bn, 1 CBRD, is not guilty of the charge.

3 Sep 43

"K G Morden"
(K G Morden) Major
Judge-Advocate

"R A Lindsay"
(R A Lindsay) Lt-col
President

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* KGM

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

List of Witnesses.

TRIAL OF D77967 Tpr. Gleason, Cornelius, Gerald.

(For the Prosecution)

F86181	Sgt.	Staddon, R.	No. 3 Bn., 1 C. H. R. D.
14416254	Rfmn.	McCafferty, F.	Attd. to 104 General Hospital.
K65975	Tpr.	Pissareta, T.M.	No. 3 Bn., 1 C. H. R. D.
D129354	Tpr.	Smith, K. R.	No. 3 Bn., 1 C. H. R. D.
F67691	Pte.	Kitely, R. J.	15 Cdn Gen Hospital.
B93942	Pte.	Clarke, W. E.	15 Cdn Gen Hospital.
Georges Quinzain,		Gendarme,	El Arrouch.
Boudjedida Ali Ben Bennedessa,			El Arrouch.
Major F. G. Kergin,		R.C.A.M.C.,	(Surgical Specialist).
F45401	Tpr,	MacBeth, G. M.	No. 3 Bn., 1 C. H. R. D.
B25807	Tpr.	Lawley, A. E.	No. 3 Bn., 1 C. H. R. D.

(For the Defence)

NIL.

Army Form A 47

COURTS-MARTIAL

Form of Order for the assembly of a General ~~District~~ Court Martial.

ORDERS BY Colonel G. Hedley Basher, O.B.E., E.D.

Commanding ~~the~~ 1 Cdn. Base. Rft. Depot.

(Place and Date) In the Field. 30 August, 43.

The detail of officers as mentioned below will assemble at 15 Cdn Gen Hosp on the 3rd day of September, 1943. for the purpose of trying by a general court-martial the accused person [~~or persons~~] named in the margin [~~or in the annexed list~~]. In the opinion of the Convening Officer, a General Officer or colonel is not available to act as President.

PRESIDENT.

Lt.-Col. R. A. Lindsay, CIC, 2 Bn., 1 CHRD. is appointed president.†

MEMBERS.

Major F. M. Nash, E.D. CAC, 1 Bn., 1 CHRD.
Major J.A.A.G. Vallee, CIC, 1 Bn., 1 CHRD.
Major W. Piche, CAC, 3 Bn., 1 CHRD.
Capt. T. H. Knight, CIC, 2 Bn., 1 CHRD.

D779767
Tpr. Gleason, Cornelius, Gerald
CAC, 3 Bn, 1 CHRD

Note.—The president must be named. The members and the waiting members may be mentioned by name or the number and ranks and the unit to which they belong may alone be stated.

WAITING MEMBERS.

Major C. W. Abell, CIC, 1 Bn., 1 CHRD

~~Capt. G. [illegible]~~

Capt D.W. Hay, Sask. L.I., 2 Bn, 1 CHRD

JUDGE-ADVOCATE.

Major K. G. Morden, DJA, Cdn Sec., GHQ, 1 Ech.

~~[illegible]~~ is hereby] appointed judge-advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to HQ., 1 C. B. R. D.

Signed this 30th day of August 1943

(G. Hedley Basher) Colonel,
Commandant, 1 Cdn Base Rft Depot.
Convening Officer.

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* *Any opinion of the convening officer with respect to the composition of the Court (see Army Act, s. 48 (10) and Rules of Procedure 20 and 21) should be added here; thus, where a Court-Martial is ordered to assemble, composed exclusively of officers of the same regiment of cavalry, or the same brigade of artillery, or the same battalion of infantry, the following should be added:—*

"In the opinion of the convening officer, other officers are not, having due regard to the public service, available," (or as the case may be).

† *Add here, in the case of either a General or District Court-Martial where a captain is appointed president and the officer convening the court is not under the rank of field officer,* "In the opinion of the convening officer a field officer is not, having due regard to the public service, available." *Where it is necessary for an officer under the rank of captain to be appointed president of a District Court-Martial, add,* "In the opinion of the convening officer a field officer or captain is not, having due regard to the public service, available." (*See Army Act, s. 48 (9).*)

‡ *The "unit," in the case of Royal Artillery, is a Brigade, where such organization exists.*

11-5-00 W4.2(204/7)Q2. 25,000 11/39 A.& E.W.Ltd. Gp.499
11-5-00 W4.1(667/7)Q2. 40,000 1/40 " " Hunter, Hall Ltd.

I hereby certify that I have this morning examined D-77967 Tpr. Gleeson, C.G. 3 Bn., 1 C.B.R.D. and that in my opinion he is fit to undergo trial by Court Martial.

In the Field

This 3rd day of September 1943

"H.A.L."

"W.S. Woolner" Capt
(R.C.A.M.C.)

OPENING ADDRESS BY PROSECUTOR

"G"

"L.A. Lindsay" Lt-Col.

The accused, Tpr Gleason, is charged with, when on active service committing a civil offence, that is to say, murder, in that he, at approximately 1600 hrs on the 14th day of August, 1943, at, or near, El Arrouch, Algeria, murdered Merareb Hamid Ben Segeni, a native of Algeria.

It is the intention of the prosecution to prove, by calling witnesses, that the accused was, at approximately 1600 hrs, improperly firing his rifle on the road, and in such a position that it was possible for him to shoot the deceased. The accused was apprehended by the personnel of the guard of the 15th Gen Hospital.

The prosecution will also show that the deceased, Merareb Hamid Ben Segeni, was found in the neighbourhood at approximately 1600 hrs, seriously injured, the result of a gun shot wound in the chest.

The prosecution claims that the accused, Tpr.Gleason, shot the deceased, Meharab Hamid Ben Segeni and under the circumstances it amounts to murder.

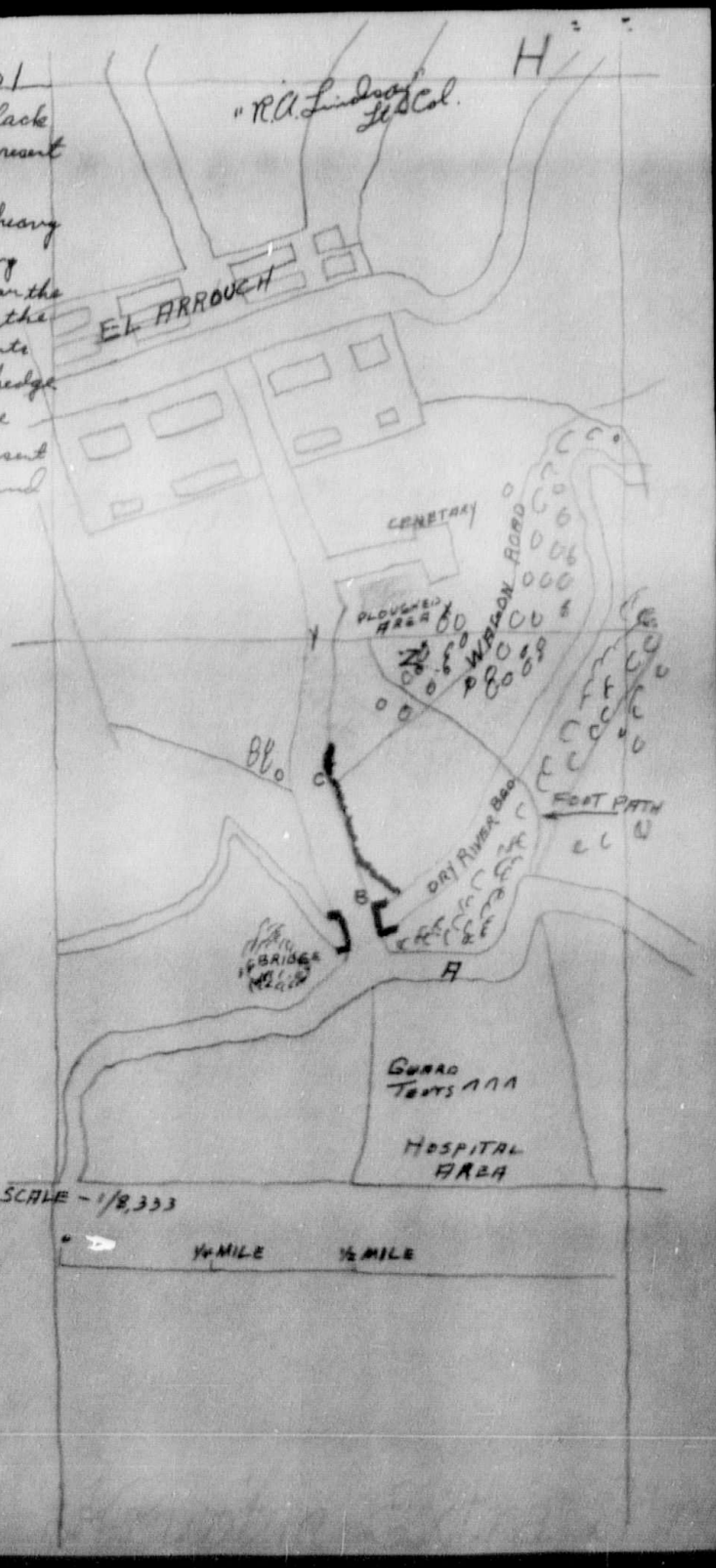
It is respectfully suggested that the Court take advantage of the provisions of AA 58 ss 7, and RP 63, which permits them to view the scene of the alleged crime.

EXHIBIT No 1

All single black (pencil) lines represent wagon roads.

The irregular, heavy blue line, extending from a point near the bridge, and east the point "C", represents a tall cactus hedge.

The light blue markings represent scattered trees and shrubbery.



SUMMARY OF EVIDENCE IN THE CASE OF: KG Lunden [illegible] Judge Advocate

D.77967 Trooper GLEASON, C.G., on the strength of "A" Coy 3 Bn., 1 Cdn Base Rft Depot.

By direction of Commanding Officer evidence will be taken upon oath.

First Witness For the Prosecution

F.86181 Sgt. Staddon, R, having been duly sworn, states:

On the afternoon of 14 Aug 43, I was Commander of the Guard at 15 Gen. Hospital El Arousch. I was at the ablution stand and I heard quite a commotion in the guard lines and saw two armed men leaving the lines. One went outside the camp area, the other remained within the area. As a result of information which I received and seeing that the men were drunk I turned out the guard, and went to investigate a disturbance which had broken out down town. I commandeered a truck which was coming down the road towards us, and proceeded towards El Arousch. About 50 yards from the bridge I heard one shot. I dismounted from the truck at the bridge and saw one man staggering up the road, and saw him fire his rifle a number of times, from the hip, and the rifle was well above the horizontal. Coming close to him, I recognised him as Tpr. Gleason. I spoke to him and ordered him to lay down his rifle. Apparently he did not understand me, and he seemed to be in a dazed condition. Since he couldn't understand my commands, I disarmed him forcibly. He was incapable of walking, so I commandeered a truck and took him back to cam I had him sent to the Medical Inspection Room, and placed him under close arrest. On retunring to camp I took Tpr Gleason's bayonet from him. I made my report to the registrar, Major Neilson. I heard a shot when the truck was at the spot marked "A", on [illegible] which is a [illegible] of the distance of El Arousch and vicinity. I arrested [illegible] as [illegible] marked "Y".

Sgd. R Staddon

The accused declines to cross examine the witness.

14416254 Rfmn McCafferty, P. having been duly sworn states

2nd Witness (Prosecution)

I am Rfmn McCafferty P 14416254 attached to No. 104 Gen Hospital for Guard Duty.

On 14 Aug 43, I saw a crowd of Arabs following Tprs Gleason, MacBeth and Lawley down the street and coming near the tower, I saw [redacted] one of the Arabs strike one of the Tprs. I saw him turn to defend himself and another Arab came from behind and hit the Tpr with a stick. The M.Ps came down and followed the Arabs. The three tprs returned to camp.

McCafferty P. J.

The accused declined to cross-examine the witness.

Third Witness For the Prosecution

K.65975 Tpr Pisacreta, T.M., having been duly sworn, states:

On 14 Aug 43, I was lying down on my bunk, when I heard: "Fall out the guard". I picked up my rifle and ammunition, and with Tpr Lawley started after Tpr Gleason who was running down the road like mad. We stopped an English truck and followed Gleason with it. We stopped about 100 yards behind Tpr. Gleason and saw him shooting into the cactus. He was firing from the hip, and upwards and was weaving back and forth. I heard no shots previous to this. I ran behind the cactus to see what he was shooting at, but couldn't see a thing. I came out to the road again and Tpr Gleason was running up the road, and we started chasing him. We caught up to him, and Sgt. Staddon jumped him from behind. Smith was helping to hold Gleason down, while I took his rifle. Tpr. Gleason was taken down the road, put in the truck and taken back to camp. The next time I saw him he was at the camp and we started explaining to him what had happened and it didn't seem to make any sense to him. He said he didn't remember seeing us there or a thing that had gone on. I saw Trooper Gleason fire the shots at the spot marked "C" on exhibit no.

LBM

Sgd. T M Pisacreta

The accused declines to cross-examine the witness.

Fourth Witness For the Prosecution

D.129354 Tpr. Smith, K.R., having been duly sworn, states:

On 14 Aug 43, I was in camp at 15 Gen. Hospital, and the guard was told to fall out. We fell out with rifle and skeleton web and started running down the road and Tpr. Lawley was leading us. Sgt. Staddon was with us and he flagged a truck. As we were getting off the truck there was one shot fired. Tpr. Gleason started running down the road and we ran after him. A few more shots were fired and Sgt Staddon, myself and Tpr. Pisacreta got hold of Gleason and he seemed to be out of his head. The three of us disarmed him. He was still out of his head when we disarmed him and we started to bring him back, walking along the road. Sgt Staddon flagged another truck and brought him back to camp, and he was still out of his head. He was taken over to the M.I.R. Afterwards he was returned to his tent, and a guard placed over him. He was still out of his head, recognizing no one and remembering no details when he was returned to his tent. He did not seem to come to his right senses until late in the evening, and the disturbance took place about midafternoon. The truck stopped and we dismounted at the spot marked "B" on exhibit no.

LBM

Sgd. K R Smith

Accused declines to cross-examine the witness.

Fifth Witness for the Prosecution

F67691 Pte Kitely, R.J. having been duly sworn states:

On 14 Aug 43 between 1430 and 1600 hrs, I was in the town of El Arousch. As a result of information which I received, I went with a friend to the M.Ps and asked them to investigate a fight between some Arabs and 3 Canadian soldiers. As a result of some information, which we received later, we went to a field near the town and found an Arab laying there, with a bullet wound in the left side. We gave him first aid and brought him to the 104th Gen Hosp, but they would not accept him, so we took him to our own hospital - 15th Cdn Gen Hosp. The body of the dead Arab which I saw on 15 Aug 43, was that of the wounded Arab, who we picked up on the previous day.

Sgd R.J. Kitely.....

The accused declines to cross examine the witness.

Sixth Witness for the Prosecution

B93942 Pte Clarke, W.E. having been duly sworn states:

On 14 Aug 43, I saw Tprs Gleason, Lawley and Mac Beth, in a cafe in El Arousch, about 1.30 P.M. Then, about half an hour afterwards, they left the cafe. After some time, Pte Kitely and I left the cafe and took a walk down the street. As a result of information which we received, we went to investigate some trouble in a field near the town. We saw a crowd around a spot in the field and proceeded over there, and found an Arab lying there, wounded, and we gave him first aid. The wound was on the left side, about 4" below the armpit. After we had given him first aid, a gendarme arrived on the scene with a vehicle, so we placed the Arab in it and proceeded to the 104th Gen Hosp. They would not accept him, so we took him to our own hospital the 15 Cdn Gen Hosp, where he was admitted. I did not hear any shots at any time.

The body of the dead Arab, which I saw on 15 Aug 43, was the body of the wounded Arab, we brought to the hospital 14 Aug 43. [illegible]

LBM spot marked X in ink

sgd William E. Clarke.

The accused declines to cross examine the witness.

Seventh Witness for the Prosecution

Georges Quinsain, Gendarme, having been duly sworn states:

(Translation by Lieut G.B. Lamothe, duly sworn as interpreter)

On 14 Aug 43 at about 1500 hrs, as a result of information which I received, I went to investigate a fight near the tower in El Arousch, accompanied by two British Provost Corporals. I saw an Arab covered with blood, who was running away. I also saw a number of British soldiers running in the direction of the hospital. I apprehended this bleeding Arab and one of his friends, whom I brought in as a witness.

At about 1615 hrs, as a result of information received, I went to a field about 225 yards from the

cemetery and found a wounded Arab and two Canadian soldiers were with him, administering first aid. I saw that he was taken to the 19th Cdn Gen Hosp. I did not know this Arab's name.

sgd.....

Accused declines to cross examine the witness.

Eighth Witness for the Prosecution

Translation by Lieut G.D. Lamothe of testimony of Boudjedida Ali Ben Baumedesra.

The body which I took away from 19th Cdn Gen Hosp was the body of my nephew, Merareb Hamid Ben Segni.

Accused declines to cross examine the witness.

Ninth Witness for the Prosecution

Major F.G. Hargin, RCAMC (Surgical Specialist) having been duly sworn states:

On 14 Aug 43 at about 1715 hrs, I was called to see an Arab, who was suffering from a gun shot wound of the chest. The patient was suffering from haemorrage and severe shock. The wound was immediately dressed and resuscitation undertaken. After about 2 hrs his condition was such as to permit operative treatment, which was urgently necessary, because of the nature of the wound.

At operation, the wound was found to be a tangential wound of the left anterior chest, which had fractured the fourth rib, blown out an area of the chest wall about 3" by 1½" and caused a deep laceration of the lung, from which there was profuse haemhorrage. The lung and chest wall were rapidly sutured. The patient stood the operation fairly well, but in spite of further resuscitation his condition deteriorated and he died at 0230 hrs 15 Aug 43.

The cause of death was gun-shot wound of the chest with severe haemhorrage and shock.

sgd.....

Accused declines to cross examine the witness

Tenth Witness for the Prosecution

P45801 Tpr MacBeth, having been duly sworn states:

On 14 Aug 43, sometime in the afternoon, Tpr Lawley, Gleason and I, left the wine shop in El Arousch and started back for barracks, and just as we were crossing the street by the water fountain, a crowd of Arabs gathered around us. They were talking, but we did not know what they were saying and we started to move away. Lawley was behind me and I heard a sound and turned around. He was lying on the cement and there was wine all over his shirt and blood all over his head. I went to his help and was hit with something. Then Gleason dragged Lawley and I out of the fight, over to the fountain and washed our hands off. We then started back to barracks again and that is all I remember.

I could distinguish glass breaking when I heard the noise behind me and saw Lawley on the pavement.

sgd.....

Accused declines to cross examine the witness.

nth Witness for the Prosecution.

B25847 Tpr Lawley, A.I. having been duly sworn states:

On 14 Aug 43 between 1300 and 1330 hrs, Tprs MacBeth, Gleason and I, left the cafe in El Arousch to go back to barracks. We walked down the street a piece and were about to cross the road, when some Arabs came across the street towards us. They stopped us and one of them began to speak. We could not understand their language and started to move past them, when something struck me on the back of the neck. I saw MacBeth turn and he took a pace when he went down. The next thing I remember was after Gleason ducked my head in the trough. We went the rest of the way into camp. When we got into the hut, MacBeth either lay down or collapsed on his bed, and Gleason shouted "They've hurt Mac", and he seemed to go out of his head and grabbed his rifle and started across the field towards the road. I went after him to try and stop him, I caught up to him, just as he reached the fence around the camp, but he went over the fence, so I had to return to the tents, where the sergeant was turning out the guard. We started down the road after him and the Sergeant stopped a truck, which took us down as far as the bridge. Gleason was staggering and falling, trying to go up the road. I ran ahead and stopped him, but I couldn't hold him, as he seemed to be beresk, and he couldn't understand what I was talking about at all. Then the sergeant jumped him from behind and with the help of two others, disarmed him.

I saw Tpr Gleason fire three shots, but he fired them as he was staggering up the road and they were fired into the air.

sgd. A.I. Lawley.....

The accused declines to cross examine the witness.

The accused heving been duly cautioned in accordance with Rule of Procedure 4(E)

Reserves his defence.

Certified that Rule of Procedure 4(C) (D) (E) & (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 18th day of August, 1943, at 15th Cdn General Hospital, El Arousch and at #3 Bn., 1 C.B.R.D.

.....
(I.B. MacIsaac) Lieut
Officer detailed to take the summary

Certified True Copy

.....Adjutant
3 Bn 1 Cdn Base Reinforcement Depot

COUNTER NUMBER 491163

HOUR 14:30

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR [illegible]

EE-145

PTE GLEN S.

EE-145 G.

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Fourteenth day of May, 1945.

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian ~~Infantry~~ Division, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[redacted]

Major W.P. Taylor, JAG Branch, CMHQ is hereby appointed Judge-Advocate

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	T.V. Kenney	5 Cdn Inf Bde Coy RCASC

Members.

Rank.	Name.	Regiment.
Capt or Lieut	to be detailed by ADMS, 2 Cdn Div	RCAMC
Capt or Lieut	to be detailed by CRASC, 2 Cdn Div	RCASC

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E.L.M. Burns (E.L.M. Burns) Major-General

Commanding 2 Cdn Inf Div

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B22048, Pte Samuel GLEN, No. 2 Provost Coy, 2 Cdn Div, Cdn Provost Corps	First Charge Sec 18(4) Army Act (See charge sheet attached)	not guilty		
	Second Charge (Alternative) Sec 40, Army Act (See charge sheet attached)	guilty		
	Third Charge Sec 18(4) Army Act (See charge sheet attached)	not guilty		
	Fourth Charge (Alternative) Sec 40, Army Act (See charge sheet attached)	guilty		

As to all charges Plea in Bar } Allowed
Authorities convicted 18 May 43

Confirmed 19 May 43
E. L. Burns
Maj Gen

[signature] Judge Advocate

[signature] Maj
Pres

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— No sir

(Signed) E. L. Burns Maj. Gen (Signed) [signature] Major
Commanding 2nd Cdn Div — Convening Officer (e)
5 C I B Coy RCASC — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, ~~and sentence~~ in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
~~(3. The interpreter)~~
~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this 21st day of May 1943.

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

* See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19th day of May 1943.

E. L. Burns Maj Gen
Confirming Officer.
GOC 2nd Cdn Div

Promulgated and ~~extracts taken~~ in the case of B22048 Pte Samuel Glen

(a) (Dated) 20 May 43 (Signed) [signature] Capt
OC 2 Pro Coy

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. B.22048 Pte. Samuel GLEN, No. 2 Provost Coy, 2 Cdn Div, a soldier of the Canadian Army Overseas is charged with, When On Active Service:

FIRST CHARGE
A. A. Sec. 18 (4)

STEALING PUBLIC PROPERTY

In That He

In the Field, on 5 May 43 did steal from the Cookhouse of No. 2 Provost Coy, 2 Cdn Div., One Pound of Butter, W.D. Property, ~~and illegally dispose of same, to a civilian Daisy Eason, a barmaid in the Crown Public House, Bognor Regis.~~

ALTERNATIVE CHARGE
A. A. Sec. 40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In That He

In the Field, on 5 May 43 did illegally dispose of One Pound of Butter, W.D. Property taken from the Cookhouse of No. 2 Provost Coy, 2 Cdn Div, to a civilian Daisy Eason, a barmaid in the Crown Public House, Bognor Regis.

THIRD CHARGE
A. A. Sec. 18 (4)

STEALING PUBLIC PROPERTY

In that He

In the Field, on 8 May 43 did steal from the Cookhouse of No. 2 Provost Coy, 2 Cdn Div., One Pounds of Butter, W.D. Property, ~~and illegally dispose of same to a civilian Daisy Eason, a barmaid in the Crown Public House, Bognor Regis.~~

ALTERNATIVE CHARGE:
A. A. Sec. 40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In That He

In the Field, on 8 May 43, did illegally dispose of One Pounds of Butter, W.D. Property taken from the Cookhouse of No. 2 Provost Coy, 2 Cdn Div., to a civilian Daisy Eason, a barmaid in the Crown Public House, Bognor Regis.

In the Field,
13 May 43

(J. J. PLATT) Capt.,
Officer Commanding,
No. 2 Provost Coy, 2 Cdn Div.

TO BE TRIED BY F.G.C.M.

In the field
14 May 43

(E.L.M.Burns) Maj.Gen.
Comdg.,2 Cdn Inf Div.

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that No. B.22048, Pte. Samuel GLEN,
of No. 2 Provost Coy, 2 Cdn Div, Cdn Army Overseas,

is fit to undergo trial by Court-Martial.

Signed In the Field,

this 18th day of May

19 43

M. Cohen Capt
Medical Officer,
18 Cdn Fd Amb, R.C.A.M.C.

STATEMENT OF ACCUSED: B.22048 Pte. Samuel, GLEN,
Re: Defending Officer.

"I wish a defending officer"

In the Field,
13 May 43

S. Glen

T V Kenney Major

Army Form A 9.

A

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held ~~at~~ in the Field on the 18th day of May 1943 by order of Major General E. L. M. Burns

Commanding 2 Cdn Inf Div

dated the 14th day of May 1943

President.

Major T. V. Kenney 5 C I B Coy RCASC

Members.

Capt R D Landry 18 Fd Amb RCAMC

Capt J M A Graham 2 Div Tps Coy RCASC

Major W P Taylor JAG Branch CMHQ

Judge Advocate.

Trial of* B22048 Pte Samuel Glen 2 Cdn Prov Coy 2 Cdn Div

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that ..... is not available to serve owing to.~~

~~..... waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J. Tweddle 2 Cdn Prov Coy

~~Counsel,‡ or~~ defending officer† Lieut H. W. Mole 69 LAD att'd 2 A/T Regt RCA

At 1055 o'clock the Trial commences.

The order convening the Court is read, and is marked G signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible]

[illegible]

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Medical certificate is handed up to the Court and attached to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

not guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

not guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Guilty *Answer.*

~~The accused having pleaded Guilty to _____ charge, the provisions of Rule of Procedure 35 (b) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge.

The Court proceed as though the accused had not pleaded guilty to any charge

C

Proceedings on Plea of Not Guilty.

*Instruction (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. no, sir

The prosecutor makes an opening address ~~(hands in a written address which is read, marked ——, signed by the President, and attached to the proceedings.)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. Detective constable Geale
Bognor Regis Civil Police

being duly sworn, is examined by the prosecutor.

Identifies himself.

Sunday 9 May 43 I arrested Ada Jane Eason and took her to the Bognor Regis police station. She had in her possession three 1 lb slabs of National butter. In consequence of what she told me I interviewed Pte Glen at HQ 2 Cdn Pro Coy at Bognor Regis on Tuesday 11 May 43. I told Glen the nature of my inquiry and he immediately admitted having given the woman the butter. Later that day I was present when Glen made a statement after having been cautioned. The statement was taken by Sgt Rose 2 Cdn Pro Coy and was signed by Glen. He (Glen) said he had taken butter from 2 Cdn Pro Coy. Cross examined by Defending Officer. I cannot say if Glen was a corporal at the time. His statement to me was verbal. Ada Jane Eason's statement was also verbal. We never take a sworn statement.

(2)

C2

Ada Jane Eason's arrest was in connection with false pretences. She had an amount of sugar in her possession.

Re-examined by Prosecutor

Q. Do you always refer to Provost as corporals

A yes, unless they are above that rank.

Q Do you identify the accused.

A yes

In the opinion of the court and the J.A. it is not necessary to comply with R.P. 83 (B)

The witness withdraws

At this point the Defending Officer offers a Plea in Bar of Trial on the grounds of autre fois ~~acquit~~ convict. Proceeding on Plea in Bar are recorded on separate sheets marked X, X2, X3

The court adjourned at 11 45 hrs.

The court re-assembled at 1345 hrs present the same members as on adjournment.

X

Proceedings on Plea in Bar of Trial

First witness of defence — Capt J. J. Platt O.C. No. 2 Cdn Pro Coy duly sworn states

I am the O.C. of the accused. On a date I cannot specify I told Glen I'd promote him to rank of Cpl and provided he proved satisfactory would confirm it in three months. It was to be effective 26 Apr 43 i.e. two weeks previously. I produce 2 Cdn Pro Coy Part I orders No. 999-1006 dated 10 May 43. This is marked "A" signed by the President and attached to the proceedings. I produce 2 Cdn Pro Coy Part I Orders No. 1007-1013 dated 11 May 43. This is marked "1" signed by the President and attached to the proceedings. A promotion is subject to confirmation by 2nd Echelon. When it was brought to my knowledge that a charge was laid against Pte Glen I told him I had to cancel the promotion given him. It had never become an order. None of the charges had been tried before me. Charges had not been laid. I had his confession admitting he had given 1 lb of butter 5 May 43 and 2 lb butter 8 May 43 to a woman in Bagnoregio. It was as a result of the charges I knew pending against him that I cancelled my previous instructions that he would be promoted.

Cross examined by Defending Officer

I did not mean a punishment to be inflicted on the accused by cancelling his promotion. I had been

X 2

informed of the nature of the charges which would be laid against him and in view of that knowledge I could not let an entry as an NCO go through for a man with that pending.

I had in my possession Glen's signed statement and knew he would be charged with theft of W.D. property.

No re examination
In the opinion of the Court and J.A. it is not necessary to comply with R.P. 83(B)

Second Witness for defence

B22048 Pte Samuel Glen 2 Cdn Pro

Cy having been duly sworn states from position when the [illegible] Monday [illegible] same [illegible]

On the ~~day~~ Capt Platt told me at 16 30 hrs he was promoting me a/cpl and said I was doing a "damn fine job", he also added "I hope it doesn't go to your head". I went to the QM and drew cpl stripes and had them sewn on my tunic. On the following day a CID man came and questioned me re theft of butter from our kitchen. Later they questioned me again. The the CID man and Sgt Rose went upstairs. The orderly Sgt and a/RSM placed me under open arrest at 1215 hrs the same day. After the dinner was over Sgt Rose and the CID man told me Eason had given them a statement to the effect I had given her 3 lbs of butter all together. I did not the written statement alleged to be in their possession. So as a result I gave a written statement after this I returned to the kitchen. At 1600 hrs I was paraded to the O C who told me the promotion was cancelled. I had worn my stripes for 24 hrs.

Re examined by ~~Defending Officer~~ Prosecutor

Q. Had charges been laid against you when you were paraded to the O.C.

A. No. I was told it had something to do with stealing rations.

X3

Q What did Capt Platt tell you

A Owing to information he would have to cancel my promotion until the situation cleared.

no re examination

R.P. 83 B complied with

Witness with drawn and resumes position as accused.

Prosecutor does not wish to call any witnesses on the Plea in Bar

Address of Defending Officer on Plea in Bar

Explains it was evident accused was made an N C O and has been punished — Points out a man cannot be punished twice for same offence — refers to A A 46 (7).

Reply of Prosecutor on Plea in Bar

Capt Platt pointed out that reduction was not a result of the charges. No charges were laid or read to accused when he was paraded before his C O.

The Court is closed to consider their decision.

The court allows the Plea in Bar which relates to all the charges.

as 2 and 4 are in the alternative to 1 and 3

Mf. The court reopens and ~~[illegible]~~

it is announced in open court that the Plea in Bar is allowed but that this decision of the Court is subject to confirmation which will be promulgated later.

The Court adjourns.

Mf

Mf

PART ONE ORDERS
BY
CPT. J.J PLATT
OFFICER COMMANDING
NO. 2 COMPANY, CANADIAN PROVOST CORPS.

FIELD 10 May 43 999-

999. DUTIES: 11 May 43 NEXT FOR DUTY:

ORDERLY OFFICER: LIEUT. FORBES LIEUT. TWEDDLE
ORDERLY SERGEANT:
ORDERLY CORPORAL:

DUTY SECTION: B SECTION A SECTION
STAND-TO DETAIL: SEE DUTY DETAIL SEE DUTY DETAIL
BALANCE OF DUTIES: SEE DUTY DETAIL SEE DUTY DETAIL

1000. ROUTINE: 0700 hrs Reveille
0730 hrs Breakfast
0830 hrs Parade
1000 hrs Orderly Room
1000 hrs Orderly Officer's Inspection
1200 hrs Dinner
1330 hrs Parade
1700 hrs Supper
1900 hrs Patrols & Stand-To
2230 hrs Lights Out.

1001. ARRIVALS:

Nil.

1002. DEPARTURES:

Capt M.E. Myers and R.S.M. Neilsen proceeded on Command to W.H.Q. Home Forces Course, Traffic Control Course No. 1 w.e.f. 9 May 43.

16 O.R.s proceeded on Command w.e.f. 10 May 43.

1003. PROMOTIONS: The u/m O.R. is promoted to the rank of A/Cpl with pay, w.e.f. 26 Apr 43:

B22048, Pte. Olen, S.

1004. MEDICAL - FIRST FIELD DRESSINGS - CARRYING: (AUTH: C.A.O. NO 3426 d/6 May 43).

C.A.O. NO 3426 is published as appendix to this order for information of all ranks.

1005. O.C.T.U. - APPLICATION BY INDIVIDUAL SOLDIERS: (AUTH: C.A.O. NO 3427 d/6 May 43).

C.A.O. NO 3427 is published, for the information of all ranks, as appendix to this order.

1006. BLACKOUT TIMES: ON: 2149 hrs; OFF: 0616 hrs.

for (J.J. PLATT) Capt.,
Officer Commanding,
No 2 Provost Coy, 2 Cdn Div.

1

PART ONE ORDERS

by

CAPT. J. J. PLATT
Officer Commanding
No. 2 COMPANY, 2 CANADIAN DIVISION

FIELD — 11 MAY 43 — 1007-

1007. DUTIES: 12 MAY 43 NEXT FOR DUTY:

Orderly Officer:	Lieut. Tweddle	Lieut. Forbes
Orderly Sergeant:	Sgt. ~~Young~~ Brown	Sgt. ~~Brown~~ Young
Orderly Corporal:	Cpl. Webb	Cpl. Pelz
Duty Section:	A Section	B Section
Stand-To Detail:	See Duty Detail	See Duty Detail
Balance of Duties:	See Duty Detail	See Duty Detail

1008. ROUTINE:

0700 hrs. Reveille
0730 hrs. Breakfast
0830 hrs. Parade
1000 hrs. Orderly Room
1000 hrs. Orderly Officer's Inspection
1200 hrs. Dinner
1330 hrs. Parade
1700 hrs. Supper
1900 hrs. Patrols and Stand-To
2230 hrs. Lights Out

1009. ARRIVALS: Nil

1010. DEPARTURES:

K.24055 A/Sgt. Oakes, G.W. SOS on adm to 15 Gen Hospital w.e.f. 8 May 43

1011. PROMOTIONS:

M.37137 Cpl. Brown, C.D. to be A/Sgt with Pay w.e.f. 9 May 43

A.27119 L/Cpl. Pelz, H. to be A/Cpl.with Pay w.e.f. 9 May 43

Amendment: Part I Order No. 1003 d/10 May 43 is hereby cancelled.

1012. REVERSIONS:

K.24055 A/Sgt. Oakes, G.W. reverts to permanent rank of Cpl. on adm. to Hospital w.e.f. 8 May 43.

1013. BLACKOUT TIMES:

On: 2149 Off: 0616

(J. J. PLATT) Capt.,
Officer Commanding,
2 Provost Coy, 2 Cdn Div.

SUMMARY OF EVIDENCE In the Case of:

B.22048 Pte. Samuel GLEN, No. 2 Provost Coy, 2nd Cdn Div. a soldier of the Canadian Army Overseas.

The ACCUSED has been informed of his rights.

The COMMANDING OFFICER directs that the evidence be taken on Oath.

FIRST WITNESS for the Prosecution:

B.95453 Sgt. Warren Charles ROSE, No. 2 Provost Coy, 2 Cdn Div, Sworn states:

"In consequence of information received from Bognor Regis Civil Police I was instructed by Officer Commanding, No. 2 Provost Coy, 2 Cdn Div to make an investigation. This was done. I questioned the accused and after cautioning him obtained from him the following voluntary signed statement:

"You are not obliged to say or state anything but that if you do whatever you say or state will be taken down in writing and may be used as evidence."
SIGNED: S. Glen."

Statement of B.22048 Pte. Glen, S., 2 Provost Coy, C.P.C.
"About two weeks ago I met a Barmaid in the Crown Public House. She was called Daisy. I do not know her other name. I also knew she lived on Canada Grove, Bognor. On Wednesday May 5-43 This woman asked me for some butter and stated she wanted to take it to London for a sick Aunt. I gave her one pound and again on Saturday May 8-43 She asked me for some more butter. I had been drinking and I gave her two more pounds, three pounds all together, and it was what was left over in the cookhouse. I received no money for the Butter nor have I given her anything else from the Cookhouse."
Signed: S. Glen"

B.95453 W.C. Rose, Sgt.(Witness)

The accused gave me every possible assistance."

W.C. Rose
B.95453 Sgt. Rose, W.C.
No. 2 Provost Coy, 2 Cdn Div.

The ACCUSED declines to cross-examine the Witness.

The ACCUSED having been cautioned in accordance with R.P. 4(E) says:

"I have already made a statement and wish to say nothing more."

S. Glen
B.22048 Pte. Glen, S.,
No. 2 Provost Coy, 2 Cdn Div.

The ACCUSED states he has no witness for the Defence.

CERTIFIED that the above Summary of Evidence has been taken by me, In the Field, this 13th day of May, 1943.

(J. TWEDDLE) Lieut.,
No. 2 Provost Coy, 2 Cdn Div.

CERTIFIED TRUE COPY

No. B22048 Name GLEN, S. | Sqn., Battery, or Company | Corps Cdn Provost | Date of enlistment 29 Jul 40 | O.C. Badges | Service or Proficiency Pay | Character

M.F.M. 6

Date of last entry in Company Conduct Sheet 7May42 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
1st Sheet Destroyed. 2 July 42. (Signed) W.Fern, Lieut, OC Provost Coy, 1 CGRU									
Field	7May42	L/Cpl.		Insubordinate Language to Superior Officer. A.A. Sec 8(2)	CSM Murrell	14 Days Detn Reduced to Pte.	8 May 42 DO II #21 15May42	O.C.Fd Pun Camp.	Forfeits 15 days pay. FR&I Overseas

CERTIFIED TRUE COPY

In the Field,
13 May 43

(N.C. FORBES) Lieut.,
Officer i/c Records,
2 Provost Coy, 2 Cdn Div.

(P.T.O.)

W.F.b. 155
40/7 & 8/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.22048	Pte	GLEN, Samuel	2 Provost Coy

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and ~~Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Insubordinate Language	1 time	
For AA Sec 8(2)		
For	times	times
For	times	times
For	times	times
Number of instances of gallantry or distinguished conduct		times

~~There are no entries in the conduct sheets of the accused.~~

or,

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.A. 73~~ A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for N.A. days in civil custody, and 1 days in military custody, making a total of 1 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 43 ~~attestation paper is~~

6. The date of his ~~commission~~ attestation specified in his record of service is 29 Jul 40 ~~attestation paper~~.

7. The service which the accused is allowed to reckon towards discharge is 2 Years 8 Mos 15 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). ~~State any air force decoration or reward.~~ military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 day of May 43 Asst Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

5K-17

Spr. Glenn. Gov.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 52731 Spr GLENN, G.W. - 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

NOT

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for sixty (60) days

(Sgd) ..... 2 May 45 (Sgd) J.K. Mason
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.) Major
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) NIL
(1. AA 57A. Delete if not used.)

(Sgd) C.M. Connelly Brig
Date 25 May 45 Commanding D Group CRU
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.52731 Spr. Glenn, G.W.	1100 hrs 28 May 45	A Hellum Bowman Capt RAC

ENTERED PART II ORDS.
29 May 45 125

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED
No. 1 Cdn. Engineer Holding Unit. C.A.

RECORDED AT CMHQ BY AD 100 5K-97

FIELD GENERAL COURT-MARTIAL

CFAM6 (To take the place of AFA31) 40/P de G. Cases (6144) 4/38B

Convened by Order of Brig A.B. Connelly Comd "B" Gp, CRU dated May 45

RECD D 5 JUN 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (A), rank, and (B) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 52731	Spr	George William	GLENN	1 CERU

PROCEEDINGS REVIEWED
J. Fitzgerald Capt.
12 June 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the ETO in (country) England on (date) 2 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~Waiting Member, JAs, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (if any) attached thereto. (1) The Court is satisfied that it is properly convened and constituted (2), accused is (are) amenable to military law, and each charge discloses an offence. (3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. (1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as Interpreter? Ans~~
~~The Interpreter is sworn.~~ (1) ~~Do you object to ..... as shorthand writer? Ans~~
~~The shorthand writer is sworn.~~ (2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused. (1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Adjt if any~~, and Offrs under instr, ~~if any~~, are sworn. (1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller, ED, KC	HQ CRU
Member	Captain	G.M. Rocque	1 CGRU
Member	Lieutenant	H.E. Jewett	1 CGRU
~~Judge-Advocate~~			
Prosecutor	Lieut	~~Lewis~~ Moran	1 CERU
Defending Offr	Lieut	R.E. Briggs	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 1.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to PoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet. (1) The accused does (do) not object to any charge. (2) There is no amendment to be made to the Charge Sheet. (3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to them, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider this statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. *If "yes", see RP* 29(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character, or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ? Ans. .....
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 695. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. I only had to get the Officers address and I came back here
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. I've had my share of Army life
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 123(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 306, 330, 563-566, *Overseas RO* 3091, 2323, *MML p* 80, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3) (*b*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-52731 Spr George William GLENN, Royal Canadian Engineers, No 1 Canadain Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

Army Act Sec 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself from Guillemont Barracks, No 1 C.E.R.U. from 2230 hrs 27 Mar 45 until 2120 hrs 15 May 45.

(Total Time absent 48 days 22 hrs 50 mins)

(A.J. HENRY) COLONEL
Commanding Officer
No 1 Cdn Engr Rft Unit
Canadian Army (Overseas)

In the Field
19 May 45

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units

IN THE FIELD
21 MAY 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 52731	Spr		George William	GLENN	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 21 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Miller, ED, KC	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	1 CGRU
Lieutenant	to be detailed by CO	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Dat 21 May 45

Commanding "B" Gp, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (C.M.) PARA 557

I certify that I have this morning examined

No. B52731 ... Spr. GLENN G.W. .....

of ... #1 C.E.R.U. ..... and in my opinion he

is fit ~~unfit~~ C.C. to undergo Trial by Court Martial.

Station. Field .....

Date ... 24-5-45 .....

C. C. Lobbcast.
Medical Officer.

17

Gentleman of the Court

Spr Glenn enlisted on 25 March 1941 and arrived overseas on 12 June 1942. Went to France in July 44 and was wounded. He was evacuated to U.K. in Nov 44. After being in hospital and convalescent depot he returned to 1 C.E. R.U.

On return he was granted nine days leave. While on leave he found out that a married woman he has known for about two years was pregnant. After returning from leave he did considerable worrying. And thinking that he would not be able to get further leave, so that he might get ~~this~~ the affair straightened out, he went A.W.O.L. And as he returned to C.E. R.U. on his own volition and has only two minor offences of A.W.O.L. which only amounted to a total of 1 day 4 hrs and as he was was in such a troubled state of mind, I ask the court to be lenient.

J. E. Briggs Lt. R.C.E.

SUMMARY OF EVIDENCE

Summary of Evidence in the Case of B-52731 Spr George William GLENN, Royal Canadian Engineers, No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken under oath.

FIRST WITNESS
For the prosecution — Lt. R.C. QUITTENTON, RCE, No. 1 Cdn Engr Rft Unit, having been duly sworn states:-

I, Lt, R.C. QUITTENTON, RCE, No 1 Cdn Engr Rft Unit produce the following document persuant to Overseas R.O. 5352 which has been read over and shown to the accused, and which is attached here as Exhibit "A".

1. Record of the Declaration of a Court of Inquiry, assembled in the field on the 20th day of April 1945 for the purpose of investigating and recording the absence without leave from his duty, and deficiencies, regimental necessaries or clothing of B-52731 Spr GLENN, G.W. marked Exhibit "A".

R.C. Quittenton Lieut. RCE
(R.C. QUITTENTON) LT. RCE

The accused declines to question the witness.

SECOND WITNESS
For the prosecution — C-42838 Sgt O'NEIL,C. Royal Canadian Engineers, No 1 Cdn Engr Rft Unit, a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Exhibit "B".

Having regard to the exigencies of the service, attendance of this witness cannot in my opinion be readily procured.

W. Horan
(W. HORAN) LT. RCE
Officer Detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross examination.

My

SECOND WITNESS(CONT'D)
for the prosecution

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to do so, but, whatever you say, or any evidence you give will be taken down in writing and may be given in evidence"

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused, and that Rules of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

(W. HORAN) LT., R.C.E.
Officer detailed to take the Summary of Evidence.

In the field
17 May 45

A

No. 1. C.A.R.U.
17 MAY, 45.

Exhibit "B"

C42838 Sgt. O'Neil. C. R.C.E. No. 1. Cdn. Engr. Rft. Unit, having been duly sworn states:-

No. B 52731, Spr. GLENN, G.W., reported to the Guard Room at 2120 hrs. on the 15 MAY 45. He was placed under close Arrest. He had lost his pass. He was sober and properly dressed. He reported himself as (51) fifty-one days A.W.L.

C. O'Neil C42838 Sgt.
N.C.O. i/c GUARD ROOM

SUB FOR ARMY FORM B.296 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
B-52731...	..Spr...	..GLENN..G.W..	..No. 1 C.E.R.U.....

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For..An offence A.A. 15(1).... ...2..times.

For..An offence A.A. 40..... ...1. times.

For..... ..... times.

For..... ..... times.

Date of first entry in Field Conduct Sheet..25 Mar 43.

Date of last entry in Field Conduct Sheet..23 Jan 45.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~The accused at the present time is under sentence for~~ .....

~~beginning on the day of~~

4. The accused has been awaiting trial on the present charges for....NIL.....

days in civil custody; and for.....8.....days in military custody, i.e., NIL.....days in open arrest,.....8.....days in close arrest; of which...NIL.....days were spent in hospital.

Strike out if not applicable.

5. The present age of the accused is 23 3/12 yrs..

6. The date of his...attestation.....is 7 Jul 41
calling up for military service

7. The service which the accused is allowed to reckon is ..3 10/12 years.....

8. The accused is in possession of..G.V.S.M. & Clasp

State the military decorations (if any held by accused.

9. (~~[illegible]~~).

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION... If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

Ex B

SUB FOR ARMY FORM B.296 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
B-52731	Spr	GLENN, G.W.	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable.

State the military decorations (if any held by accused.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For An offence A.A. 15(1) ... 2 times.

For An offence A.A. 40 ... 1 times.

For ~~[illegible]~~ ... times.

For ... times.

Date of first entry in Field Conduct Sheet 25 Mar 43.

Date of last entry in Field Conduct Sheet 23 Jan 45.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 8 days in military custody, i.e., NIL days in open arrest, 8 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 23 3/12 yrs.

6. The date of his attestation is 7 Jul 41 calling up for military service

7. The service which the accused is allowed to reckon is 3 10/12 years.

8. The accused is in possession of G.V.S.M. & Clasp

9. ~~[illegible]~~

~~[illegible]~~

INSTRUCTION.- If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

Ex B

No. B52731 Name GLENN, G.W. Sqn, Battery, or Company — Corps R.C.E. — Date of enlistment 7 Jul 41 — QC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet 1 Aug 42 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 3 — Signature OC Company, etc D.N. Allen, Major — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of arrest pending trial	By whom awarded	Remarks
Sheet No 1 destroyed on completion of six months service 7 Jan 42 (No entries)									
Sheet No 2 destroyed on completion of additional two years service 7 Jan 44. (Last entry 1 Aug 42)									
Field	25 Mar 43	L/Cpl.		A.A. 15(1) AWL from 0600 hrs 24 Mar 43 to 1540 hrs 24 Mar 43. (Absent 9 hrs 40 mins).	Cpl Goetz.	Reprimand	25 Mar 43	Major G.L. MacDonald	Auto Forf. 1 days pay.
Field	22 May 43	L/Cpl.		AA 40 Driving a WD M/C at an excessive rate of speed.	Doc.	Reprimand	25 May 43	Major, G.L. MacDonald	
4 CCD	21 Jan 45	Spr		AA Sec 15(1) AWL from 2359 hrs 21 Jan to 1900 hrs 22 Jan 45(19 hrs 1 min)		Forf 4 days pay	23 Jan 45		Forf 1 days pay FR&I 149 (1)(a) Forf 3 dys ??? Pay FR&I 149(2) Tot Forf 4 D.P.

No. B52731 Name GLENN, G.W. Sqn, Battery, or Company Corps R.C.E. Date of enlistment 7 Jul 41 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/180 (3418)

Date of last entry in Company Conduct Sheet 1 Aug 42 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 3 Signature OC Company, etc D.N. Allen, Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No 1 destroyed on completion of six months service 7 Jan 42 (No entries) Sheet No 2 destroyed on completion of additional two years service 7 Jan 44. (Last entry 1 Aug 42)									
Field	25 Mar 43	L/Cpl.		A.A. 15(1) AWL from 0600 hrs 24 Mar 43 to 1540 hrs 24 Mar 43. (Absent 9 hrs 40 mins).	Cpl Goetz.	Reprimand	25 Mar 43	Major G.L. MacDonald	Auto Forf. 1 days pay.
Field	22 May 43	L/Cpl.		AA 40 Driving a WD M/C at an excessive rate of speed.	Doc.	Reprimand	25 May 43	Major, G.L. MacDonald	
4 CCD	21 Jan 45	Spr		AA Sec 15(1) AWL from 2359 hrs 21 Jan to 1900 hrs 22 Jan 45(19 hrs 1 min)		Forf 4 days pay	23 Jan 45	???	Forf 1 days pay FR&I 149 (1)(a) Forf 3 dys Pay FR&I 149(2) Tot Forf 4 D.P.

Cpl Goetz

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY of original document in my custody..... (N. SADLIER-BROWN) Capt. RCE Admn Officer No 1 Cdn Engr Rft Unit Canadian Army (Overseas)					

LIST OF WITNESSES

List of witnesses in the case of B-52731 Spr George William GLENN, Royal Canadian Engineers, No 1 Cdn Engr Rft Unit, a soldier of the Canadian Army (Overseas).

FOR THE PROSECUTION

Lt. R.C. QUITTENTON,	RCE	No. 1 CERU
C-42838 Sgt O'NEIL, C.	RCE	No. 1 CERU

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

FOR THE PROSECUTION

(1) Record of the Declaration of a Court of Inquiry marked exhibit "A".

(2) Statement of C-42838 Sgt O'NEIL, C. NCO i/c Guard Room on 15 May 45. Marked Exhibit "B".

FOR THE DEFENCE

NIL

RECEIPT OF DOCUMENTS

I, B-52731 Spr George William GLENN hereby acknowledge receipt of one copy of the Charge Sheet and Summary of Evidence, dated this 19 day of May 1945

B-52731 Spr GLENN, G.W.

APPLICATION FOR DEFENDING OFFICER

I desire that an officer be assigned to represent me in the event of a Court Martial.

B-52731 Spr GLENN, G.W.

AA-61

PTE GLENNEY W.E.

O. H. M. S.

M. F. B. 270

AA-61

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 9th day of February, 19 43

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer];

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named, appointed or detailed hereunder

*[I am unable to appoint:—

*[(1. Three Officers to form the Court.)

*[(2. A Field Officer as President.)

*[(3. Three Officers having more than one year's service.)]

for the following reasons, namely:—]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

Proceedings Reviewed
Reviewing Officer
2 Apr 43

President.

Rank.	Name.	Regiment.
Major	H.W. McManus	Queens York Rangers CMHC

Members.

Rank.	Name.	Regiment.
Captain	C.P. Lailey,	R.C.A., C.M.H.Q.
Lieut.	R.E. Willan,	Q.O.R., C.M.H.Q.
Waiting Member Captain	P.H. Rowland	R.C.A.P.C., C.M.H.Q.

Signed [illegible] Major General
Commanding Senior Officer
Canadian Military Headquarters
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.82220 Pte (L/Cpl) WILLIAM HOWARD GLENNEY No.6 Provost Company, Canadian Provost Corps, Canadian Army Overseas.	First charge See 20(2) Army Act (See charge sheet attached) Second charge See 11 Army Act (See charge sheet attached)	NOT Guilty NOT Guilty	Guilty NOT Guilty	To Be Severely Reprimanded A.-G., F.R.C. Nfld 16 Mar 43 Finding and Sentence Confirmed P. J. Montague (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters 24 MAR 1943

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (Page 5 Q5.)
Answer (to be recorded on separate sheet if necessary):—

(Signed) P Montague (P. J. Montague) Major-General
Senior Officer
Commanding Canadian Military Headquarters

(Signed) [signature] Major
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the — 16 — day of March, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~3. The interpreter~~ (2)
*~~4. The officer's under instruction~~ (2)
were duly sworn.

* Omit if not applicable.

Signed this — 16 — day of March 1943.

[signature] Major
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1939.

C. Certificate in case of death sentences.

~~I certify that the terms of Art. 71 of 1918 have been complied with.~~

Signed this ~~day of~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or has already having such authority, recommends suspension.

(I direct that the sentence awarded in the margin be not carried into execution, or delayed, and that the prisoner be remanded in custody until further orders.)

Signed this 24th day of March 1943

P. J. Montague
Confirming Officer.

(P. J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
24 MAR 1943

Promulgated and extracts taken in the case of D 82220 Pte. Glenney W.E.

(a) (Dated) 25 March 43 (Signed) [signature] Capt.
OC No. 6 COMPANY.
CANADIAN PROVOST CORPS.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) Where several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. D 82220 Pte (L/Cpl) William Edward Glenney, No.6 Provost Company, Canadian Provost Corps, a soldier of the Canadian Army Overseas, when on active service, is charged with:-

First Charge
Sec 20(2)
Army Act

WITHOUT REASONABLE EXCUSE ALLOWING TO ESCAPE A PERSON COMMITTED TO HIS CHARGE

in that he

at London on 27 January 1943 when escorting one No. A11966 Pte Tyrrell, A.E., of the Perth Regt., 5th.Cdn. Armoured Div. to H.Q. No.6 Cdn. Provost Company, a person committed to his charge, allowed the said Pte Tyrrell to escape at the entrance to the R.T.O.'s office Paddington Station, without taking reasonable means to prevent it.

Second Charge
Sec 11
Army Act

NEGLECTING TO OBEY STANDING ORDERS

in that he

at London on 27 January 1943 entered a service canteen while employed on escort duty, contrary to No.6 Company, Canadian Provost Corps Standing Orders for Escorts dated 16 Jan.43 directing said personnel to abstain from said practice.

J.H. Wilcox Capt
Commanding No.6 Company
Canadian Provost Corps
Canadian Army Overseas

Pres. F.G.C.M.
16 Feb 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

P Montague

(F.J.Montague) Maj.-Gen.
Senior Officer
Canadian Military Headquarters
Convening Officer

London .....
9 February, 1943.

37

#6. Coy. { Squadron / Battery / Company / Detachment } Cdn. Provost Corps. Unit or Battalion

15-Feb-43 19....

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
D-82220	Sgt. Glenney W.E.	31	R.C.	Pris.	M.		

I Have examined this man to-day and is fit to stand trial by court martial.

Glen F. Hamilton
G.F. Hamilton
M.O.-C.M.H.Q.

London, England. 15 Feb 43.

Pres F.G.C.M.
15 Feb 43

Medical Officer

Orderly N.C.O.

M. F. B. 292
(Mo M-3-11 (1938-5-09))
H.Q. 1772-39-248

(OVER)

#6 Company | Squadron Battery Company Detachment | Canadian Provost Corps. Unit or Battalion 35

MORNING SICK REPORT ....16 March.....1943.

Regt'l No.		RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
D82220	L/C	Glenney, W.E.	31	R.C.	M	M		
		This is to certify the a/m is Medically fit to undergo F.G.C.M.						

[signature]
Pres. F.G.C.M.
16 Mar 43
G F Hamilton Capt.

Medical Officer [signature] Orderly N.C.O.

M. F. B. 292
(500 M-11 (9088-9-39)
H.Q. 1772-39-248

(OVER)

Proceedings of a FIELD GENERAL COURT MARTIAL held at Canadian Military Headquarters, London on MONDAY the 15TH. day of FEBRUARY 1943 in the case of No.D.62220 L/CPL.(Pte) GLENNEY W.E. No.6.Company, Canadian Provost Corps.

President:- Major H.W.McManus, (QYR) C.M.H.Q.

Member:- Capt. C.P.Lailey, (RCA) C.M.H.Q.

Member:- Lieut. B.E.Willan, (QOR) C.M.H.Q.

Waiting Member:- Capt.F.H.Rowland, (RCAPC) C.M.H.Q.

Prosecuting Officer:- Lieut.F.J.Smith, No.6.Coy. CPC.

Defending Officer:- Capt. W.C.Elder, C.M.H.Q.

Court Stenographer:- Sergt. J.F.Warren, MAC Det. CMHQ.

The order convening the Court, the charge sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves that Lieut.B.E.Willan is not available to serve owing to illness.

Capt. F.H.Rowland, Waiting Member takes his place as a member of the Court.

The Court satisfy themselves as provided by R.P.22 & 23.

The accused is brought before the Court.

The trial commences at 0945 hours.

The order convening the Court, (Marked "A") is read by the President. The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q.1. Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over?

A.1. No Sir.

Q.2. Do you object to Sergt. Warren acting as shorthand writer?

A.2. No Sir.

The President, members and shorthand writer are duly sworn.

The Charge Sheet is signed by the President, marked "B" and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge sheet.

Rec'd FGCM 16 Mar 43

Q.3. Are you guilty or not guilty of the FIRST CHARGE against you which you have heard read?

A.3. NOT GUILTY SIR.

Q.4. Are you guilty or not guilty of the SECOND CHARGE against you which you have heard read?

A.4. NOT GUILTY SIR.

Pros:- Mr. President I would like to request an adjournment on the grounds that the principle witness for the Prosecution is not available, he escaped custody and and went A.W.L. He was with the Perth Regiment and they have lost all trace of him up to the present time and as he is the principle witness it is impossible to proceed, until he is apprehended.

Def:- Mr. President I have no objection to the adjournment being granted but I wish to point out that the accused has been under close arrest since the 27th. of January. This witness may not be apprehended for some time and I think the accused should be released under open arrest

Pres:- The Court has no jurisdiction over that but I think the Prosecution should put this case before the Commanding Officer and I think that recommendation should be passed on to the proper authority.

Pres:- The Court will adjourn then until a day to be arranged between the Prosecution and the Defence.

Court adjourned at 1045 hours, 15th. day of February 1943.

COURT REASSEMBLED AT 1000 HOURS TUESDAY 16TH. DAY OF MARCH 1943 WITH THE SAME OFFICERS AS SHOWN ON PAGE 3 OF THE PROCEEDINGS.

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The accused is again brought before the Court.

Medical certificate presented to the Court.

Q.5. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A.5. No Sir.

Pros: Mr. President I do not think it is necessary to make an opening address in this case and I will therefore proceed to call the witnesses:-

1st. Witness Prosecution. No.C.11719 Cpl. Mallory J.W. No.6. Company, Canadian Provost Corps having been duly sworn is examined by the Prosecution:-

Q.6. Will you give the Court your Number, rank, name and Unit?

A.6. No.C.11719 Corporal Mallory J.W. No.6. Company Canadian Provost Corps.

Q.7. Do you recall the 27th. of January 1943?

A.7. Yes Sir.

Q.8. What were your duties on that day?

A.8. I was inchange of Escorts of No.6. Company.

Q.9. Then will you tell the Court what you know about this case?

A.9. At 9.30 a.m. on the 27th. of January I instructed L/Cpl. Glenney to proceed to Bristol Civil Police Station and take into custody Private Tyrrel A.E. and escort him to Henreitta Street.

Q.10. Are you certainof the time?
A.10. I am not definitely certain Sir.

Witness cross-examined by the Defence.

Q.11. Corporal you say that you were in charge of the Detention Room?
A.11. No Sir I was in charge of Escorts, there is a difference.
Q.12. What is the difference?
A.12. The Detention is a sort of jail Sir.
Q.13. Is it part of your duties to instruct Escorts as to the procedure to adopt in escorting prisoners?
A.13. Yes Sir,
Q.14. Did you on this occasion?
A.14. Yes Sir, it is just a routine order Sir,
Q.15. So that you do not recall what particular instructions you gave him?
A.15. No Sir, they take handcuffs to use if necessary.
Q.16. Do you know how they are dressed? do they carry a pistol?
A.16. Yes Sir.
Q.17. A 38?
A.17. Yes Sir.
Q.18. Do they carry ammunition?
A.18. No Sir.
Q.19. How was Glenney dressed on this occasion?
A.19. Battle dress.
Q.20. Would he be wearing a greatcoat?
A.20. Yes Sir.
Q.21. What is the rule, when a prisoner is brought back to your company, where is the prisoner fed? supposing he is brought back late for instance, would he be fed?
A.21. That all depends on when they arrived, some arrive late.
Q.22. When do you have your final meal?
A.22. Between eleven and twelve.
Q.23. At night?
A.23. Yes Sir.
Q.24. When is your Supper time?
A.24. Five o'clock.
Q.25. Supposing a prisoner arrived back at Seven o'clock, what do you do?
A.25. We have a night cook Sir.
Q.26. Did you have a night cook at that time?
A.26. No Sir.
Q.27. Supposing he arrived back after six o'clock would he have been fed?
A.27. No Sir.
Q.28. Then I suppose he would feed at some canteen?
A.28. Yes Sir it is the Escorts duty to have the Prisoner fed.
Q.29. And in fact you have given instructions to that effect?
A.29. Yes Sir. (In the opinion of the Court it is not necessary to comply with R.P.83(8) the witness withdraws)

2nd. Witness Prosecution.

No.M.17179 Sergeant Thomson L. No.6.Company, Canadian Provost Corps having been duly sworn is examined by the Prosecution:-

Q.30. Will you give your number rank name and Unit to the Court?
A.30. No.M.17179 Sergeant Thomson L. No.6. COmpany, Canadian Provost Corps.
Q.31. Do you remember the 27th. of January 1943?
A.31. Yes Sir.

Q.32. Will you tell the Court what you know about this case?
A.32. On the 27th. of January 1943 at 1900 hours I was in charge of the Detention Room.
Q.33. What do you know about this case?
A.33. All I know about it Sir is that I was in charge of the Detention Room when Lance Corporal Glenney phoned in and stated that he had lost his prisoner at 1900 hours and I informed him to come in.
Q.34. Did he come in?
A.34. Yes Sir.

Pres.

Q.35. You ordered him to report back?
A.35. Yes Sir.
Q.36. And he reported back to you?
A.36. Yes Sir, and when he came in I paraded him to the C.O.
Q.37. Were those the exact words he used to you?
A.37. Yes Sir, he just stated that he and the prisoner had just got off the train and he had lost the prisoner.

Witness cross-examined by the Defence.

Q.38. You say he phoned at 1900 hours?
A.38. Yes Sir.
Q.39. Did he say what time the prisoner escaped?
A.39. No Sir.
Q.40. What time did you form in your opinion did the prisoner escape?
A.40. Well I would say it was just about that time.
Q.41. And he was naturally upset about it?
A.41. Yes Sir he was.
Q.42. And I understand that he asked permission to search for the prisoner?
A.42. Yes Sir.
Q.43. And he tried in every way to locate that prisoner?
A.43. Yes Sir, in fact he went out later that evening to look for him.
Q.44. You say that the prisoner escaped at 1900 hours?
A.44. Yes Sir.
Q.45. Would that not have been too late to get supper?
A.45. I would not know Sir.
Q.46. Was it not the custom for the escort to feed the prisoner?
A.46. Yes Sir.
Q.47. You have Standing Orders at No.6 Company, I have a copy here and I see referring to paragraph 7, "If tea or other refreshments are required on the journey these will be provided through arrangements made through the R.T.C. on repayment, but on no account will soldiers under arrest be allowed in the Y.M.C.A. or other Canteens in the Station, or in Service Clubs such as the Beaver Club, Eagle Club, etc or in Y.M.C.A. or other Canteens, a public restaurant or cafe outside a Railway Station. When a long ~~journey~~ train journey is necessary a haversack lunch will be provided" Now excepting all those places how would an escort be able to feed his prisoner?
A.47. When were those orders put out Sir?
Q.48. They are dated the 18th. of January 1943 and the prisoner is charged on the 27th. of January, I think I am right in saying that it was normal for an escort to feed his prisoner in a restaurant if they landed after normal hours?
A.48. Yes Sir.
Q.49. In fact you have given those orders?
A.49. Well Sir I have if the Cook house was closed.

In the opinion of the Court it is not necessary to comply with R.P. 83(B) and the Witness withdraws.

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3rd. Witness Prosecution. No.A.3436 Sergt. Spurgeon R.L. No.6. Company, Canadian Provost Corps having been duly sworn is examined by the Prosecution:-

Q.50. Will you give your number, rank name and unit to the Court?
A.50. No.A.3436 Sergeant Spurgeon R.L. No.6. Company, Canadain Provost Corps.
Q.51. Do you recall the 27th. of January 1943?
A.51. Yes Sir.
Q.52. What were your duties?
A.52. Acting Sergeant Major, No.6. Company.
Q.53. Will you examine this document, do you recognise it?
A.53. Yes Sir.
Q.54. With reference to paragraph 7 in particular will you read the first line. (Para 7 read by the witness).
A.54. Sergeant, are you responsible for the posting of this order?
Q.55. Yes Sir, I am responsible to see that they are and this was posted.
A.55. It was?
Q.56. To your knowledge was a copy of these orders posted?
A.56. They were sent from Headquarters to Henreitta Street.
Q.57. Have you ever seen this order posted there?
A.57. Yes Sir, they were the same orders but a different date.
Q.58. Are there occasions when these orders may be deviated from?
A.58. Not that I know of Sir.
Q.59. Are there any other circumstances whereby they can get food anywhere else?

Def: You cannot do that Sir, the document speaks for itself.

Pros: Q.60. Of your knowledge are Escorts allowed to go into any other Restaurant or Canteen to provide food?
A.60. No Sir.

Def: Mr. President, there is no evidence Sir that this order was posted and the accused is charged on this order.

Pros: Q.61. Did you see these orders posted at Henreitta Street?
A.61. No Sir.

Def: This order has not been proved as required by evidence Sir.

Pros: I would like to recall the 1st. Witness Sir, to establish this order.

1st. Witness Prosecution RECALLED. No.C.11719 Cpl. Malloy J.W. recalled, and examined by the Prosecution:-

Q.62. Corporal you are still under oath?
A.62. Yes Sir.
Q.63. You said that you were duty N.C.O. on the 27th. of January 1943?
A.63. Yes Sir.
Q.64. Do you recognise this document? (Standing Orders)
A.64. Yes Sir.
Q.65. Have you any knowledge that this order was posted on the night in question?
A.65. No Sir, I had just come back from leave and I do not know whether it was on the Board.

Pros: Q.66. It is dated the 18th. of January 1943 and signed by Capt. Cowling?
A.66. Yes Sir.
Q.67. Do you know whether or not on the 27th. of January this document was posted at Henreitta Street?
A,67. No Sir I do not know.

(8)

Pres: Will you tell us Capt. Elder what your submission is as to why this document cannot be admitted as evidence?

Def: Yes Sir, 1st. that although the document purports to be a true copy there is no evidence of, "a" Comparison and (b) that he is the officer having custody of the documents under A.A.163.

2nd. my grounds for objection is, there is no evidence of posting as required by K.R.Can, in such a manner as to make the accused acquainted with that order my contention being that if it was not posted as required it was not an order having legal effect in this case.

Pres: The Court is closed to consider the admissibility of the document.

The Court is re-opened and the accused is again brought before the Court.

Pres: The ruling of the Court is that the document is not admissible.

3rd. Witness Prosecution. Continued. No.A.3436 Sergt. Spurgeon R.L. No.6. Company, is cross-examined by the Defence:-

Q.68. You were the Sergeant Major of the Company at this time?
A.68. Yes Sir.
Q.69. Did the accused report to you or when was it that you saw him?
A.69. No Sir, because the Company is split, I am at St. Johns Wood.
Q.70. When did you see him?
A.70. Two days after.
Q.71. Is it the custom for Escorts to carry pistols but no Ammunition?
A.71. Yes Sir.
Q.72. And it is a rule that Escorts are to be furnished with handcuffs?
A.72. Yes Sir.
Q.73. And it is left to the discretion of the Escort as to when and where he uses them?
A.73. There is nothing laid Down Sir.
Q.74. But it is a general instruction that handcuffs are not to be used in public places?
A.74. Yes Sir, when it is not thought that the prisoner will escape.
Q.75. But it is not usual in public places?
A.75. No Sir.
Q.76. That is where people are generally congregated?
A.76. Yes Sir.
Q.77. And also that prisoners must not be brought into ridicule and contempt in public places?
A.77. Yes Sir.
Q.78. Do you know Paddington Station?
A.78. I am not well acquainted with it Sir.
Q.79. It is a Metropolitan Station?
A.79. Yes Sir.
Q.80. Between six and seven at night would there normally be a number of people around the station?
A.80. I would not be able to answer that question it would depend upon the circumstances.
Q.81. Well would you be justified in not having him handcuffed at that time and place?
A.81. If I thought he would not try and escape, yes.
Q.82. So that it becomes a matter of discretion?
A.82. Yes Sir.
Q.83. And that applies whether it is in a public or private place?
A.83. Yes Sir.
Q.84. How long have you been in the Provost?
A.84. Since November 1941.
Q.85. And you have heard of prisoners escaping before?
A.85. Yes Sir.
Q.86. And in no case if handcuffs were used the prisoner escaped?
A.86. No Sir.

Q.87. And if handcuffs were used escape would be impossible?
A.87. Yes Sir.
Q.88. Have you any other means of restraining the conduct of prisoners?
A.88. No Sir.
Q.89. So that we come to this hypothetical situation if we have no reason to believe that this man is going to escape we remove the handcuffs and the man makes a dash for it?
A.89. Yes Sir.
Q.90. What could the Escort do?
A.90. Chase after the prisoner and failing that report it.
Q.91. And chasing after the prisoner depends on physical ability, whether he was fast enough?
A.91. No Sir he could set up an alarm, there are usually loud speakers at the Station which might be used in that case.
Q.92. But the mere fact that the man was being chased would set up an alarm?
A.92. Yes Sir.
Q.93. Now put yourself in the position of a Sergeant, long in the Service, trained in the work, you have a prisoner, you remove the handcuffs and he makes a dash for it now I am asking you as an expert what would you do?
A.93. I would set up a hue and cry, but if I had removed the handcuffs I would have my arm linked in his. I do not think if I had the handcuffs off and the prisoner close to me there would be much possibility of him dashing away.
Q.94. But supposing he knocked you off your balance? would that not give him a start?
A.94. It might.
Q.95. I am suggesting that you might be taken by surprise?
A.95. Yes Sir.

Pres: Might I ask the object of this evidence?
Def: My answer to that Sir is that it will be disclosed in the Defence.

In the opinion of the Court it is not necessary to comply with R.P. 83(B).

The witness withdraws.

4th. Witness Prosecution. No.A.11966 Pte. Tyrrell, A.E. Perth Regiment, 5th. Canadian Armoured Division having been duly sworn is examined by the Prosecution:-

Q.96. Will you tell the Court your number rank name and Unit?
A.96. No.A.11966 Pte. Tyrrell A.E. Perth Regiment, 5th. Canadian Armoured Division.
Q.97. Do you recall the 27th. of January 1943?
A.97. I know what happened.
Q.98. Will you tell the Court what happened on that day?
A.98. From when do you mean Sir?
Q.99. Between six thirty and seven in the evening after you went to the Canteen at Paddington, were you handcuffed to your Escort?
A.99. Yes Sir until we went into the Canteen and they were taken off so that we could eat and after we finished eating they were put back on again.
Q.100. How long were you in the Canteen?
A.100. I cannot say exactly anywhere from ten to fifteen minutes I am not positive.
Q.101. Then the handcuffs were taken off again outside the R.T.O.'s office?
A.101. Yes Sir.
Q.102. Private Tyrrell, when the handcuffs were taken off again outside the R.T.O.'s Office, why escape then, why did you not make the escape at the Canteen?
A.102. I had no idea of escaping at that time, I just got the idea and went.

Witness cross-examined by the Defence.

Q.103. Pte. Tyrrell you had been apprehended by the Civilian police in Bristol?
A.103. Yes Sir.
Q.104. Did the civilian police have any charge?
A.104. Yes Sir.
Q.105. What was it?
A.105. It was supposed to be Shop-breaking.
Q.106. Did they proceed with the charge?
A.106. They took me up Sir but remanded me to military custody.
Q.107. Did they say that they did not have sufficient evidence?
A.107. They just said remanded for nine days and they said the Canadian Authorities would handle it.
Q.108. And that was the only charge?
A.108. Yes Sir, so far as they were concerned.
Q.109. You knew of course that you were A.W.L. and would be charged with that?
A.109. Yes Sir.
Q.110. And you say that you had no idea of escaping until you were at the R.T.O.'s office?
A.110. No Sir I had no idea until then.
Q.111. You had nothing against the escort?
A.111. No Sir.
Q.112. You were t reated well by the escort?
A.112. Yes Sir.
Q.113. And you gave him no trouble?
A.113. No Sir.
Q.114. And he removed the handcuffs to eat?
A.114. Yes Sir.
Q.115. And that was near the R.T,O.'s office?
A.115. Yes Sir.
Q.116. And as a matter of fact the R.T.O.'s office is quite near the Restaurant?
A.116. Yes Sir.
Q.117. And when he removed the handcuffs what did you do?
A.117. Well it all happened so fast Sir, I gave him a push and just went.
Q.118. Just demonstrate how you did it?
A.118. (Witness demonstrates)
Q.119. You gave him a push?
A.119. Yes Sir.
Q.120. Would your action have momentary restraint on your Escort?
A.120. Yes Sir, it put him in the position that I was able to get away.
Q.121. Did he have a pistol, and belt?
A.121. I am not positive Sir.
Q.122. Did he have army boots on?
A.122. I am not sure it sounded like army boots Sir.
Q.123. And you were wearing civilian shoes?
A.123. Yes Sir.
Q.124. Light shoes?
A.124. Yes Sir.
Q.125. How much do you weigh?
A.125. About 168 lbs.
Q.126. Can you run fast?
A.126. Yes Sir.
Q.127. Did you know that he was following you?
A.127. Yes Sir.
Q.128. Where did you go?
A.128. Well I do not know London I did not know where I was going.
Q.129. And when you were running did you dodge people on the Station?
A.129. Well there were a few people around Sir, I did do a bit of dodging.
Q.130. And you got to the Street?
A.130. Yes Sir.
Q.131. And you kept on running?
A.131. Yes Sir.
Q.132. I am informed that you were apprehended and later escaped from the Unit Guard Room?
A.132. Yes Sir.

Q.133. So that on this occasion you had an idea to escape?
A.133. Yes Sir.
Q.134. And on this particular occasion it was an irresistible impulse?
A.134. Yes Sir.
Q.135. Was it easy for this man to catch you?
A.135. No Sir.
Q.136. You gave him the element of surprise?
A.136. Yes Sir.
Q.137. And ran fast?
A.137. Yes Sir.
Q.138. So that he had no chance of catching you?
A.138. No Sir.

Witness questioned by the Court.

Q.139. Was it a moonlight night?
A.139. It was rather dark Sir I could not see very well.
Q.140. Did you have a torch?
A.140. No Sir.
Q.141. Did you continue running down the Street?
A.141. Yes Sir, until I got to a corner I turned the corner and then walked, there was a road coming into the Main Street, there were a few people around and I just jogged along the street.
Q.142. Did you still think that you were being followed?
A.142. I cannot swear to that.
Q.143. You thought you were being persued at the Station?
A.143. Yes Sir.
Q.144. Was it light enough for Glenney to have recognised you at thirty or forty feet?
A.144. I did not take any notice of that at the time Sir I thought only of getting away.
Q.145. Did you knock the Escort over?
A.145. I do not think I did Sir, I know he must have fumbled a bit, but he did not go down.
Q.146. How far did you have to go to get on the Street?
A.146. A straight run and around one corner, I imagine it would be about thirty yards.
Q.147. Did Glenney yell out to the people around?
A.147. I heard him yell for me to stop Sir.
Q.148. Were there any others calling at the Station?
A.148. I am not sure Sir.
Q.149. Do you know or not whether the accused in this case persued you?
A.149. I am just about positive he did, it is not likely anyone else would be running after me and I heard the boots running Sir they sounded like army boots Sir.
Q.150. You presume he did?
A.150. Yes Sir.
Q.151. Did you hear the accused call to you to stop?
A.151. I think it was him Sir he would be the only person to yell Sir.

In the opinion of the Court it is not necessary for to comply with R.P.83(3).

The Witness withdraws.

Pros: That is the case for the prosecution Sir.

Defence:- Mr. President, I am submitting Sir that there is no case at all. On the 2nd. Charge there is no proof whatever. There is a Standing Order and I submit nothing alleged by that order has been proved. On the 1st. Charge if there had been a Judge Advocate in this case I would have challenged the particulars of the charge, I will just read it, (1st. Charge read by the Defence), now Sir I ask what means has a man got for preventing an escape? the evidence is, the use of handcuffs only and the evidence is that it is not the custom to use handcuffs in public places. The handcuffs were taken off at the proper time and place and the evidence of Tyrrell is that he pushed the escort put him off balance and ran and I ask this Court what could he have done, what could you or I have done, just raised a hue and cry, it is in evidence that he did shout, he did not do anything that was not orthodox and he did everything in his power to stop the man. You have the evidence, that you can reasonably accept, the evidence of Tyrrell when he says that he took the accused by surprise and gave him a jolt, and I ask what could you or I have done and I am submitting there is no proof. I suggest there is nothing else he could do. The Sergeant who is an expert could think of nothing else to do except to have him handcuffed or walk with the prisoner arm in arm. I move that both charges be dismissed. Now on the 2nd. charge, he is charged with failing to obey Standing Orders. The charge complains of having disobeyed and on this there is no evidence before this Court of these orders having been posted and therefore there is no legal evidence on which a finding can be made against the accused. There is one step only that can be taken by the Court and that is to dismiss the charge. On the 1st. Charge I draw particular attention to the salient phrase, "Without reasonable excuse allowing to escape a person committed to his charge" and "Without taking reasonable means to prevent it" and I submit that no evidence has been adduced by the Prosecution to indicate to the Court, how, having regard to the evidence, the escape could have been prevented and I am asking the Court in all seriousness to dismiss this charge in fact both charges, honestly contending that they have not in either case been proved.

The Prosecution does not reply to the above submission by the Defence.

The Court is closed for consideration of the submission by the Defence.

The Court is re-opened and the accused is again brought before the Court.

Pres:- WITH RESPECT TO THE 2ND. CHARGE THE COURT ACCEPTS THE MOTION OF THE DEFENCE AND THE ACCUSED IS THEREFORE FOUND NOT GUILTY OF THE 2ND CHARGE.
THE COURT DOES NOT ACCEPT THE MOTION OF THE DEFENCE ON THE 1ST. CHARGE AND WE WILL PROCEED ON THAT CHARGE.

D E F E N C E.

Pres:- Q.152 Lance Corporal Glenney, under R.P. 40 it is my duty to inform you you that you do not have to give evidence under oath, if you do give evidence under oath you are liable to be questioned by the Court and cross-examined by the Prosecution, if you do not give evidence under oath you may just make a statement, if you merely make a statement you cannot be questioned by the Court or cross-examined by the Prosecution. If you merely make a statement it will not carry as much weight as if you give evidence under oath, do you understand that?

A.152. Yes Sir.
Q.153. Do you apply to give evidence yourself as a witness?
A.153. Yes Sir.
Q.154. Do you intend to call any other witness in your defence?
A.154. Yes Sir.
Q.155. Is he a witness as to character only?
A.155. No Sir.

1st.Witness Defence. No.D.82220 L/Cpl. (Pte) Glenney, W.E. No.6. Company, Canadian Provost Company, having been duly sworn is examined by the Defence:-

Q.156. You are No.D.82220 Lance Corporal Glenney W.E.
A.156. Yes Sir.
Q.157. It has been given in evidence that you are a member of No.6. Company Canadian Provost Corps?
A.157. Yes Sir.
Q.158. Stationed in London?
A.158. Yes Sir.
Q.159. When did you enter the Army?
A.159. May 27th. 1940.
Q.160. Where?
A.160. The Black Watch, Montreal.
Q.161. When did you arrive here?
A.161. September 5th. 1940.
Q.162. When did you join the Provost?
A.162. Sometime in the latter part of September 1942.
Q.163. And where were you Stationed then?
A.163. I was at the Depot.
Q.164. Where was that?
A.164. At Cove and then to Aldershot.
Q.165. How long were you there?
A.165. Eight weeks.
Q.166. Receiving instruction on Provost work?
A.166. Yes Sir.
Q.167. And what happened then?
A.167. I was sent to London.
Q.168. And you have been employed as General Duty man?
A.168. Yes Sir.
Q.169. Have you done escort duty?
A.169. Yes Sir.
Q.170. How many times apart from this one?
A.170. In the neighbourhood of 100.
Q.171. How many have escaped?
A.171. None.
Q.172. But the prisoner escaped on this occasion?
A.172. Yes Sir.
Q.173. What are your instructions as to the use of handcuffs?
A.173. You use them only on instructions from the N.C.O. or an Officer and if not instructed you use them at your own discretion.
Q.174. And that prevailed on this occasion?
A.174. Yes Sir.
Q.175. Did you receive any instructions on this occasion to use handcuffs?
A.175. No Sir.
Q.176. Did you make any enquiries of the Bristol police?
A.176. Yes Sir.
Q.177. And what did they tell you?
A.177. They told me the charge there had been dismissed and the charges had been forwarded to No.6. Company.

Q.178. Was there any indication as to what type of prisoner he was?
A.178. No Sir.
Q.179. Tyrrell says that you had him handcuffed?
A.179. He was only handcuffed at Paddington Station because of the Black out.
Q.180. So that the only time was at Paddington from the Canteen to the Station?
A.180. Yes Sir.
Q.181. So that you left the train and went over to the Restaurant with the prisoner handcuffed?
A.181. Yes Sir.
Q.182. And you had a meal?
A.182. Yes Sir.
Q.183. Was he handcuffed then?
A.183. No Sir.
Q.184. Did you put them back again?
A.184. Yes Sir to go back from the Canteen to the Station.
Q.185. Was it dark?
A.185. Yes Sir.
Q.186. What time was it?
A.186. Six thirty and we arrived back at the Station at Ten minutes to seven.
Q.187. What time was Black-out?
A.187. About Five thirty.
Q.188. So that it would be about one and a half hours after Black-out?
A.188. Yes Sir.
Q.189. What did you do then?
A.189. Well I did not want to go to the R.T.O with the prisoner handcuffed because there are WAAF.s there.
Q.190. What took you to the R.T.O.?
A.190. We always have to go there with prisoners and report.
Q.191. And you made your report?
A.191. Yes Sir I saw the Sergeant there, I was rather nervous and I asked him to phone.
Q.192. Where did you remove the handcuffs?
A.192. In the vestibule, the office is upstairs.
Q.193. Up to the time that you removed the handcuffs had this prisoner shown any desire to escape?
A.193. No Sir.
Q.194. Had he given you any trouble?
A.194. No Sir.
Q.195. What did you do when you removed the handcuffs?
A.195. I turned a half turn to put them in my pocket like this, (indicating).
Q.196. You turned half right to put them in your pocket?
A.196. Yes Sir.
Q.197. And then what happened?
A.197. He just nudged me and went.
Q.198. How far away would he be then?
A.198. Fifteen or twenty yards, he went outside the Station and along Parade Street.
Q.199. How far is it from where you removed the handcuffs until he emerged from the Station?
A.199. About five yards.
Q.200. After you left the Station after him did you see him?
A.200. No Sir.
Q.201. Did you do any shouting to him?
A.201. I was hollering to him Sir.
Q.202. Were there any persons there, military or civil policemen?
A.202. No Sir.
Q.203. Were you carrying a revolver?
A.203. Yes Sir.
Q.204. Why did you not shoot him?
A.204. I had no ammunition.

(8)

Q.205. Could you do anything else to stop him? you shouted to him, and you chased him do you know what else you could have done?
A.205. No Sir.
Q.206. How long have you been a policeman, were you ever a policeman?
A.206. I have always been in the Army Sir, I was a policeman in the American Army.
Q.207. How long?
A.207. Three years.
Q.208. What did you carry there?
A.208. 45 pistol Sir.
Q.209. Authority to fire?
A.209. Yes Sir.

Witness cross-examined by the Prosecution.

Q.210. How long were you at the Depot?
A.210. Eight weeks.
Q.211. And you were taught the correct procedure in handling prisoners?
A.211. .....

Def:- You cannot ask that Sir it is too far fetched.

Pros: Q.212. What are your instructions when you arrive in your district with a prisoner?
A.212. Go to the R.T.O. to call a van.
Q.213. What are your instructions regarding securing refreshments?
A.213. Well we have two instructions, written and verbal.
Q.214. What are they?
A.214. One says you can and one says you cannot.
Q.215. What are your instructions, where do you have to go?
A.215. There are no actual instructions as to where we should take them.
Q.216. Is it not true that you are to go to the R.T.O. and make arrangements?
A.216. Yes Sir, but they do not know about it, they told us to take them to the Y.M.C.A.

Def: Mr. President this matter is closed.

Pres: The 2nd. Charge has been dealt with so that you can now only deal with the 1st. charge.

Pros: Q.217. Referring to the handcuffs, why did you put them on at all?
A.217. Because I had to take him out on to the Street in the Black-out.
Q.218. Did you not go to the R.T.O.?
A.218. Yes Sir but I had not been there then Sir.
Q.219. Should you not have gone there first?
A.219. No Sir there are no definite instructions on that.
Q.220. And it is your practice then to feed them where you can?
A.220. Yes Sir.
Q.221. Have you ever reported that to the N.C.O. in your office?
A.221. Yes Sir to the N.C.O. in charge of Escorts Sir.

Witness questioned by the Court.

Q.222. You have the prisoner on the train and when the train arrives you conduct the prisoner through the people?
A.222. No Sir, I wait until the people get off.
Q.223. You take him off the train handcuffed?
A.223. Yes Sir.
Q.224. And then, outside before entering the R.T.O.'s office you remove them?
A.224. Yes Sir.
Q.225. Why did you do that?
A.225. Well I had to take him to eat and to do that I had to take him out in the Black out.
Q.226. But why did you take them off at the R.T.O.'s office?
A.226. Because there were WAAFS there Sir and other people around.

Def: Q.227. Have you ever taken a prisoner to the R.T.O. and asked him to supply the meal?

A.227. Yes Sir, I have taken them there and they told me to take him out and feed him.

Def:- That is the case for the Defence Sir.

Closing address of the Defence.

Mr. President I do not want to go over the entire situation again unless it is to touch upon the salient features of this case and I would like to stress them again in the 1st. charge. Here is a man brought into Court with a hypothetical situation which is not true, had they said "Without reasonable means of using handcuffs" then we would have known how to make this defence. Here we have a man who has orders to use his own discretion, he goes to Bristol to pick up a prisoner, the prisoner is not up on a serious charge, murder or manslaughter, the prisoner gives him no trouble and shows no indication of escape, and the Court must assume that he was a model prisoner. When they get here, it was Black-out it was dark, and if you know London you can realize what that means and they had to have a meal it being after the ordinary meal time. Now if the Court wishes I can bring the R.T.O. here who will say that there was no instructions ever given to the R.T.O. to feed these men. They had to eat and the prisoner was handcuffed to go out in the Black-out but before they went in the handcuffs were removed why, because he had instructions that prisoners were not to be handcuffed in public places. when they came out they were put on again, and it is being contended that they should have remained on but he had to go to the R.T.O.'s office which is an order and which also is a public place, and they were removed and the prisoner escaped, and we have the situation so that he was wrong if he left them on and he was wrong if he took them off, that order is such that he broke an order no matter what he did, and now they are trying to convict on an order which says you are wrong if you do it and you are wrong if you do not do it. What more could he do what could you or I have done under the circumstances, he is brought before you because he used his discretion just as you or I would have used it and I submit that he removed them because he thought all chances of escape had gone and you cannot blame him. You have the evidence of the prisoner himself who says that right up to the time of getting to Paddington he had no thought of escape it was just an irresistible impulse and he went.

Closing address of the Prosecution.

Mr. President, I feel that a casehas been established on the admission of the accused himself. He is a trained provost and he said he had been instructed in the orders regarding escorting prisoners. His duty on this occasion was to proceed to Bristol and escort this prisoner to Henreitta Street, and in the use of handcuffs he must use them at his own discretion. It is true that if he has to use them he will get orders from his C.O. but on other occasions he must use his own discretion and I submit that he must have felt the need for them because he had used them and had removed them. His duty was to take that prisoner from the train to the R.T.O.'s office to report, not to take it upon himself and go out on the Street at will and then report to the R.T.O. if he had carried out that order and reported to the R.T.O. first he would have kept his prisoner and I submit he did not follow out his duty.

Def:- The Prosecution has said that it was his duty to report

Def: to the R.T.O. but there is nothing in the evidence to show that.

Pres: There is evidence that he himself said that he went to the R.T.O.

Def: I did not hear that.

Shorthand notes read back (See Q. and A. 190)

The Court is closed for the consideration of the finding.

The Court is re-opened and the accused is again brought before the Court.

Q.228. Have you any evidence to produce as to the character and particulars of service of the accused?

Lieut. F.J. Smith, the Prosecutor is duly sworn.

A.228. I produce A.F.B. 296 and M.F.M.6. relating to the accused.

The above statement (with schedule of convictions and of cases in which trial has been dispensed with) is read, marked "A" signed by the President, and annexed to the proceedings.

Q.229. Is the accused the person named in the statement which you have heard read?

A.229. Yes Sir.

Q.230. Have you compared the contents of the above statement with the regimental books?

A.230. No Sir, but they are certified by the Officer, Capt. Cowling, who has custody of the records.

Q.231. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

A.231. They are certified by Capt. Cowling who has custody of the regimental books Sir.

Q.232. Has the Defence any objection to these documents. are you prepared to accept these documents?

A.232. Yes Sir.

Def: to Wit. You now say that he has been in custody for 19 days?

Wit. Yes Sir.

Q.233. Do you wish to address the Court?

Def: A.233. I do not think Mr. President there is anything I can say, The accused belong to a Unit whose job is a thankless one, you can realise from the evidence that the accused is an American citizen who came over here is serve the country and has given three years. The charge is not very serious it shows very little in it, I do not know how that affects you. As I say it is a thankless job and I know the unsympathetic consideration they get from all angles. It is a case where any sentence you give, will not have any deterrent effect and in asking for a light sentence you may take into consideration the service he has given.

The Court is closed for consideration of the sentence.

Pres. F.G.C.M.
16 Mar 43

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D82220

L/Cpl. (Pte) Glenney, W.E. was released from arrest without prejudice to rearrest by me at 1600 hrs on the 15th Feb.43.

H.W. Cowling A/Capt.
(H.W.Cowling)
O.C.No.6. Coy. Cdn. Prov. Corps.

19 Days Custody

Pres F.C.C.M
16 Mar-43

Summary of Evidence in the case of D 82220 L/Cpl (Pte) Glenney, W.E. No 6 Provost Company, Canadian Provost Corps, Canadian Army Overseas.

By direction of the Commanding officer the Summary of Evidence is taken on oath.

Witness for Prosecution No 6 11719 Cpl Malloy, J.W. No 6 Company, C.P.C. having been duly sworn states:

Pros. F.O.C.M.

At approximately 0830 hrs on 27 Jan 1943 I was on duty at 30 Henrietta Street detailing various escorts to certain duties. I detailed L/Cpl Glenney to proceed to the Bristal Criminal Police Stn to take into custody A 11966 Pte Tyrell, A.E. of the Perth Regt. & escort him to the Detention Room at 30 Henrietta Street.

The accused declines to cross examine the witness.

January 30, 1943

J.W. Malloy (Cpl.)

Witness No 2 M 17179 Sgt Thomson, L.
Prosecution No 6 Provost Coy. C.M.P.

Provost Corps having been duly sworn states as follows:

At about 1920 hrs on 27 Jan 43 I was on duty at the Detention Room, No 6 Provost Coy as N.C.O. i/c. when L/Cpl Glenney telephoned me from Paddington Station. He stated that he had lost his prisoner whom he had been escorting from Bristol. He gave me the particulars of the soldier who had escaped and said that he, (L/Cpl Glenney) would be right in. At 1940 hrs L/Cpl Glenney reported into the Detention Room at No 6 Provost Coy. I then paraded him to the Duty Officer.

Pros F.G.C.H.

The accused declines to cross-examine the witness.

January 30, 1943

L Thomson Sgt.

Statement of 2692931 L/Sgt Kerrison L.
RTO Staff Paddington.

I was NCO on duty in the RTO office at Paddington on 27th Jan 43. at 1905 hrs a R/Cpl of the Canadian Provost Corp, who I now know to be L/Cpl Glenny came into the office and reported the escape of the prisoner who he was escorting.

I put a phone call through to the Provost Corp H.Q and L/Cpl Glenny reported the incident over the telephone.

I did not see the prisoner at all.

signed
L Kerrison L/Sgt
Scots Guards.

Pres FGCM

53 he was too fast & soon outdistanced me. I then went to the R.T.O. & reported the escape to the N.C.O. 1/c of the office Sgt Kerrison. I then called No 6 Can Provost Cay Detention Room & reported the loss of my prisoner to Cpl Thomson the N.C.O. 1/c. I was told to report to No 6 Provost Company, Henrietta Ste. I reported to Cpl Thomson & was immediately paraded before the duty officer. I asked his permission to go out to look for the soldier & was granted permission to do so in Company with L/Cpl. Pripky. We searched all the clubs in the Paddington vicinity leaving a description of the escaped prisoner.

I then reported back to the N.C.O. 1/c Detention Room.

January 30, 1943 McGlennery L/Cpl.

The accused having been duly cautioned in accordance with Rule of Procedure 4(E) makes the following statement on oath:

While on escort duty I went to Bristol to pick up A 11966 Pte Bissell of the Perth Regt. I got this soldier from the Civil Police, Bristol at about 1400 hrs Jan 27, 1943. I then took the 1435 hr train to London.

I arrived in London at about 1830 hrs Jan 27, 1943. Knowing it to be too late to get supper at the Detention Room I took the prisoner to the Church Army Canteen at Paddington Stn and gave him his supper. I then started for the R.T.O. to call the van.

(A) Pres FOCH

At the entrance to the R.T.O. I took the handcuffs off the prisoner. As I was putting the cuffs in my pocket, the prisoner gave me a shove and started running. I ran after him but

(over)

Witness No 4 - A 11966 Pte Tyrrell, A.E.
Prosecution of the Perth Regt, 5th 6th Armored Division having been duly sworn States as follows:

On Jan 27, 1943 I was taken into custody at Bristol Civil Police Stn by L/Cpl Glenney No. 6 Provost Coy and was escorted to London arriving at Paddington Station at about 630 or 7 oclock in the evening.

We went over to a canteen & had some supper & then we started for the R.T.O.'s office. I was handcuffed to L/Cpl Glenney at this time.

We stopped just outside the R.T.O. & L/Cpl Glenney removed the handcuffs.

I took the opportunity & made a sudden dash to escape. The Stn wasn't lit up very clearly so

Pros FGCM

I kept right on going until I was outside the station. I thought I heard the Provost trying to catch up to me but I managed to elude him.

The accused declines to cross examine the witness.

J.E. Bignell

February 1943
London.

Witness No 5 A 3436 Sgt. Spurgeon, R.L.

Prosecution No 6 Provost Coy, Canadian Provost Corps having been duly sworn states as follows:

At the present time I am acting as R.S.M. of No 6 Provost Coy, C.A. Provost Corps. I have been carrying out this duty since the 14 Jan 1943.

Capt N. W. Cowling is Officer Commanding No 6 Provost Coy & on the 18 Jan 1943 he issued Standing Orders for Escorts. These orders are published at every detachment of No 6 Provost Coy & it is the responsibility of every member of the Company to read these orders. The copy of Standing Orders marked Exhibit B is a copy of the Standing Orders which are laid down at the present time for No 6 Provost

Pres F.G.C.M.

Cay. I also recognize
Capt. Cowlings signature. I
also certify that ~~it~~ a true
copy of Standing Orders.
There is a clause in
these Standing Orders which
~~forbids~~ ~~states~~ ~~that~~ escorts entering
canteens with prisoners.
Feb 6, 1943.

Question! Are you sure that
these Standing Orders were published
at St Peters Hospital, Henrietta Street.

Answer! No I can't state
definitely that they were as they
were sent down to Henrietta Street
from H.Q. & the M.P.O. i/c there
would ensure that they were
posted at that place.

Pros. F.G.C.M.
16 Mar 43

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Telephone Bristol 23211

Police Headquarters,
Bridewell Street,
Bristol, 1.

Our Ref. CID/TR.RD.
Your Ref. 42/SIS/T-2-138.

28th January 1943.

The Assistant Provost Marshal &
Officer in Charge S.I.S., C.M.H.Q.,
30 Henrietta Street,
Covent Garden,
LONDON.W.C.2.

Dear Sir,

A.11966 Pte. TYRRELL.A.E. Perth Regiment.

With reference to previous correspondence respecting the above-named soldier, who appeared before the Justices in this City on the 27th January 1943, on charges of shopbreaking and larceny, when he was discharged - no evidence being offered - and handed over to an escort from No. 6 Coy Canadian Provost Corps, I enclose herewith the necessary statements to enable you to proceed with this matter by Court Martial.

Tyrrell was arrested in London on the 16th January 1943, by Sergeant Carrier of the Canadian Provost Corps, London, and handed over to Detective Constable Robson, Metropolitan Police, Bow Street, London, subsequently being brought to this City by one of my officers.

Concerned with Tyrrell in this case were an American soldier named James PIKE (who has been handed over to the American authorities to be dealt with by Court Martial) and an English soldier named Dennis Alfred COOMBS, a deserter from the 61st Training Regiment, whose arrest is still sought.

The property recovered, which is of very little value, is being retained at this office.

I shall be obliged if you will kindly inform me the result of the Court Martial against Tyrrell in order that I may complete my records.

Yours faithfully,
(signed) C.G. Maby, Chief Constable.

Certified True Copy.

..... Lieut.
(H.F. Garrett)
No. 6 Coy., Cdn Provost Corps

Summary of Evidence in the Case of:-

D-82280 L/Cpl. Glenney, W.E.,
No. 6 Company, Canadian Provost Corps

List of Witnesses
Prosecution

1. C-11719 Cpl. Malloy, J.W. No. 6 Company, Canadian Provost Corps.
2. M-17179 Sgt. Thomson, L. No. 6 Company, Canadian Provost Corps.
3. 2692931 L/Sgt. Kerrison, L. Scots Guards, R.T.O. Staff Paddington.
4. A-11966 Pte. Tyrrell, A.E. Perth Regt. 5th. Armoured Div.

For the Defence

Exhibits
Documentary Evidence - Exhibit "A"
Standing Orders - Exhibit "B"

Pres F.G.C.M.

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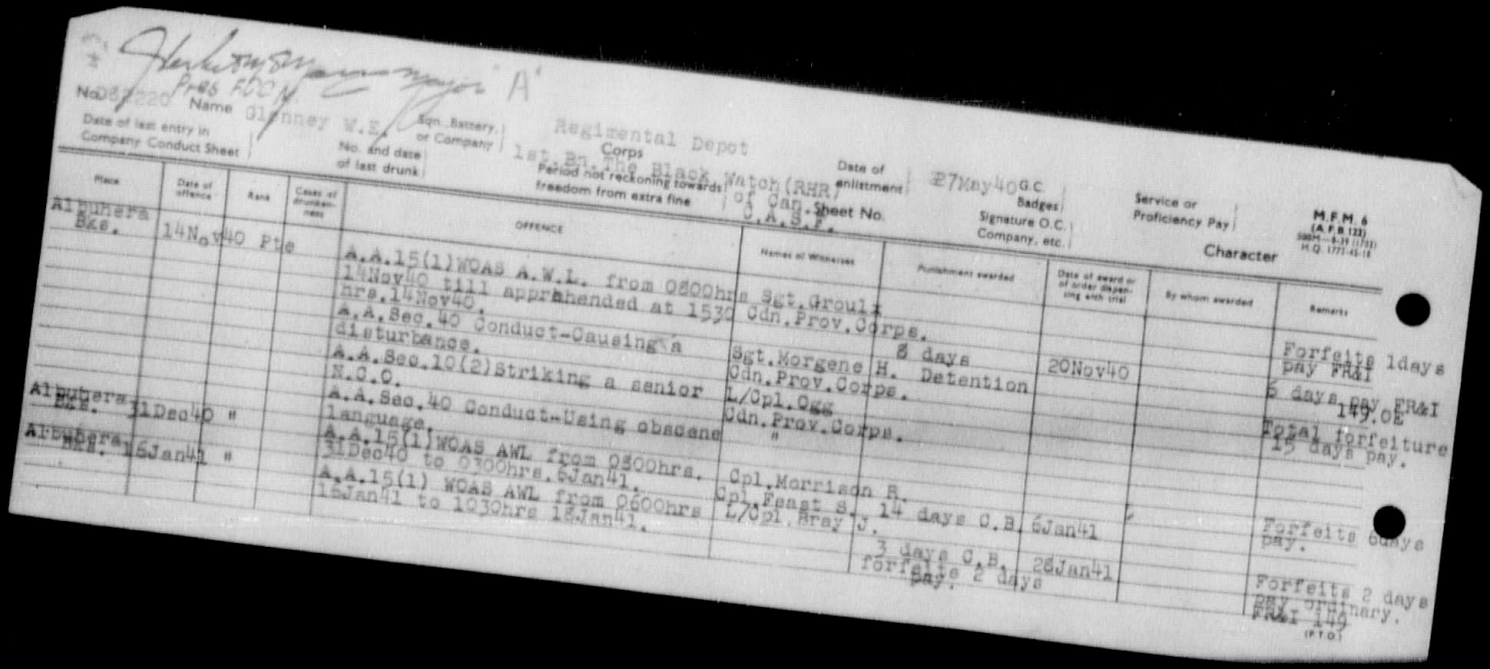
REQUEST FOR DEFENDING OFFICER

I request that Capt. ELDER - J.A.G. Branch, C.M.H.Q. be appointed as my defending officer. Should Capt. Elder not be available I request that the Convening Officer appoint someone to conduct my defence.

London
30 Jan 43

William E. Glenney L/Cpl.
(D-82220 L/Cpl. GLENNEY, W.E.)
No. 6 Coy., Cdn Provost Corps.

Pres F.G.L.M.



Herbert Symons major "A"
Pres FDCM

No. 082220 Name Glenney W.E. Sqn., Battery, or Company Regimental Depot

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Corps 1st Bn. The Black Watch (RHR) of Can. C.A.S.F. | Date of enlistment 27May40 G.C. | Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 123) 500M—6-39 (1703) H.Q. 1771-45-18

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Albuhera Bks.	14Nov40	Pte		A.A.15(1)WOAS A.W.L. from 0800hrs 14Nov40 till apprehended at 1530 hrs.14Nov40.	Sgt.Groulx Cdn.Prov.Corps.				Forfeits 1days pay FR&I
				A.A.Sec.40 Conduct-Causing a disturbance.	Sgt.Morgene H. Cdn.Prov.Corps.	8 days Detention	20Nov40		6 days pay FR&I 149.0E
				A.A.Sec.10(2)Striking a senior N.C.O.	L/Cpl.Ogg Cdn.Prov.Corps.				Total forfeiture 15 days pay.
Albuhera Bks.	31Dec40	"		A.A.Sec.40 Conduct-Using obscene language.	"				
Albuhera Bks.	16Jan41	"		A.A.15(1)WOAS AWL from 0800hrs. 31Dec40 to 0300hrs.6Jan41.	Cpl.Morrison R. Cpl.Feast S. L/Cpl.Bray J.	14 days C.B.	6Jan41		Forfeits 6days pay.
				A.A.15(1) WOAS AWL from 0600hrs 16Jan41 to 1030hrs 18Jan41.		3 days C.B. forfeits 2 days pay.	28Jan41		Forfeits 2 days pay ordinary. FR&I 149

(P.T.O.)

Herbert Myers major "A"
Pres FCCM

No. 082220 Name Glenney W.E. Sqn., Battery, or Company Regimental Depot Corps 1st.Bn.The Black Watch(RHR) of Can. Date of enlistment 27May40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) SCBM—8-39 (1702) H.Q. 1772-44-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. C.A.S.F. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Albuhera Bks.	14Nov40	Pte		A.A.15(1)WOAS A.W.L. from 0800hrs 14Nov40 till apprehended at 1530 hrs.14Nov40.	Sgt.Groulx Cdn.Prov.Corps.	8 days	20Nov40		Forfeits 1days pay FR&I 6 days pay FR&I 149.02
				A.A.Sec.40 Conduct-Causing a disturbance.	Sgt.Morgene H. Cdn.Prov.Corps.	Detention			Total forfeiture 15 days pay.
				A.A.Sec.10(2)Striking a senior N.C.O.	L/Cpl.Ogg Cdn.Prov.Corps.				
				A.A.Sec.40 Conduct-Using obscene language.	"				
Albuhera Bks.	31Dec40	"		A.A.15(1)WOAS AWL from 0800hrs. 31Dec40 to 0300hrs.6Jan41.	Cpl.Morrison R. Cpl.Feast S.	14 days C.B.	6Jan41		Forfeits 6days pay.
Albuhera Bks.	16Jan41	"		A.A.15(1) WOAS AWL from 0600hrs 16Jan41 to 1030hrs 18Jan41.	L/Cpl.Bray J.	3 days C.B. forfeits 2 days pay.	28Jan41		Forfeits 2 days pay ordinary. FR&I 149

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Upper Dicker	2/5/42	Cpl		WOAS A.W.L. Failing to ~~appear~~ at a place of Parade, at 1200 hrs. on 2/5/42. A.A.Sec 15(1)	D61037 Cpl.McIntosh L.	Severe Reprimand.	4/5/42	W.A.Wood. Capt.	

H W Cowling Capt.
Certified true copy. (H.W.Cowling)
O.C.No.6 Coy.,Gdn.Provost Corps

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D62220	(Pte) L/Cpl	Glenney W.E.	No.6 Provost Coy.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement, but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The summary, particulars of which should correspond with the entries in the conduct sheet, previously being given to the accused person, is to enable him to call witnesses, and to be prepared to speak as to any mitigating circumstances.

† Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For A.A.Sec.15(1)	1	times	4	times.
For A.A.Sec.40	Nil	times	2	times.
For A.A.Sec.10(2)	Nil	time	1	times.
For		times		times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, *or*~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time, *or*~~ The accused at the present time is ~~under sentence for~~ _____ ~~beginning on the~~ _____ ~~day of~~ _____.

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and ~~X~~ 19 (2) days in military custody, making a total of ~~X~~ 19 (2) of which nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 32

6. The date of his commission / attestation specified in his record of service / attestation paper is 27 May 1940

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ _____.

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ _____ ~~service.~~

9. ~~The accused is entitled to reckon~~ _____ ~~service for the purpose of determining his pension, etc.~~

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of, *or* entitled to (*state any military decoration or reward*)).~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____.

12. (*In the case of an officer.*) The accused holds in the army the rank of _____, dated _____, and in his regiment (*or* corps *or* department) the rank of _____ dated _____.

(*18290) Wt.(OSS)/144 120,000 4/43 A.A.E.W.Ltd. Gp.4/88

"A"

Herbert W. Morgan Major
Pro FBC H.
16 Mar 43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D82220 Rank (Bte) L/Cpl Name Glenney W.E. of No.6 Coy. Cdn. Prov. Corps Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
Nil	Nil	Nil	Nil	Nil

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this First day of February 1943

H.W. Cowling Capt.
(H.W. Cowling)
O.C. No.6 Coy. Canadian Provost Corps.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

CAO-2-32 Pte. Glidden, J. F.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 2934 Pte Hidden, John Thomas — RCASC, attd 2 Con Discipline Unit (NWE)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41 AA	Guilty	Guilty	
2nd Sec 40 AA	Guilty	Guilty	
3rd Sec 19 AA	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) Nil (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5.7 days, of which 12 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) day

(Sgd) ..... Judge-Advocate, if any. 13 Aug 46 Date awarded. (Sgd) Hack Rose Major President. (RP 45, 60.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) A.F.U. Underhill Brig

Date 14 Aug 46. Commanding B.T.L.C. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G-2934 - Pte. Hidden, J.T.	15 Aug 46	2 CDN DISCIPLINE UNIT E.C. Pickham MAJOR ADM. OFFR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED AUG 21 1946 JUDGE ADVOCATE BRANCH G.H.Q.

RECORDED AT CMHQ IN AR 168 * CA 10-2-32

CFAAS (To Hdqs of AFAS) 40/F & H/1698 (8144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig A.F.U. Underhill, CBE, A/Comd BTLC dated 9 Aug 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/eppmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
G 2934	Pte	JOHN THOMAS	HIDDEN

Proceedings reviewed 16 Aug 46 Hack

22 Aug 46 C.H. Tait, Maj. REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 12 Aug 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3) Hack

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1600 hours trial commences. Hack

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ Hack

(1. KR Can 557. 2. AA 44(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans~~ Hack

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans~~ Hack

~~The shorthand writer is sworn.(1)~~ Hack

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.A.C. Rose	RCIC 2 Con Discipline Unit (NWE)
Member	Capt	R.J. Kerfoot	RCIC 2 Con Discipline Unit (NWE)
Member	Capt	J. David	RCIC 2 Con M.C. Training Sqn
Judge-Advocate			
Prosecutor	Capt	P.T.H. O'Neill	RCAC 2 Con Discipline Unit (NWE)
Defending Offr	Capt	F.B. Knox	RCIC

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G 2934 Pte John T Thomas Hidden before arraignment make(s) (no) (a) plea

..... (1)

(1. If a special plea is made for separate trial as one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 156A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in A8 rank and name of the accused making the plea.) Hack

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. Hack

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. None .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 25(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his/her (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) does/do/~~does~~ change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (5).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 9.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 92-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. None

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)

(1. *MFB 355 or MFB 296.* 2. *MFM. 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, through my defending officer

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to present such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 209, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Hack

CHARGE SHEET

The accused G-2934 Pte John Thomas GLIDDEN, 1 Canadian Transport Company, RCASC, attached to 2 Canadian Discipline Unit (MW E) a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY DANGEROUS DRIVING CONTRARY TO THE ROAD TRAFFIC ACT 1930 SECTION 11

in that he

in the Field, in Belgium, near Erpe, on or about the 17th June 1946 drove WD Vehicle No 5572059 in a manner dangerous to the public, thereby resulting in an accident.

SECOND CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in the Ghent area on or about 17 June 1946, together with C-123623 Pte TREMBLAY, J.R., was in improper possession of WD Vehicle No 5572059, public property.

THIRD CHARGE
Section 19
Army Act

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the Field, in Belgium, on or about 17 June 1946, was drunk.

Colin Foster Lt Col

(Colin FOSTER) Lt-Col
Commanding Officer
2 Cdn Discipline Unit (MWE)

IN THE FIELD
9 August 1946

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

W E Underhill Brig

(W.E. Underhill) C.B.E.
Brigadier,
A/Commander
E.T.L.C.

IN THE FIELD
9 August 1946

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
G-2934	Pte		John Thomas	GLIDDEN	(RCASC) 2 Cdn Discipline Unit NWE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Aug 46 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	H.A.C. ROSE		CIC 2 Cdn.Discipline Unit NWE

MEMBERS.

Capt	R.J. KERFOOT		CIC 2 Cdn Discipline Unit NWE
Capt	Y. DAVID	(Named or detailed. RP 106.)	CIC 2 Cdn M.C.Liaison Gp.

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 9 Aug 1946

W.E.Underhill Brigadier (Rank.)

(Signed personally. RP 105 fn 2.)

(W.E.Underhill) CBE

A/ Commanding S.T.L.C. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (AFAS 13b (3rd) of AFAS) 40/P & S/1607 (4401)

MEDICAL OFFICER'S CERTIFICATE

Hack

I.....certify that I have this morning examined. G-2934. Pte. GLIDDEN...JT..... and find him fit to undergo trial by Court Martial.

Station..A. D. Brunds.....

Date.....13 AUG 1945.....

[signature].....M.O.....
(sig of M.O.)

Oxford

13 Aug. 46

Plea in Mitigation.

May it please the court, the accused, Pte. Gladden is now 21 yrs of age; he enlisted on 2 Mar 44 and came overseas in July 44, proceeding to France the following month where he saw action with his infantry battalion up until October when he was wounded severely enough to be categorized. Around the middle of June 1946 he came to Belgium as part of a Guard of Honour, at which time he became involved in a two-day non-stop party where much drink was consumed but eating was dispensed with; as a result of this party the unfortunate incident for which he is presently being tried arose. I would ask the Court to consider all the facts surrounding the charges, the fact that the accused has already spent two months under [illegible], and the accused's previous good character and deportment [illegible] in the Army and in civilian life.

[illegible] Capt. [illegible] Defending Officer

Exhibit A
Hack
The original Summary of Evidence in case of C-123623 Pte Trembley J.R. tried 13 Aug 46
Hack

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C-123623 Pte TREMBLEY J.R., and G-2934 Pte GLIDDEN, J.T., both of No. 1 Cdn Transport Coy, RCASC, att 2 Cdn Discipline Unit NWE., soldiers of the Canadian Army Overseas.

By direction of the officer commanding the evidence is taken on oath.

First Witness Prosecution

7947224 Cpl Lloyd, 247 HQ Pro Coy, CM Police, having been duly sworn states:

I am 7947224 Cpl Lloyd of 247 HQ Pro Coy, CMP., and acting on information received I went to Alost, Belgium, and in a civilian garage took possession from civilians of a jeep No. 5572059.

I brought it back to my Headquarters where it has remained since.

The accused decline to question the witness.

(7947224 Cpl Lloyd)

Second Witness Prosecution

L-55242 Sgt Waldner, H.S., Cdn SIS, 11 Cdn Pro Coy, att 2 Cdn Discipline Unit N.W.E., having been duly sworn states:

I am L-55242 Sgt Waldner H.S., of the Cdn SIS, 11 Cdn Pro Coy, att 2 Cdn Discipline Unit NWE.

At approximately 2300 hours on the 14 June 1946, acting on information received, I proceeded to the civilian hospital in Alost, Belgium. As a result of a conversation with a Doctor R De Cock I saw Pte Trembley J.R., and Pte Glidden, J.T. Being unable to interrogate them that evening, I returned the following day at which time Pte Trembley made a statement after caution which was corroborated by Pte Glidden after caution.

This statement I now produce.

Statement initialled and marked as Exhibit "A" to the Summary of Evidence.

The accused decline to question the witness.

Question by the Court: Were both these men cautioned before the statement was given.

Answer: Yes sir.

(L-55242 Sgt Waldner H.S.)

Third Witness Prosecution

PRE 48, 1st Sgt ANDRY, A., of No. 4 Coy Belgium Military Police having been duly sworn states:

I am PRE 48, 1st Sgt Andry A, of No. 4 Coy Belgium Military Police. I was just coming back from my mission at Ghent on the 17 June 1946 between 1800 and 1900 hours when I reached 4 or 5 kilometres before Alost I saw a bunch of civilian people close to a jeep. They waved at me to stop. I turned around and when I came close to the jeep it started away. I went after the jeep and wanted to pass it. When I got up to the jeep it was going from side to side and I was forced to go on the tram lines to pass it. I tried to pass them again but I did not succeed, but after a while I did succeed and I stopped them.

Cont'd/

Third (Cont'd)
Witness
Prosecution

I identify the both accused as the two who were in the jeep. When I spoke to them I thought that they were drunk. Not knowing exactly why I had to chase them I sent two of my men -- there were four of us -- back to where the group of Belgium people were to find out what the trouble was. I told the accused that they could not go on like that or they would cause an accident. I saw then that Glidden had a scratch near his eye. I must say that Trembley was very reasonable, but the other one was mean and told me that I had no right to arrest them. I stood in front of the jeep to keep them from going away. Glidden got out of the jeep and talked to me. I could not understand what he said because I do not understand sufficient English.

Suddenly he got back into the jeep and started it. He drove away coming close to me. I just had time to jump to one side so as not to get hurt. Then one of my men, Pastoret fired a machine gun at the tires. The jeep continued, continuing to go down the road from side to side and they nearly had an accident with a street car. There was another car that came from the other direction. I was unable to catch them as I did not have my jeep beside me and I could not follow them immediately. I waved for the jeep to come and my jeep came. After a conversation with a civilian, we turned right, hoping to catch them again I ran after them. I then saw a bunch of people standing around a jeep which was up against a post. When I stopped I saw Glidden sitting on a chair leaning against the wall and there was a lot of blood was on his face. Trembley was in a house on the other corner. He had his vest open but I did not see any wound. Then I looked where he was wounded but I did not see any wound, but there was a lot of blood on his vest. I also saw a hole in his shirt. Then Glidden came, he was crying. I went to telephone the ambulance from Alost at the civilian hospital which arrived and took both of them to the hospital. I took them to the hospital with one policeman. Then I reported to the CMPs.

Question by the Court: Did more than one man fire on the jeep?
Answer: Only Pastoret.
Q. What did you do with the jeep when you left the scene?
A. I left it there in care of a civilian. I took the stuff inside and delivered it to the CMPs afterwards.

The accused decline to question the witness.

(PFE Sgt Andry A).

Fourth
Witness
Prosecution

Mr. Van De VOORDE, A.F., Rue Des Cinq Maisons, Erpe, Belgium having been duly sworn states:

I am Mr. Van De Voorde A.F. of Rue Des Cinq Maisons, Erpe, Belgium. In the afternoon of a day in June I saw a civilian car and a jeep containing two soldiers who appeared to be drunk. Four Military Police were there, they were in a jeep too. The Police stayed there but the two soldiers drove away. Then the Police followed after them in their jeep. I am certain that the two soldiers present are the two I saw in the jeep.

The accused decline to question the witness.

(A.V.D. Voorde)

(Cont'd)

Witness Prosecution

Mr. Louis Van CAUTER, Rue Des Cinq Maisons, Erpe, Belgium.

A statement of the evidence of this witness, purporting to be signed by him, has been read to the accused and is included in this Summary of Evidence. Having regard to the expense and loss of time involved, the attendance of this witness at the Summary of Evidence cannot, in my opinion, be readily procured.

The accused do not demand the attendance of this witness for the purpose of cross-examination.

Statement initialled and marked Exhibit "B".

(P.T.H. O'Neill) Capt
Officer detailed to take the
Summary of Evidence.

Sixth Witness Prosecution

Dr. R DE COCK, Stedelijk Hospital, Alost, Belgium.

A statement of the evidence of this witness, purporting to be signed by him, has been read to the accused and is included in this Summary of Evidence. Having regard to the expense and loss of time involved, the attendance of this witness at the Summary of Evidence cannot, in my opinion, be readily procured.

The accused do not demand the attendance of this witness for the purpose of cross-examination.

Statement initialled and marked Exhibit "C".

(P.T.H. O'Neill) Capt
Officer detailed to take the
Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but anything you say or any evidence you may give will be taken down in writing and may be given in evidence.

The accused declines to make any statement.

The accused declines to call any witnesses.

Certified that all the provisions of RP 4(C)(D)(E)(F) and G have been complied with.

Taken through an interpreter by shorthand and in the hearing and presence of the accused before me this 31 day of July and 1st day of August.

(P.T.H. O'Neill) Capt
Officer detailed to take
Summary of Evidence.

COPY

Exhibit "A",
"P T H O'Neill"
Offr taking Summary.

Date 18 June/46

I have been duly cautioned, that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given as evidence.

Sgd. "J.R. Trembley".

C-126123 Pte TREMBLAY, J.R.
1 Cdn Transport Coy, RCASC.

On the 14 June 1946 I left ALDERSHOT, Eng with a body of troops consisting of approx 38 OR's., and two officers. We were to attend a Ceremonial parade in ADEGEM, Belgium on the 16th June.

On Monday the 17th June I accompanied by C.2934 Pte Glidden J.T., of the same unit, decided that we would spend the day drinking liquor. We started to drink around 0900 hrs., having several different Cafes in GHENT. We first felt the effects of alcohol at approx 1100 hrs. I cannot remember where we went or what we did after that time. I do remember that we did not have breakfast or dinner.

I vaguely remember being stopped by four soldiers on a road somewher but I do not know where. I do not know what they wanted or why they stopped us. My friend who was driving the jeep started to drive on. I do not know how far we drove, but I suddenly felt a sharp pain in the left side of my body. I then told my friend to stop, I cannot remember stopping or whether we hit anything until I woke in a civilian hospital in the early hours of the following morning.

I do not know where we got the jeep which we were driving at the time when the accident occurred.

Sgd. "J.R. Trembley".

I have read over the above statement and Corroborate same.

Sgd. "J.T. Glidden".

Exhibit "B" to the Summary of Evidence.

23 June 46.

Statement of - Louis Van Cauter, Rue Des Cinq Maisons, Erpe, Belgium.

Statement begins:-

On Monday 17 June 1946 at approx 1900 hrs I saw two Military Belgian Police speaking to two soldiers in a jeep in Erpe on the Brussels-Ghent Road. The two soldiers who I saw were drunk. The two Military Police were speaking to one soldier outside of the jeep and the other soldier was sitting in the jeep.

The soldier who was standing outside got into the jeep then they drove away. The Military Police then fired several shots at the tires of the jeep with their sten gun.

The jeep drove on going from one side of the road to the other. Then suddenly striking a telegraph pole. I then went up to the jeep and saw one soldier lying on a bench and he was shot through the back. And the other soldier had head injuries. An ambulance came a short time later and took them away.

Witness: (Sgd L.V. Cauter).

"H S Waldner" Sgt.
"W.De Troyer"

Exhibit "C" to the Summary of Evidence.

18 June 1946

Statement of Dr. R DE COCK., of Stedelijk Hospital, Aloost, Belgium.

I, the undersigned state that I have examined one (1) Jean THEMELEY, wounded by a fire arm. The entrance of the bullet started below the right shoulder blade, travelling toward the right without exit. The bullet is lodged in the latteral external face of the THORAX. Also present a superfacial cut above his right eyebrow.

GLIDEN. J.T., injuries over left eyebrow.

Sgd (R De Cock).

LIST OF WITNESSES

(Prosecution)

7947224 Cpl Lloyd, 247 HQ Pro Coy, CM Police.

L-55242 Sgt Waldner H.S., Cdn SIS 11 Cdn Pro Coy att 2 Cdn Dis Unit.

PRK 48, 1st Sgt ANDRY A. of No. 4 Coy Belgium Mil Police

Mr. Van De VOORDE, A.F. Rue Des Cinq Maisons, Erpe, Belgium

Mr. Louis Van CAUTER, Rue Des Cinq Maisons, Erpe Belgium.

Dr. R DE COCK, Stedelijk Hospital, Alost, Belgium.

Defence

NIL

LIST OF EXHIBITS

Prosecution

Exhibit "A" Statement of Pte Trembley J.R. and Pte Glidden J.T.

Exhibit "B" Statement of Louis Van CAUTER, Rue Des Cinq Maisons Erpe, Belgium

Exhibit "C" Statement of Dr. R De Cock, Stedelijk Hospital, Alost Belgium.

Hook

NOTICE UNDER R.P. 76

To: G934 Pte GLIDDEN, John Thomas
C126123 Pte TREMBLAY, Jean Real

Take Notice that it is the intention of the Prosecution to call at your forthcoming Court Martial a Cpl PASTORET who will corroborate the evidence of Sgt ANDRY.

(P.T.H. O'Neill) Capt
Officer Taking the Summary
of Evidence.

Check

CERTIFICATE OF ACCUSED

I, G-2934 Pte GLIDDEN J.T., hereby acknowledge that I have received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein.

I also request that an officer be appointed to act as my Defending Officer at my forthcoming Court-Martial.

(J.T. GLIDDEN)

Exhibit E Hack

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G2934	Pte	GLIDDEN, J.T.	2 Cdn Discipline Unit (NWE)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Unknown times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~[illegible]~~, EP

~~[illegible]~~

2. The accused has not been previously convicted, *or*

~~[illegible]~~ EP

3. The accused is not under sentence at the present time, ~~[illegible]~~ EP

4. The accused has been in confinement, awaiting trial on the present charges, for No days in civil custody, and 57 EP days in military custody, making a total of 57 EP days, of which ~~37~~ 12 EP 65 days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 21 ~~[illegible]~~ EP

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 3 Mar 44 EP

7. ~~[illegible]~~ EP

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. ~~[illegible]~~ EP

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). C.V.S.M. France & Germany - 39-45 Star

11. ~~[illegible]~~ EP

12. ~~[illegible]~~ EP

~~[illegible]~~ EP

(*25000) Wt.54686/1730 20,000 10/42 A.& S.W.Ltd. Gp.698
(25000) Wt.54694/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer dispensing or the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 day of August 1946

(E.C.Peckham) Maj. Admin Officer
2 Cdn Discipline Unit NWE

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

In the rank of .....

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such matter as are available and the paragraphs concerned amended accordingly.)

Exhibit C Hack

No. G-2934 Name GLIDDEN, J.T. Sqn, Battery, or Company Corps RCASC Date of enlistment 3 Mar 44 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/FAS/136 (5413)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(TEMPORARY SHEET- Location of original unknown)					

E C Peckham

(E.C.Peckham) Major
Admin Officer
2 Cdn Discipline Unit NWE

(PTO)

RR-76
PTE GLIDDEN L.H.

RR-76

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 2nd day of October, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of FIRST CANADIAN ARMY TRANSPORT COLUMN, R.C.A.S.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

JUDGE - ADVOCATE

Captain R. K. Laishley, A.D.J.A., First Cdn Army.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

	President.	
Rank.	Name.	Regiment.
Major	E.D.B.Magee	H.Q., First Cdn Army.
	Members.	
Rank.	Name.	Regiment.
Captain	E.D.Fulton	H.Q., First Cdn Army.
Lieutenant	N.Anton	H.Q., First Cdn Army.
Lieutenant	D.W.Jenkins	First Cdn Army Signals.
WAITING MEMBER		

*Signed (R.T.Leah) Lieut-Col.

Commanding First Cdn Army Tpt Coln, RCASC.

Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-129635 Pte. GLIDDEN, L.H., R.C.O.C., Headquarters, First Canadian Army.	FIRST CHARGE A.A. SEC. 15(4) See Charge Sheet attached.	guilty	guilty sentence cancelled to undergo detention for a period of 60 (sixty) days. Forfeiture of Pay Remanded 5 Oct 43. Kirkenbright Capt Judge Advocate	Confirmed R.T. Leah Lieut-Col 7 Oct 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A).):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on schedule sheet if necessary*):—

(Signed) _____ (Signed) E.D.B. Magee
(R. T. Leah) Lt.-Col., Commanding First Cdn Army Tpt Coln, RCASC. Confirming Officer (d)
(E.D.B.Magee) Major H.Q., First Cdn Army. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses

~~*(3. The Interpreter)~~
~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 5 day of Oct 1943

E.D.B. Magee
(E.D.B.Magee) *President of the Court Martial.* Major H.Q., First Cdn Army.

C. Certificate in case of death sentences.

*See footnote (c) on page 7(c) M.M.L., 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

R.T. Leah

Signed this 5th day of October 1943

R.T. Leah
(R.T.Leah) *Confirming Officer.* Lt.-Col. Comd, First Cdn Army Tpt Coln, RCASC.

Promulgated and extracts taken in the case of D/129635 Pte Glidden L.H.

(a) (Dated) 5th October 1943 (Signed) R.S. Lemmon

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

291704 (31785) W1.47565/787, 25,000 40,000 2/42 S.E.E.W.,Ltd. Gp.682

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-129635 Pte. GLIDDEN, L.H., R.C.O.C., Headquarters, First Canadian Army.	FIRST CHARGE A.A. SEC. 15(4) See Charge Sheet attached.	Guilty	guilty sentenced to undergo detention for a period of 60 (sixty) days. E.D.B.Magee Maj Precluded 5 Oct 43. Withholding Cpt Judge Advocate	Confirmed R.T. Leah Lt-Col 10 Oct 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) R.T. Leah (R. T. Leah) Lt.-Col.
Commanding First Cdn Army Tpt Coln, RCASC.
Convening Officer (e)

(Signed) E.D.B.Magee (E.D.B.Magee) Major H.Q., First Cdn Army.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the fifth day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~3. The Interpreter~~
~~4. The officers under instruction~~
were duly sworn.

*Omit if not applicable.

Signed this 5 day of Oct 1943

E.D.B.Magee
(E.D.B.Magee) *President of the Court Martial.* Major
H.Q., First Cdn Army.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this Fifth day of October 1943

R.T. Leah
(R.T.Leah) *Confirming Officer.* Lt.-Col.
Comd, First Cdn Army Tpt Coln, RCASC.

Promulgated and extracts taken in the case of D/129635 Pte Glidden L.H.

(a) (Dated) 8th October 1943 (Signed) R.S. Lawrence

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[207704]: W.V. 47516/212 25,000 7-42 A.& E.W.L.Ltd. Gp.698
[21745]: W.L.18088/1358 45,000 7-42 " "

CHARGE SHEET

THE ACCUSED, D-129635 PTE. GLIDDEN, L.H., R.C.O.C., HEADQUARTERS, FIRST CANADIAN ARMY, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, PLACED ON ACTIVE SERVICE, IS CHARGED WITH:

FIRST CHARGE
SECTION 18(4)
ARMY ACT

STEALING PUBLIC PROPERTY

in that he

in the Field, in England, at divers times between the months of February and September, 1943, stole a quantity of clothing, namely:

2 prs Socks, worsted
2 Sets of Underwear

public property, from DADOS Dump, First Canadian Army.

In the Field
1 Oct 43

W B Martin
(W.B.Martin) Major
A/OIC Details,
HQ, First Cdn Army.

Approved for trial under HR (Can) 540
B.H. Lansdowne Capt
H.Q., First Cdn. Army.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
2 Oct 43

R.T. Leah
(R.T.Leah) Lt.-Col.
Comd
First Cdn Army Tpt Coln, RCASC.

MEDICAL CERTIFICATE

This is to certify that I have today examined:-

D-129635 Pte Glidden, L.H.

and find him fit/~~unfit~~ to undergo trial by Court-Martial.

In the Field

5 Oct 43.

B C Miller

(B.C. Miller) Major
Medical Officer
HQ First Cdn Army

Time of Signature 0955 hrs.

Accused D-129635 Pte. L. H. GLIDDEN H.Q., First Cdn Army
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in England on 5 Oct 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	E.D.B.Magee	H.Q. First Cdn Army
MEMBERS:	Captain	E.D.Fulton	H.Q. First Cdn Army
	Lieut.	N. Anton	H.Q. First Cdn Army
JUDGE ADVOCATE: (If any)	Captain	R.K.Laishley, ADJ.A. HQ First Cdn Army.	
OFFICERS UNDER INSTRUCTION:			

PROSECUTING OFFICER: Captain H.W.Sharpe, H.Q., First Cdn Army Lawyer? Ans. No.

DEFENDING OFFICER: Lt.J.T.Robb, HQ First Cdn Army Def Coy (Lorne Scots) Lawyer? Ans. No.

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E),'22(A).)

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49: R.P.105) and constituted; that the accused is/~~are~~ amenable to Military Law and that each charge discloses an offence. (R.P.106)

The accused is/~~are~~ brought before the Court and at 1030 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/~~are~~ fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused (R.P.110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(B)) Ans. No.

The President, Members, Judge Advocate ~~and Officers under Instruction are~~ duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.)

President to accused:

~~Do you object to _____ as interpreter? Ans. _____~~

~~The interpreter is duly sworn.~~

Do you object to D36570 Cpl. Parks RV as shorthand writer? Ans. No.

The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)

The Charge Sheet~~(s)~~ is/~~are~~ initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~/has not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (Rs.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

He pleads as follows:

First Charge	Guilty	Sixth Charge	NA
Second Charge	NA	Seventh Charge	NA
Third Charge	NA	Eighth Charge	NA
Fourth Charge	NA	Ninth Charge	NA
Fifth Charge	NA	Tenth Charge	NA

(For procedure on alternative charges, see R.P.37, fn.2.)

Further proceedings are recorded on Pages hereto attached.

PAGE 'A'

(For use when accused pleads Guilty to all charges.)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President.)

1. R.P. 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge(s) (fn.3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)). ~~And advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.~~

2. President to accused:
Q. Do you desire to make any statement of the circumstances in reference to the charge(s)? (R.P. 37(B)) Ans. No.

(Statement, if any, not on oath, is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon.)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the Proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the Proceedings (R.P. 37(B)).

4. President to accused:
Q. Do you wish to call any witnesses as to character? (R.P. 37(C)).
Ans. No.

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President, and attached hereto.)

5. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A. 163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked 'X', and 'Y', initialled by the President and attached to the Proceedings. (R.P.46; Overseas R.O. 3131.)

6. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct, and in mitigation of punishment? (R.P. 37(C) and 46(D)) Ans. Yes. (No cross-examination.)

(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

7. President to accused:
The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated. (Overseas R.O. 3262.)

(Record Finding and Sentence on Page 2 of A.F.A.3.)

(Punishments - A.A.44, K.R.(Can) 563-566; Sentence of F.G.Cs.M. - R.P.118; one sentence only to be awarded - R.P.48; sentence should be dated.)

[signature]
(Signature of President)

Defending Officer's address to Court for accused, D-129635 Pte. Glidden, L.H., on Statements of Character, Service and Conduct and in mitigation of punishment.

Mr, President and Members of the Court. The accused, Glidden, is a soldier who has had no previous crime against him. He was transferred against his wishes, being a tradesman, from the R.C.E. to Ordnance and was stationed at the Ordnance dump in Leatherhead, where apparently temptation came his way. Apparently led by one more experienced, when this man named Ellis pleaded with him to procure goods from the dump, he did so, getting two pairs of socks and two sets of underwear. It would appear from the Summary that Glidden was apparently led on by another who had more experience than he did. As I said before, it was apparently very easy at DAD'S dump to take any sort of goods and walk out with them. Over six months there was not much of a check. It is also a fact that a soldier, receiving $1.30 a day, and probably assigning half his pay to his family, is tempted if he could get 15s. of a pound for things such as a set of underwear or a pair of boots. I think these facts should be taken into consideration by the Court in determining any sentence. Again, the accused has served 33 days in confinement and this should be taken into consideration. The accused spent five years in the American Army, from 1935 to 1940. He attempted to get into the American Air Force in 1940 but could not do so. He went to Montreal and enlisted in Canada. At home, he was employed by General Electric at Lynn, Massachusettes. His father is living, mother dead and he has one brother and sister. He assigned $20 a month home to his father. He enlisted in the Canadian Army in March, 1942; he came overseas in July, 1942. I think this is a case which deserves every consideration at the hands of the Court.

SUMMARY OF EVIDENCE

In the case of D129635 Pte. Glidden, L.H., R.C.O.C.
H.Q. First Canadian Army.

A soldier of the Canadian Army Overseas. Place: On Active Service. By direction of the Commanding Officer the Summary of Evidence is taken on Oath.

FIRST WITNESS: Mr. S.J. Ellis, 23 Barnett Close, Leatherhead Surrey. Employed as time keeper on Southern Railway.

Q. Do you recognize the accused?

A. Yes, I know him. This soldier had very little to do with me, just an odd pair of socks and underwear.

Q. How much did you receive from him?

A. Two pair of socks and two sets of underwear.

Q. Over what period?

A. About six months.

Q. Did the accused ask you if you wished to buy the goods?

A. No

Q. Did you ask him for the goods?

A. Yes

Q. Do you recognize the fact that these soldiers are in a position of resposibility?

A. Yes. This man is not to blame for very much.

Q. Does the accused wish to cross examine the witness?

A. No Sir.

S J Ellis

SECOND WITNESS - C30818 Sgt. Tait, T.B., No.1 Special Investigation Section, H.Q. First Cdn. Army

Q. Would you tell me anything you know about this case?

A. On 2 Sep 43 I was present at an Identification Parade with a civilian, S.J. Ellis identified a member of the Canadian Army as having supplied him with W.D. Property. The other soldier whom he identified as the accused had been described to me and after the identification parade I was conversing with him on another matter with S.J. Ellis approached us. Mr. Ellis looked at Pte. Glidden and said to me: "This is the fellow I had the stuff off". I had already placed Pte. Glidden under Arrest. Detective Constable White of the Leatherhead police was present when Ellis made this statement.

Q. Does the accused wish to cross examine the witness?

A. No Sir.

THIRD WITNESS - Edward White, Detective Constable No.116, Surrey Joint Police, stationed at Leatherhead.

Q. Would you tell me anything you know about this case?

A. On 31 Aug 43, in consequence of information received, I went to Leatherhead Railway Station to the Engineers office. I there saw a man who I now learn to be Stanley John Ellis who is employed by the Southern Railway as an Acting Time Keeper. I told him I was a police officer and that I was making enquiries regarding Army Property which I believed he had in his possession. He said: "I have not had any Army Property". I told him I was not satisfied and that I would search the office. This I did and in a cupboard under a bench I found a pair of boots and a pair of gauntlet gloves. I asked him how they came into his possession and he said: " I got these from a soldier over the way". By this remark he meant from an Ordnance Dump situated the other side of a double track railway line. I then cautioned him and told him that I was not satisfied that this was all the Army Property he possessed. He replied: "This is all I have had, I was too frightened to wear the boots". I then told him I was still not satisfied and intended to search his house. He replied: "I have not got any property at home and if you like you can go there and see for yourself". At 1100 hrs on the same day I went to 23 Barnett Close, Leatherhead and there in all I found six pairs of Army Socks and eight towels. I then took him into custody and he replied: "I realize now that I have been a fool". On arrival at the police station he told me that he had two pairs of Army Pants and that he would bring them to me later in the day, which he did. After he had been charged with caution he made the following statement which I took down in my pocket book: "I have paid these soldiers 2 shillings a pair for the socks and I have had about a dozen pairs in all. This has been going on over a period of about six months. For the towels I have paid 2 shillings and 2 shillings and sixpence a pair. These I have kept myself and I have not sold any to anyone else. The gloves and boots were given to me by a Cdn soldier. I have had two pairs of pants and paid 2 shillings a pair for them. All this property came from the Ordnance Dump at Leatherhead Railway Station and was given to me by two Canadian Soldiers".

On 23 Sep 43, Ellis appeared at EPSOM Petty Sessions. He pleaded guilty to a charge of detaining Army Property and was fined £10.0.0.

At 1130 hrs on 2 Sep 43 I was in charge of an Identification parade which was held at the D.A.D.O.S. Dump Leatherhead Railway Station. There were in all about 25-30 men present. I understood that two soldiers who they suspected of having supplied Ellis with the Army property were present but these men I did not know. I

THIRD WITNESS (cont)

addressed the parade, told anyone on the parade if they were not satisfied as to their position they were at liberty to change it. No one availed themselves of this. Mr. Ellis then came in front of the parade. I told him I understood that the two soldiers who had supplied him with Army property were in the parade, that he was to walk along the lines and if he identified anybody, to touch them on the shoulder with his hand. He walked along the parade and touched the man who I now know to be Pte. Arsenault. At that time he did not pick anyone else out. The parade was then dismissed. Ellis then walked over to me and informed me that the second man was also there and although he had not been sure that it was him when he walked along the lines, he had since taken a good look at him and realized that why he had not picked him out was the fact that the man had now got a moustache. When I asked him who the man was, he pointed out to me a person who I now know as Pte. Glidden. He told me that they were the two men who had given him Army Property from the D.A.D.O.S. Dump which had included boots, pants, vests and he had paid both of them money for them.

Q. Does the accused wish to make any query regarding the above statement?

Edward White D.C.M. C.D.

A. No Sir.

Q. Do you wish to make any statement or to give evidence on oath; you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence?

A. No Sir.

"I certify that the foregoing summary of evidence, consisting of 3 pages was taken down by me in writing in the presence of the accused and rules of procedure 4 (C),(D),(E) and (F) have been complied with."

(Signed) ...H C Belcher Capt...
(Officer detailed to take the summary)

Date..29 Sep 43

Place..Field

Y

M.F.M. 6
(A.F.B. 122)
17236—7-41 (1319-20)
H.Q. 1772-30-1652

No. D12963 Name GLIDDEN L H | Sqn., Battery, or Company | Corps R.C.O.C. | Date of enlistment 19-3-42 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature G.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed on completion of 6 months service, 19-9-42					
				Certified a true copy from the Regtl Books held in my custody.					
				30 Sep 43	[signature] Captain for O i/c Details HQ FIRST CDN ARMY				

(P.T.O.)

X

N.F.B. 155
22M—3-41 (572-3)
H.Q. 1772-28-420
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.129635	Pte	GLIDDEN L H	RCOC HQ FIRST CDN ARM

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ ~~[illegible]~~ ~~days~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 33 days in ~~Air Force~~ military custody, making a total of ~~28~~ 33 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 26 yrs 10 mos 21 days

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 19 Mar 42

7. The service which the accused is allowed to reckon towards discharge is 1 yr 6 mos 11 days

8. The accused is entitled to reckon 1 yr 6 mos 11 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~[illegible]~~ military decoration, or ~~[illegible]~~ military reward (~~[illegible]~~). ~~[illegible]~~

10. ~~[illegible]~~

M.F.M. 6
(A.F.B. 122)
17556—7-41 (1219-20)
H.Q. 1772-39-1652

No. D12963 Name GLIDDEN L H Sqn., Battery, or Company Corps R.C.O.C. Date of enlistment 19-3-42 G.C. Badges Service or Proficiency Pay Y

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed on completion of 6 months service, 19-9-42					

Certified a true copy from the Regtl Books held in my custody.

30 Sep 43 [signature] Captain for O i/c Details HQ FIRST CDN ARMY

(P.T.O.)

X [illegible]

M.F.B. [illegible]
22M—5-41 (1772-3)
H.Q. 1772-[illegible]
A.F.B. [illegible]

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.129635	Pte	GLIDDEN L H	RCOC HQ FIRST CDN ARM

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ ~~[illegible]~~ ~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 33 days in ~~Air Force~~ military custody, making a total of ~~2~~ 33 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 26 yrs 10 mos 21 days

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 19 Mar 42

7. The service which the accused is allowed to reckon towards discharge is 1 yr 6 mos 11 days

8. The accused is entitled to reckon 1 yr 6 mos 11 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~[illegible]~~). ~~[illegible]~~

10. ~~[illegible]~~

11. [redacted]

12. [redacted]—

[redacted]

[redacted]

[redacted]

[redacted]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

[redacted]

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D129635 Rank Pte [redacted]

Name GLIDDEN, L.H., of RCOC HQ FIRST CDN ARMY [redacted] Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Court, Unit of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	NIL			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 day of Oct 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [redacted] signed by the president, and annexed to the proceedings.

[redacted] Lt.-Col.
OIC HQ. Details
H.Y., First Cdn. Army.

22-76

PTE GLORIOSO F

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: No A 54508 Pte FELIX GLORIOSO 1 Cdn Corps W/S R.C.O.C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Rule 8(2)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ____ beginning on (date) ____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 83 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~To be shot~~ ~~at dawn~~ ~~on~~ ~~40 days~~ ~~of~~ Field Punishment for 40 days

(Sgd) HA Judge-Advocate, if any. 2/12/43 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding ____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) NSL

(1. AA 57A. Delete if not used.)

(Sgd) W Home Lt. Col.

Date 24 Dec 43 Commanding Comd HQ REME 1 Cdn Corps Tps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
No A 54508 Felix Glorioso 1 Cdn Corps Tps Wkshp, R.C.O.C.	26 Dec 43	J Legate Major. O.C. 1 Cdn Corps Tps Wksp R.C.O.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ZZ-76

FIELD GENERAL COURT-MARTIAL

CFA96 (To take the place of AFA31 A.C.I. & M. Table 1 2604)

Convened by Order of E.A. McCusker Brig Comd 1 Cdn Corps dated 17 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-54508	Pte	Felix	Glorioso	1 Cdn Corps W/S R.C.O.C.

PROCEEDINGS REVIEWED

[signature] Capt.

24 Jany 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 21/12/43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~ ? Ans ~~No~~

~~The Interpreter is sworn.(1)~~ ~~Do you object to as shorthand writer ? Ans~~ ~~No~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A Regnos Spencer	16 Cdn Fd Regt RCA
Member	Capt.	[redacted] F Hilland	1 Cdn Corps Tps RCOC
Member	Capt.	C H P Walters	5 Cdn Fd Regt RCA
Judge-Advocate			
Prosecutor	Maj	J A Leggatt	1 Cdn Corps Tps W/S RCOC
Defending Offr	Lt	R L Wilson	1 Cdn Corps Tps W/S RCOC

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Court (Offrs).
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused before arrangement makes (has) no objection

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(5), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Instrs. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is (are) no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Instrs.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B); oath of witnesses see RP 83-85; calling or re-calling of witnesses by Court ete see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination(4) and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans _____(5)
(1. RP 37(B). 2. SP 37(D) fn 6. 3. RP 35(B) fn 6, para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Declete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (C).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans no sir. (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s).~~(2) ~~The Court is closed, and considers the submission.~~(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans no sir. I prefer to. Do you intend to call witnesses on your behalf? Ans yes sir. Are they witnesses as to character only? Ans no.
(1. RP 153. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 46(5).)

D8. The President announces the finding(s), (if any of Not Guilty), and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes I wish to that myself.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for cross-examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 255 or AFB 296. 2. MFB 6. 3. RP 46, KR Can 338. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans yes sir.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 338, 342-5-346, Overseas RO 309, 2323. As to sentences assigned for civil offences by the law of England see AA 40(2)(b), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 120. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A-84508 Pte Glorioso, Felix, 1 Cdn. Corps Troops Workshop, R.C.O.C. a soldier of the Canadian Army Overseas, is charged with, when on active service:-

First Charge
Section 8(2)
Army Act.

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

in the field, on 10 Nov. 43 at Star Camp, Augusta Sicily, when ordered to report to the kitchen for duty, did say: " I will go to the kitchen, but I wont work. I dont give a fuck for you or anyone else", to his superior officer Lieut A.G. Dewolfe

J. Legate major.

(J.J. Legate)Major
Officer Commanding
1 Cdn. Corps Troopp Workshop RCOC

In the Field
14 Nov. 43

To be tried by Field General Court Martial.

E. A. McCusker.
(E.A. McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.

In the Field
17 Dec 43.

CFA95 (In lieu of AFA3)
40/P&S/1607 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-54508	Private		Felix	GLORIOSO	1 Cdn Corps Tps Wkshop RCOC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 17 Dec 43 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". Same

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ Same.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Same.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ Same.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) Magnus SPENCE (Must be named. RP 106.) 16 Cdn FDS RCAMC (Unit.)

MEMBERS.

Captain W F Hillary 1 Cdn Corps Tps Wkshop RCOC

Captain or Lieutenant (Rank.) To be detailed by O.C. 5 Cdn General Hospital. (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Lieutenant or Captain (Rank.) To be detailed by OC 5 Cdn General Hospital. (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) ---------- (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Sicily (Country.)

E. A. McCusker

(E.A. McCusker) Brigadier (Signed personally. RP 105 fn 2.) (Rank.)

Date 17 Dec 43

Commanding 1 Cdn Corps RCAMC Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

I hereby certify that I have THIS MORNING examined No. A54508 Pte Glorioso, Felix

1 Canadian Corps Troops Workshop, RCOC and found him F.I.T. to

undergo trial by Court-Martial.

M

J. Hornsey Rodenick
Signature of Medical Officer

21 DEC. 43
Date

Exhibit A. -1-

21 Dec 43

Prosecution

1st Witness: Lieut. A.G. De Waefe, an officer of 1 Cdn. Corps Tps Wfs R.C.O.C. being duly sworn

STATES Q: Where were you and what were your duties on 10 Nov 43?

A: I was A/Q.M.

Q. As such were you in charge of the kitchen?

A: Yes.

Q: On that morning did you have conversation with the accused. Can you identify him?

A: Yes, that is Pte Glorioso the accused.

Q. What was the conversation?

A. About 0930 that morning Cpl. Gatien the Senior Cook of our unit, stated that he had ordered Pte. Glorioso to proceed to the kitchen to work. and that Pte Glorioso had refused. Cpl. Gatien showed me where Pte Glorioso was, and I approached the accused and ordered him to go to the kitchen to work. My words were "You will go to the kitchen to work". He stated he had a sore hand and was excused duty. I knew that at the time we had no sick parades, so I again ordered him to his work. He started towards the kitchen and as he went replied "I will go to the kitchen but I won't work. I don't give a fuck for you or anyone else". I allowed him to proceed to the kitchen, and went to our unit Orderly Room to investigate if we had a report on the accused from a Medical Officer. I found

there was no such report.

~~Cross no cross examination by defence~~

Further questioning:

Q What was your action after checking at unit O.R.?

A. I spoke to A.S.M. Blakeley and explained the case and to place the accused under arrest. I then went to kitchen and warned the accused that he was on charge.

No cross examination by the defence.

R.P. 638 Complied with [illegible]

2nd Witness Capt. C.J. Rankin, an officer of 1 Cdn. Corps Tps W/S R.C.O.C. being duly sworn states [illegible]

Q. Where were you on the morning of 10 Nov 43?

[illegible]

A. At Star Camp. Augusta Sicily.

Q. Did you overhear a conversation between Lt. De Wolfe and the accused that morning, and can you identify the accused?

A. Yes that is Pte Floreoso and I overhead the conversation

Q. Will you tell the court the conversation you heard?

A. As I approached Lt. De Wolfe I heard him tell the accused to go to the kitchen - the accused replied "I will go there but I won't work. I don't give a fuck for you or anyone else."

Q. Did you hear some other conversation?

A. Yes. I heard the accused say something about hands & handages but I didn't get the gist of it.

Q What was the condition of the accused?

A There was nothing in his manner to indicate he had been drinking

~~Cross examination~~ AW

~~Q. Did you hear~~

No cross examination by the defence.

R.P. 83(B) complied with [illegible]

Defence

1st witness K53280. Pte Franklin H.C. of the 1 Can Corps Tps W/S R.C.O.C. being duly [illegible]

SWORN STATES - [illegible]

Q. ~~On 10 hours did you have~~ Do you know the accused. Did you see him on 10 hours?

A. Yes I know the accused and saw him that day.

Q. Do you get along with the accused?

A. I have no occasion to get along with him. but fairly well when we do meet.

[illegible] Q. Have you ever quarrelled with him?

A Yes I have.

Q. Do you recall any particular incident?

A. Yes we had one quarrel.

Q. Do you remember the day Pte Glorioso was arrested. Was the quarrel that day?

A. Yes I think it was.

Q. Will you tell the court what this quarrel was about, and the conversation that passed between you?

A. I can't say exactly what the quarrel was about. I believe it was over something to do with handling of food in the kitchen.

Q Would it have been possible in this conversation for you to have insulted the accused?

A. Yes. it would have been.

Cross examination by Major Legate.

Q. Granted there was an insult given the accused was there any cause for this?

A. Yes, he had overhead what I had said to another person

Q. I take it then that Pte Glorioso's interference brought on this argument?

A. Yes.

Q. What time of the day was it that you insulted the accused?

A. As far as I can recall it was after the noon meal.

Q. Was it before or after you knew Pte Glorioso was put under arrest?

A. It was before he was arrested I believe.

Q. All this happened at what location?

B. A. Port Augusta. Sicily.

L.P. 53 B Complied with. [illegible]

* See Page 5.

Summing up by Prosecution

The charge is insubordination and the witnesses have given proof of such. The officer i/c of the cooks took the proper steps in that he ordered the accused twice to report to the kitchen and then personally took steps to check the accused's only excuse i.e that he had been excused duty by an N.O., and found no basis for his claim. Insofar as the evidence given by the witness for the accused nothing was produced which could be called an excuse for insubordination particularly as that witness appears to be none too certain of the time

concerning his altercation with the accused. Therefore I submit that the accused is guilty and can show no provocation.

For Page 4

* Summing up by Defence

Referring to the accused's plea of not guilty and without seeking to have the court approve or countenance his unfortunate choice of words and behaviour we wish to bring to your sympathetic attention the following points:

1. The accused is an American of Italian parentage and has the characteristics of hot headedness and excitability peculiar to his race.
2. After an altercation with Pte Franklin, the witness for the defence, in which the accused was definitely insulted, he was approached afterwards by Lt De Wolfe with an order to proceed for kitchen duty. On explaining he was excused such duty by the M.O. as a result of hand injuries (the accused's wrists were broken) and also mentioning the condition of the bandages on his hands, he was further antagonized by De Wolfe's order "You will report to the kitchen".

On this account sir we present that the accused committed the offence at a time when he was emotionally upset and with provocation.

Statement by the Accused.

I am fighting for freedom and democracy by being in the army. I have tried to be a good soldier and when people insult me and my heritage. I am hot headed, get nervous and lose my temper and don't know what I am doing. For the past twenty four days, while this charge has been hanging over my head, I have been carrying on my usual duties and have made no attempt to escape. I can speak Italian, and could if I desired hide in this town without difficulty.

Summary of Evidence in the case of A-[illegible] Pte. GLORIOSO, F., of 1 Cdn. Corps Tps. W/Shop, R.C.O.C., A soldier of the Canadian Army Overseas, by direction of the Commanding Officer the summary of evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. A.G. De Wolfe, an Officer of 1 Cdn. Corps Tps. W/Shop, having been duly sworn, States as follows:

"At approximately 0915 hrs. 10-11-43 at Star Camp No. 3, Augusta Sicily, I ordered the accused to report to Cpl. Gatien at the Cook-house. He replied that he had a sore hand and was excused duty by the Medical Officer. I knew at the time that we had had no Sick Parade, so I told him to report to the Cook-house. He started towards the kitchen and replied, "I will go tothe kitchen, but I won't work, I don't give a fuck for you or anyone else". I allowed him to proceed to the kitchen and told R.S.M. Blakeley to have a charge laid against accused. I then went to the kitchen and warned accused that he was on charge.""

A.G. De Wolfe Lieut.
(A.G. De Wolfe) Lieut.

The accused declined to cross-examine witness.

SECOND WITNESS FOR THE PROSECUTION

Capt. C.J. Rankin, an Officer of 1 Cdn. Corps Tps. W/Shop, having been duly sworn, States as follows:

At approximately 0915 hrs. 10-11-43 at Star Camp No. 3, Augusta Sicily, I approached Lieut. De Wolfe to ask him if the R.C.A.S.C. personnel had reported to the kitchen for duty. He was at that time ordering an O.R. whom I now recognize as the accused, Pte. Glorioso, to report to Cpl. Gatien in the kitchen. The accused replied, as he was slowly moving away, with a definitely belligerent attitude: "I will go to the kitchen but I won't work, I don't give a fuck for you or anyone else". - or words to that effect. I did hear accused mention something about bandages and the condition of his hands, but I was too far away to hear the full particulars.

C.J. Rankin Capt.
(C.J. Rankin) Capt.

The accused declined to cross-exami e this witness.

Accused was cautioned as provided in R.P. 4 (e)

Accused declined to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e), (f) and (g) have been complied with.

The Field,
14 Nov. 43.

J.J. Legate, Major
Officer Commanding,
1 Cdn. Corps Tps. W/Shop,
R.C.O.C.

Exhibit B

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-54508	Pte.	Glorioso, Felix,	1 Cdn Corps Tps Workshop RCOC

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ ~~Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

Within last 12 months			Since enlistment or appointment		
For A.A. Sect. 9 (2)	One	times	A.A. Sect. 20 (Civil)	One	times
For A.A. Sect. 15 (1)	One	times	A.A. Sect. 15 (1)	One	times
For		times	A.A. Sect. 9 (2)	One	times
For		times			times

Number of instances of gallantry or distinguished conduct NIL

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for xxxxxxxxxxx beginning on the xxxxxxxxxx day of xxxxxxxxxxxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in ~~Air Force~~ civil custody, and Twenty-three days in military custody, making a total of 23 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper~~ 44 Years of age. Born 17 Jul 1899.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ ~~attestation paper~~ 4 Sep. 1940

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon xxxxxxxxx service for the purpose of determining his pension, etc.~~

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~ ~~military~~ ~~military~~

10. ~~If the accused is a warrant officer, the accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit ..... ~~dated~~ ....., ~~and in his regiment (or corps), the rank of~~ ..... ~~dated~~ .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date.—~~

..... ~~Date of promotion~~

~~In the rank of~~ ..... ~~years~~

~~In the rank of~~ ..... ~~years~~

~~In the rank of~~ ..... ~~years~~

NOTE.—~~If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number A.54508 Rank Pte

Name GLORIOSO, FELIX of 1 Cdn Corps Tps Workshop RCOC Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil Court	12 Aug. 42	A.A. Sect. 20 (Civil)	Three months hard labour, at Chelmsford Prison	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twenty ~~one~~ First day of December 1943 O.C. 1 Cdn Corps Tps Wkshp R.C.O.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked B signed by the president, and annexed to the proceedings.

ARMY FORM C2136 (Small)

MESSAGE FORM

Register No.

Call	Srl. No.	Priority	Transmission Instructions
			rec'd 2/12/43 1600 [illegible]

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator	Date Time of Origin	Office Date Stamp
CREME 1 CCT	28 1000	

For Action

TO OC 1 CCT W/S.

(W) For Information (INFO)

Message Instructions

Originator's No.

Hold attached C.M. in abeyance pending return of Lt. de Wolfe & accused may be released from arrest without prejudice of re-arrest.

[signature] LT-COL

C.R.E.M.E. 1 CDN CORPS TROOPS

This Message may be sent AS WRITTEN by any means	In Cable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER	Originator's Instructions Degree of Urgency
Signed	Signed	

Time	Signature	Op
MU - TOR		
Time cleared		

HLD-116

P/E GLOVER C.T.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-23727 Pte Clarence John Glover. AF "H" Hqs 1 C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence to~~ A ~~beginning on (date)~~ A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for 28 (twenty-eight) days

(Sgd) ..... 14 Oct 1944 (Sgd) [signature] (RP 45, 50.)
Judge-Advocate, if any. Date awarded. President.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed Ewt

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 20 OCT 44 Commanding COMMANDER 1 CDN BASE RET GROUP Commanding Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B73727 Pte Glover C J	23 Oct 44	[signature] (A E Davidson) Capt & Adj 4 Cdn Rft Bn - 1 Cdn Base Rft Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 HD-176

RECEIVED 6 NOV 1944 JUDGE ADVOCATE GENERAL'S BRANCH

FIELD GENERAL COURT-MARTIAL

OPAM (1D (mis. of AF A2) 40, P & R, 1944) (2864)

Convened by Lt-Col. LT FLYNN Comd 4 Bn, 1 CBRep dated 13 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B73727	Pte	CLARENCE ~~JOHN~~	GLOVER	HQ Highland D.C. On Strength 1 Cdn Base RBRep.

PROCEEDINGS REVIEWED JCdeC 14 Nov 44 REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 14 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2C 126

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if ~~any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 121.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1040 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if ~~any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	F. Marcotte	R22eR (4 Bn)
Member	Capt	C.D. Beatty	Sask LI (4 Bn)
Member	Capt	E.D.B. Magee	RCE (4 Bn)
Judge-Advocate			
Prosecutor	Capt	R.R. Brown	4 Bn (RCA)
Defending Offr	Lieut	D.H. Laroche	PPCLI (4 Bn)

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused B-23727 Pte C.J. Glover before arraignment make(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(D), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. L68

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see LP 59, 60(C) ; powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 90, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *B*, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....Do you intend to call witnesses on your behalf ?

Ans.....Are they witnesses as to character only ? Ans.....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CP A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Nil

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~record~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(j) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *C* and Ex *D* respectively.(3)

(*1. MFB 355 or AFB 296. 2. MCM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. *I ex*.....(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Hdq
A 2

THE ACCUSED ELECTS TRIAL BY COURTMARTIAL

CHARGE-SHEET

THE ACCUSED, B 73727 PRIVATE CLARENCE JOHN GLOVER, 48th HIGHLANDERS OF CANADA, ON STRENGTH 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1st Charge

AA Sec 15

(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, Italy, absented himself without leave from 0800 hrs, 19 Sep 44 until apprehended by the Military Police in ROME at about 1515 hrs, 1st Oct 44.
(Total absence: 12 days - 7 hrs - 15 mins.)

L. J. Flynn

(L J Flynn) Lt.-col.,
Commanding,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
13 Oct 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL:

L. J. Flynn

(L J Flynn) Lt.-col.,
Commanding,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
13 Oct 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B73727	Private		Clarence John	GLOVER	48 Highrs of Canada, on strength 4 Cdn Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) ~~three Offrs to form the Court~~, (b) a Fd Offr as President, for the reasons I have attached hereto. /None AVAILABLE/
(AA 49, RP 106(5), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate (except the Offr mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Capt	P Marcotte	A4- H 20 e R 4CRBn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W W Beatty	A4- S L I 4CMBn
Capt	H D B Hagee	A4- R C R 4CRBn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D D Beaumont	A4- H L I R 4CRBn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	nil	

On Active Service in the Fd

in Italy
(Country.)

Date 13 Oct 44

(L J Flynn)
(Signed personally. RP 105 fn 2.)

Lt-Col
(Rank.)

Commanding 4 Cdn Rft Bn - A Cdn Base Rft Group - C M F
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

EGCM. B 73727 Pte Clarence John GLOVER.
48 Highs of Canada.

AW/E-3

Accused pleads guilty.

E3. Plea in Mitigation of Punishment.

Accused landed in Sicily in Jul 43. Shortly afterwards he fell off a truck & was injured. Thinking injury not serious, he stayed with his unit until crossing of Moro where he was hit in the arm by shrapnel.

After spell in hospital & base units, regained his bn then training North of CAMPOBASSO (May 44). The work was too strenuous & he was sent back by MO to hospital. X rayed & no trouble found. Returned to holding unit, sent to 4 Bn, he went on sick parade. MO told him he would be sent to base to be reboarded. After waiting a week or so, during which nothing seemed to be done about his case, he paraded again to the MO. He was then told that men were badly needed & consequently he would be passed fit for the field.

Pte Glover then went AWL realizing that he would be more trouble in this condition in the field than in detention.

Ex-B

SUMMARY OF EVIDENCE IN THE CASE OF B 73727 - PRIVATE CLARENCE JOHN GLOVER, 48th HIGHLANDERS OF CANADA, ON STRENGTH 4 CDN RFT BN, 1 CDN BASE RFT GROUP, CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, CHARGED WITH: W.O.A.S. AWL, AA SEC 15 (1).

By direction of the Commanding Officer, the evidence is taken on oath.

1st WITNESS: H 40829 Sgt Wetherell L.C., having been duly sworn, states, I am H 40829 Sgt Wetherell L.C. of "B" Coy 4 Bn 1 CBRGp, and was, on the 19 Sep 44, theCoy Orderly Sgt for the 48th Highrs of Canada. I called the roll at 0800 hrs and found Pte Glover whom I recognize, absent. I searched the Coy area but could not find him. He has been absent from each successive roll and muster parade since this date.

L.C. Wetherell
(L.C. Wetherell) Sgt.

The accused declines to cross-examine this witness.

2nd WITNESS: A 3885 Pte Knowles H., 4 Bn 1 CBRGp, having been duly sworn, states:

I am A 3885 Pte Knowles H., file clerk at 4 Bn Orderly Room. I hereby produce Certificate of Arrest under AA Sec 165 (1)(jj) purporting to relate to the accused and showing that he was apprehended at 1515 hrs 1 Oct 44 in Rome. Certificate produced, shown to accused, marked Exhibit "A" and attached hereto.

H. Knowles
(H. Knowles) Pte.

The accused declines to cross-examine this witness.

Question to the accused:

Do you wish to make any statement or to give any evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but anything you say or any-evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused:

The accused declines to make a statement or to give any evidence upon oath and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused.

I further certify that Rule of Procedure 4 (C)(D)(E) &(F) have been complied with.

R. Palk Capt.
(R.D. Palk) Capt.,
Officer taking Summary.

In the Field
13 Oct 44.

Exhibit "A"
413

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

No. B/73727 Rank PRIVATE Name GLOVER C.J.

of the 48th HIGHLANDERS OF CANADA REGIMENT

was arrested at ROME at 1515 Hrs.,

on the 1st day of OCTOBER 1944.

Signature of P. M., A. P. M., or other Officer into whose custody the above named person was taken on arrest.

C.E. Hercu.

Rank Captain

Appointment (if any) D.A.P.M.

Commanding 111 PROVOST COMPANY, C.M.POLICE

Date 1st October 1944

PSSN/771/5-44/2,500

AA/Gr-C

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 73727	Pte	Glover J C	48 Highrs on str 4 Cdn Rft Bn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Forfeits in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA Sec 10 (4)	one	times.
For AA Sec 15 (1)	eighteen	times.
For AA Sec 15 (2)	two	times.
For AA Sec 40	six	times.

Date of first entry in Field Conduct Sheet 21 Sept. 1940

Date of last entry in Field Conduct Sheet 20 March. 1944

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. Nil

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for beginning on the~~ from 1515 hrs 1.10.44

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 13 days in military custody, *i.e.*, nil days in open arrest, 13 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 28 yrs

6. The date of his attestation ~~calling up for military service~~ is 1 Jan 1940

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of† N/A

†State the military decorations (if any) held by accused.

9. ~~[illegible]~~

Date of Promotion.

In the substantive rank of

In the war substantive rank of

In the acting rank of

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this Thirteenth day of October 1944

C E Davidson

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	17.3.44	Pte		AA Sec 40 WOAS Neglect failed to appear on Innoculation parade	Sgt Hawalski Pte Chevrier	5 days CB	18.3.44	Major R Barker	
Field	20.3.44	Pte		AA Sec 15 (1) WOAS AwL from 0600 hrs 12.3.44 to 100 hrs 12.3.44 (absent 4 hrs)	Sgt Hoggett J	4 days forf pay	22 Mar 44	Major R Barker	

CERTIFIED TRUE COPY OF MFM6 FROM REGIMENTAL BOOKS IN MY CUSTODY."

In the Field
13 Oct 44

Capt
(AE Davidson) Adjt 4 Cdn Rft Bn.

No B73727 Name Glover C J | Sqn, Battery or Company | Corps CIC | Date of enlistment 10.1.40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment award n	Date of award or of order dispensing with Trial	By whom awarded	Remarks
Field	13.6.43	Pte		AA Sec 15 (1) AWL 2300 hrs 13 Jun 43 to 0700 hrs 14 Jun 43 (8 hrs)	Cpl Kane L/Cpl Biel	2 days CB	16.6.43	Lt-Col IS Innis	Forfs 1 days pay
Field	25.6.43	Pte		AA Sec 15 (1) AWL from 2230 hrs 25 Jun 43 to 0600 hrs 26 Jun 43 (7 hrs 30 mins)	Sgt Loveday	1 days pay 2 days FP	30.6.43	Major NW Shield	
Field	26.6.43	Pte		AA Sec 15 (1) AWL from 0800 hrs to 0830 hrs 26.6.43 (30 mins)	Cpl Bronson	3 days CB	30.6.43		
Field	8.9.43	Pte		AA Sec 15 (1) WOAS AWL from 1600 8 Sep 43 til 0200 hrs 9 Sep 43 (TA D hr)	Sgt McGeachie	10 days FP	14.9.43	Lt-col IS Johnston	Forfs 1 day pay FR&I 149 (1)(a) Forfs 10 days pay FR&I 149(1) (b)

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8.10.41	Pte		WOAS AWL from 1700 to 2345 hrs 2 Oct 41 causing another man to perform his duty. (AA Sec 15 (1)	Lt.Williams Sgt Byron	7 days CB	6.10.41	Major F A Burgesss	Forfs 1 days pay FR&I 149 (1)(a)
Field	27.11.41	Pte		AA 15 (2) WOAS failed to appear at place of parade (Fatique parade at billetts)	L/Cpl Bellamy	3 days CB	28.11.41	Major F A Burgess	
Field	9.1.42	Pte		AA 15 1 WOAS was AWL in that he failed to appear for instruction parade at 11 35 hrs 9.1.42	Sgt Bragger	Admonished	10.1.42	Major HDW Wethey	
Field	16.1.42	Pte		AA 40 Improperly dressed in that he was not in possession of a respirator RW at Charing Cross station	L/Cpl Foy CMP	3 days CB	27.1.42	MajorHDW Wethey	
Field	13.2.42	Pte		AA Sec 15 (1) WOAS AWL from 2030 Sgt SC until 2120 hrs 13 Feb thus causing another man to perform his duty (absent 50 mins)	Bragger	18.Extra GDs and Piquets	16.2.42	Major HDW Wethey	Auto Forf 1 days pay
Field	17.2.42	Pte		AA Sec 15 (1) WOAS AWL from 2000 hrs 12.2.42 until 0900 hrs 18.2.42 causing another man to perform his duty (Absent 13 hrs)	L/Sgt WM Thompson	14 days CB L/Cl Bellamy	20.2.42	Major HDW Wethey	Auto forf 1 days pay

MFM 6
(AFB 122)
10/P&S/158 (24/38)

No B73727 Name GLOVER C J | Sqn, Battery, or Company CIC | Corps C I C | Date of enlistment 10.1.40 | GC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc ??????Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				PREVIOUS SHEET DESTROYED 10.7.40	"RR Merkith" Lt.				
Field	21.9.40	Pte		Awl from 0730 hrs 21.9.40 to 1200 hrs 10.10.40 A.A. Sec 15(1)	Cpl Robertson	28 days Detention	13.10.40	Major D Fletcher	Forfs 22days pay
Field	1.12.40	Pte		AWL from 2200 hrs 1.12.40 to 1100 rs 13.12.40 AA S c 15 (1)	Sgt Gray L/Cpl Adams S/Sgt Emery	28 days Detention	14.12.40	Lt.-col Slack	Forfs 12 days pay auto
Field	28.1.41	Pte		Neglect to Prej of Good Order etc AASec 40	Sgt McLachlan	2 days CB	30.1.41	Major Dawson	
Field	30.7.41	Pte		WOAS failing to report at the place of parade appointed by his OC in that he failed to report for fire piquet after being duly warned AA Sec 15 (2)AWL 1800 hrs 30 Jul to 0100 hrs 31 Jul 41 (7 hrs)	L/Cpl Fulcher	28 days FP	31.7.41	Major R Shankland Camp Commandant	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
Field	3.12.42	Pte		AA Sec 15 (1) WOAS AWL from 2359 2.12.42 to 0845 3.12.42 TA 8 hrs 46 mins	L/Cpl Cochrane	Admonished	4.11.42	Capt Corbett	Forfs 1 days pay
Field	10.1.43	Pte		AA Sec 40 Neglect to the prej etc in that he did not obey an order given by his platoon Cpl	Cpl Shaunessy L/Cpl Dehart	3 days CB	21.1.43	"CC"	
Field	16.1.43	Pte		WOAS (1) AWL from 1015 hrs until 1200 hrs 16 Jan 43(TA 1 hr 45 mins) AA Sec 15(1) (2) Cond to the Prej etc failed to make up his bed before going on parade AA Sec 40	Lieut WS Miller	7 days CB 7 days pay FR&I 149 (2)	28.1.43	Major IS Johnston	
Field	4.3.43	Pte		WOAS AWL from place of duty from 1930 hrs to 2130 hrs 4 Mar 43 (2 hrs) AA Sec 15 (1)	Cpl Skinner	28 days FP 28 dayspay	5.3.43	Col JH Christie	forf 28 days pay
Field	28.4.43	Pte		(1st) WOAS AWL From 1730 hrs 28 4.43 to 0012 hrs 29.3.43(AA Sec 15(1) (2)WOASBreaking out of Barwhen under open arrest was app in Aldershot 1245 hrs 29.4.43 AASec 10 (4)	CSM Baillie	Forf 28 days pay	30.4.43	Lt.-col RJ McPherson auto	forfs 1 days pay

MFM 6
(AFB 122)
40/F&S/136 (3438)

No B73727 Name Glover C J | Sqn, Battery or Company | Corps CIC | Date of enlistment 10.1.40 | GC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 16Jan 42 | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc HDW Wethey Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27.6.42	Pte		WOAS was AWL from 2300 hrs 21 Jun 44 until 0700 hrs 22 Jun 42 (absent 8 hrs) AA Sec 15 (1)	L/Cpl Bellamy	7 days FP	12.6.42	Lt.-col AE Wrinch	1 days Auto forf pay
Algonquin Camp	15.8.42	Pte		WOAS AWL from 2359 hrs 15.8.42 to 1030 hrs 16.8.42 (10 hrs 29 mins) AA Sec 15 (1)	L/Cpl Wells	Forfs 1 days pay and 3 days pay	17.8.42	Lt.-col Bingham	4 days forf
Algonquin Camp	24.8.42	Pte		WOAS AWL from 2359 hrs 22.8.42 to to 0945 hrs 23.8.42(9hrs 46 mins) AA Sec 15 (1)	L/Cpl Davidson	Forfs 1 days pay and 3 days pay	24.8.42	Lt.col Bingham	4 days forf
Field	30.10.42	Pte		(1) WOAS Cond to the prej etc, improperly dressed when walking out. Sec 40 AA (2) WOAS AWL from 2300 30.10.42 till 0630 1.11.42 (1 day 7 hrs 30 mins) Sec 15 1 AA	Sgt Crease Cpl McGregor	14 days FP Place under stoppages of pay of £0.8.6	4.11.42	Lt.-col JE Ganong	Forfs 2 days pay FR&I

(PTO)

Exhibit C

No. A-54508 Name GLORIOSO F. Sqn., Battery, or Company Corps 497/1 Date of enlistment 4-Sept. 40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) (80M—6-39 (1783) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 28 May 43; Last entry 25 March 43 Cases of drunkenness Nil									
Field	21-8-42	Gnr.		for an offence against persons Sect. 20 A.A. Civil.	3 months hard labour at Chelmsford Prison.		J.M.S.		
Field	25-3-43	Pte.		A.A. Sect. 9.2) disobeying in such manner as to show wilful defiance of authority.	Lt. Christian forfs. 14 Sgt. Robb days pay			Major E.J. Dufresne	14 days pay F.R.I 149 2.
Field	15-Oct 43	Pte.		W.O.A.S., A.W.L. in that he did absent himself without leave from 2300 hrs. 15 Oct. 43 to 0900 hrs. 18 Oct. 43. Time absent: 2 days 10 hrs. A.A. Sect. 15, 1.	Pte. Farr P	6 days Pay & All. FRI 149	18 Oct 43	J.J.Legate	ffts. 3 days P&A 149/1 3 old forf. 9 days pay.

CERTIFIED TRUE COPY
J.J. Legate Major
Officer Commanding
Officer having the Custody of Regimental books.

(P.T.O.)

MEDICAL OFFICER'S CERTIFICATE

14 Oct 1944

K.R. (CAN) Para 552

I hereby certify that I have this morning examined No B.73747

Pte. Glover C.J. on strength 4 Cdn

Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

Capt

Medical Officer 4 Cdn Rft Bn.

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 13 Oct 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of

A.W.L. AA 15(1)

for which I was remanded for Court Martial.

C J Glover
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut D H La Rose if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

C J Glover
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

C J Glover
(Sig of Accused)

JJ 28 (case #3)

Pte GLOVER FL.

See E-218 for 1st case

See HH-93 for 2nd case

JJ-28

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Ninth day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~I am unable to appoint~~

~~(1) Three Officers to form the Court,~~

~~(2) A Field Officer as President,~~

~~for the following reasons, namely~~

(87)

A.D.J.A. Major F.J. Gilmour 3 Cdn Div

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.S. Gregory	Regina Rif

Members.

Rank.	Name.	Regiment.
Capt.	R. McD. Horsey	1 C Scot R
Capt.	L.G. Elhatton	R Wpg Rif
Waiting Member Capt.	P.F. Ramsay	1 C Scot R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.M. [illegible] Lt.-Col.,

Commanding A/Comd, 7 Canadian Infantry Brigade

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M11961 Pte GLOVER, Frederick Lewis 1 C Scot R	First Charge A.A. SEC. 15(1)	Guilty	Guilty	
	Second Charge A.A. SEC. 22	Guilty	Guilty	
	Third Charge A.A. SEC. 40	Guilty	Guilty	
	See charge sheet att		15 months detention and stoppages of £0/5/10. In the field 9 July 1943 A Gregory Major President [illegible] Major J.A.	Confirmed [illegible] Lt.-Col.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] (J.M. MELDRAM) Lt.-Col., A/Comd *Commanding* 7 Canadian Infantry Brigade. *Convening Officer* (e)

(Signed) A Gregory Major. (A.S. GREGORY) Major, Regina Rif *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9 day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses * Judge Advocate
*(3. ~~The interpreter~~) A.S.G.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 9 day of July 1943

A. Gregory Major.

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 9th day of July 1943.

J. M. Meldram

Confirming Officer.

(J.M. MELDRAM) Lt.-Col.,
A/Comd, 7 Canadian Infantry Brigade
M 11961 Pte Glover F.L

Promulgated and extracts taken in the case of

(a) (Dated) 9 July 1943 (Signed) [signature]

F. CABELDU MAJOR
A/OC 1 C SCOT R (AF)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Wt. 38002/3316 70m 2/41 W. & Co., Ltd. Gp. 748/2

CHARGE SHEET

The accused, M 11961 Pte. Frederick Lewis GLOVER, 1st Battalion, The Canadian Scottish Regiment, a soldier of the Canadian Army, placed on Active Service in England, is charged with:--

ABSENTING HIMSELF WITHOUT LEAVE

First charge
Army Act
Sec 15(1)

in that he

in the Field, absented himself without leave from 0020 hours, 2 July 1943, until apprehended by Civil Police in London at 1440 hours, 2 July 1943, thereby incurring costs of apprehension in the amount of £0-5-10 (absent 14 hours 20 minutes).

WHEN IN LAWFUL CUSTODY, ESCAPING

Second charge
Army Act
Sec 22

in that he

in the Field, at 0020 hours 2 July 1943, broke away from his escort and escaped.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

Third charge
Army Act
Sec 40

in that he

in the Field, at 1440 hours, 2 July 1943, was improperly in possession of 1,000 Sweet Caporal cigarettes, and at 1130 hours 7 July 1943, was improperly in possession of one battle dress, both the property of K 63149 Pte. Paterson, S., 1st Bn., The Canadian Scottish Regiment.

In the Field
7 July, 1943

(P.S. CAMELDU) Major & A/O.C.
1st Bn., C.Scot.R., (A.F.)

To be tried by Field-General Court Martial.

Date: 8 July '43

(Signature of Convening Officer)
A Cmd
7 Cdn Inf Bde

Place: In the field

B2
A Gregory
Major

MEDICAL OFFICER'S REPORT

I certify that No. M-11961, Pte Glover, F.L.
of I C Scot R is in a Good state of health,
and Fit to undergo Trial by Court Martial.

Thos N Tweddell Capt/Reame
Medical Officer
R. MO - I C Scot Regt

Station In Field

Date 9 July 43.

M F B. 246
40 T & N 572

A Hugery
Major

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field Gen'l Court-Martial held at In the Field on the 9th day of July 1943 by order of Lt Col J. M. Meldram

A/ Commanding 7 Cdn. Inf. Bde

dated the 9 day of July 1943

President.

Major A. S. Gregory Regina Rif

Members.

Capt. R. McD. Horsey 1 C Scot R

Capt. L. G. Elhatton R Wpg Rif

Major F. J. Gilmour H.Q. 3 Cdn Div

Judge Advocate.

Trial of* M11961 Pte Glover, Frederick Lewis 1 C Scot R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut A. C. Peck 1 C Scot R.

Counsel‡ or defending officer† Lieut R. S. Marshall 1 C Scot R

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

Question by the President to the accused.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn

The following officers under instruction are duly sworn.

Lieut R F Campbell 1C Scot R
Lieut A W Dean
Lieut A. Staples

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question*

Guilty *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question*

Answer.

Sergeant Major.

The accused having pleaded Guilty to all charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" be now proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused M11961 Pte Flower F.L.
is found guilty of all charges

†[The summary (or abstract) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No

~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Shrewsbury Hayes.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character? Yes

Question to the accused

Answer

Evidence as to character

1 Capt T. R. Tweddell, RCAMC
attached 1 C Scot R. duly sworn states
I am the M.O. of 1 C Scot R. I have seen
+ spoken with Glover the accused on a
number of occasions in my capacity as MO.
In my opinion he should be examined by
a psychiatrist. I have gone into his
history + crime sheet he has petty crimes
going back even to pre army days. He
knows he is doing wrong. He knows he
will be apprehended + he knows he will
be punished but he still persists. His
back ground is poor with very little
schooling - is one of a family of ten
homesteading in the west. He only had
one years schooling + left school at 16 years
of age - worked as a labourer about 1 year +
then joined the army. I consider him a
psychopathic personality. His physique
is OK. RP 83(b) complied with.

Surgery
Medical

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut A. C. Peck
1 C Scot R
is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes Cert Copy to MFM 6 + MFB 355

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H + I signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Cross-examined by the accused. No

[Instruction.—If by reason of the nature of the service of the accused to a departmental corps, or otherwise, the finding of the Court renders true books to any exceptional punishment in an address to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must require into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused M11961 Pte Frederick Lewis Glover to undergo detention for 15 months and to be put under stoppage of pay until he has made good the sum of £0/5/10 in respect of costs of apprehension & return to unit

Sentence. 15 mos detn & stoppages of £0/5/10

9 July '43
F J Gilmour
M.G.A.
J.A.

A Gregory Major
President.

Expense Voucher Re--: Ref: K.R.&O. (Can) 539

Reg. No. M11961 Rank Pte Name Glover, F.L. Unit Cdn Scot Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	½ Portion	Amount		
5 July 43	Escorts return fare from LONDON To Horsham			2	11
	Prisoners single fare to LONDON From				
	Prisoners fare from London to Horsham			2	11
	Escorts & Prisoners expenses for Bed, Meals, Bus fares				
		Total £:		5	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

.....Capt..

(Signed) W. Fern

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CAPTAIN
ADJUTANT 1ST BN.
CANADIAN SCOTTISH REGT.

Re: M11 961 Pte. Glover, F.L., Cdn Scottish Regt, 1 C.B.R.D.

Receipt is acknowledged for the a/m soldier and the following documents.

Covering Letter
P.C. 2797
A.F.C. 1617
Police Statement
A.F.B. 252

Captain
Adjutant 1st Bn.
Canadian Scottish Rgt., A. F.

London, 3 July 43...(Signed).W.J..Russell, Cpl.

File No 20/8 6

File No. 20/88

Captain

Adjutant 1st Bn.

Cdn Regt Scottish Regt. A. F.

Officer Commanding,
Cdn Scottish Regt.

M 11961 Pte. Glover, F.L. Cdn Scottish Regt

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 29 Oct 40.

(Signed) Capt.
(W.Fern) D. A. P. M.,
London Area.

London
3 July 43

No Complaints.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY that No. M 11961 Rank Pte. Name Glover, F.L.

Unit Cdn Scottish Regt, 1 C.B.R.D. was arrested at Barnet London

at 1440 (hour) on 2 July 43 (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~[illegible]~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

(Signed) Capt.
(W. Fern) D.A. P. M.
London Area

London
3 July 43

Surgery major

Captain
Asst. 1st Div.
Canadian Scottish Regt., A. F.

Summary of Evidence in the case of M11961 Pte. Glover, F.L., 1st Bn. The Canadian Scottish Regiment, (A.F.)

By direction of theCommanding Officer, the Summary of Evidence is taken on oath.

1st Witness for the Prosecution

K 62850 Pte. Sirianni, R.P., 1st Bn. Canadian Scottish Regiment, (A.F.), having been duly sworn, states:

"On the night of 1 July/2 July, 1943, I was on guard duty. About midnight the guard commander, L/Cpl. Bailey, ordered me to escort Pte. Glover, F.L. to the latrine. On the way to the latrine the prisoner informed me he wished to meet a Provost at a hut in the lines to get some cigarettes. We did not find the Provost at the hut so we proceeded to the latrine. Pte. Glover called out, "Provost", and the three of us met in the latrine.
The prisoner and the provost started to talk about drawing equipment and boots, and the prisoner suggested that the Provost should give me a note to say he was taking over the prisoner. I refused to take the note and the prisoner and I walked toward the guard room, but the Provost remained where he was.
When we had walked about 20 yards from the latrine the prisoner said he wished to get some cigarettes from the Provost. I did not give the prisoner permission to get the cigarettes but he started to run back toward the latrine, saying that he would only be a minute and would not run away. I ordered the prisoner to halt and chased him. I lost sight of him and reported immediately to the guard commander. It was between 0015hrs and 0020 hrs, 2 July 1943."

The accused declined to cross-examine the witness.

(Signature of Witness)

2nd Witness for the Prosecution

K 57101 L/Cpl. Bailey, L.R., 1st Bn. Canadian Scottish Regiment, (A.F.), having been duly sworn, states:

"Sir, on the night 1 July/2 July, 1943, I was guard commander. At approximately 0005 hrs, Pte. Glover asked to go to the latrine. I ordered Pte. Sirianni, R.P. to escort him. Pte. Sirianni reported back to me at the guard room at approximately 0020 hrs, informing me that the prisoner had escaped. As I was unable to make a search for the prisoner I reported the matter to the Orderly Officer."

The accused declined to cross-examine the witness.

L.R. Bailey
(Signature of Witness)

3rd Witness for the Prosecution

P.C. Vernon Charlesworth, P.C. 585 S of Barnet. A written statement of this witness' evidence, purporting to be signed by him has been read to the accused and is attached to this summary of evidence as Appendix "A".

Having regard to the expense involved, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

Aubrey C. Rockett
(Signature of Officer taking Summary)

4th Witness for the Prosecution

K 63149 Pte. Paterson, S., 1st Bn. The Canadian Scottish Regiment (A.F.), having been duly sworn states:

"On return to my quarters, Saturday, 3 July, 1943, at 1430 hrs from Exercise "SMASHEX", I found my kit had been disturbed during my absence. I investigated and discovered the following items missing:

1 Battle dress, trousers and blouse
1 Carton, 1000 Sweet Cap cigarettes, unopened.
1 Carton of Sweet Cap Cigarettes which had been opened
1 lb of Sweet Cap tobacco, unopened.

I had not given or loaned these articles to any person. I identify a carton of cigarettes, tagged as Exhibit "A", as my cigarettes. I identify the carton by my name and number which I had printed on the carton before I left on the Exercise.

I identify a battle dress blouse and trousers, tagged as Exhibit "B", as my property. I identify the blouse by the fact that the epaulets have holes where I had worn brass shoulder badges; by the fact that it had a service stripe sewn on the left sleeve and the manner in which the belt is worn. I identify the trousers by the fact that I had mended the bottom of the left leg."

The accused declines to cross-examine this witness.

S. Paterson
(Signature of Witness)

Surgery
major

5th Witness for the Prosecution

K 62331 Cpl. Lorimer, G., 1st Bn. The Canadian Regiment (A.F.), having been duly sworn, states

"On the 7 July, 1943, I was on duty as Guard Com
At approximately 1130 hrs I took a battle dress b
and trousers from the accused, Pte. Glover, F.L.,
confined to the guard-house. I did this on the orde
the Adjutant. I can identify the trousers and blouse
tagged as Exhibit "B", as the articles which were in t
possession of the accused."

The accused declines to cross-examine this witness.

(Signature of Witness)

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E), reserves his defence.

Certified that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

This Summary of Evidence consisting of three pages, taken down by me in the presence and hearing of the accused this 7th day of July, 1943, in the field.

(Signature of Officer Taking Summary)

5th Witness for the Prosecution

K 62331 Cpl. Lorimer, G., 1st Bn. The Canadian Scottish Regiment (A.F.), having been duly sworn, states:

"On the 7 July, 1943, I was on duty as Guard Commander. At approximately 1130 hrs I took a battle dress blouse and trousers from the accused, Pte. Glover, F.L., who was confined to the guard-house. I did this on the order of the Adjutant. I can identify the trousers and blouse now tagged as Exhibit "B", as the articles which were in the possession of the accused."

The accused declines to cross-examine this witness.

G Lorimer
(Signature of Witness)

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E), reserves his defence.

Certified that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

This Summary of Evidence consisting of three pages, taken down by me in the presence and hearing of the accused this 7th day of July, 1943, in the field.

Aubrey C. Pike
(Signature of Officer Taking Summary)

Eugene Meyer.

I, Aubrey C. Peck, Lieutenant, 1st Bn. C. Scot. R.,(AF) prosecutor in the case of M11961 Pte. Glover, F.L. hereby give notice of my intention to submit as evidence for the prosecution a document purporting to be a confession of the accused made to Sgt. Hammond, (S.I.S. Cdn. Military Police)

Aubrey C Peck
.....
(Aubrey C. Peck) Lieut.

A Gregory
Major

Appendix "A"
Aubrey C. Peters

METROPOLITAN POLICE No. 992

Statement of Witness

Barnet STATION S DIVISION

2nd day of July 1943

NAME Vernon Charlesworth

ADDRESS Police Station,

Barnet

Age 36 Occupation Police Constable

Statement: On 2nd July 1943 at about 2.35 pm whilst on duty I was patrolling the footpath which leads across Old Fold Manor Golf Course, Barnet when I saw Private Frederick Le is Glover 1st Battalion Canadian Scottish Regiment running from the south eastern end of the golf course and procsed in a north westerly direction. I noticed that he kept looking behind him and that he was carrying a brown coloured box under his arm. I intercepted him, when I noticed that there was a fresh tear in his trousers. I questioned him but he was unable to produce a pass or explain satisfactorily to me either his presence or his possession of the parcel which I noticed to be sealed and labelled 'Sweet Cap'. "I then said "I am not satisfied with your explanation I am going to take you to Barnet Police Station". Private Glover then admitted that the parcel contained stolen cigarettes. At that moment I saw P.C. 102S Taylor who had arrived in Barnet Police van with the other prisoner. Both prisoners were then conveyed to Barnet Police Station

(Signed) Vernon Charlesworth P.C. 585S

Certified a true Copy.

Captain
Adjutant 1st Bn.
Canadian Scottish Regt. A. F.

A Quigley Major.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Calgary, Alta	26-6-41 to 15-7-41	Pte	-	Conduct to the prej gto AA 40 AWL from 2200 hrs, 15-7-41 to 2400 hrs. 16-7-41(1 dy 2 hrs.)	Cpl Exley Cpl Carroll	2 days CB 3 days CB	26-6-41 17-7-41	Capt. W.G. Rose Maj H.E. Robertson	2 dys py
do	1-8-41	Pte	-	AWL from 0600 1-8-41 to 0100 hrs 4-8-41 (2 days 19 hrs) AA 15(1)	Cpl Dunbar	7 days CB	4-8-41	Major Evans	3 days pay
Ash, Hants	4-11-41	Pte	-	Conduct to the prej AA 40	Sgt Turnbull	4 days CB	8-12-41	Maj D.C. Stephenson	
Paxhill Pk	6-12-41	Pte	-	Conduct to the prej AA 40	Sgt Turnbull	5 days CB	8-1-41	Major D.C. Stephenson	
In the Fld	10-1-42	Pte	-	Disobeying a lawful comd AA9(2)	CQ Grimmond	50 days dtn	10-1-42	FGCM	9 days pay
				Striking a superior AA 8(1)	Sgt James CSM Jackson				
sentence having expired.				Remission earned under "Rules for detention brks and military prisons" 16 days.					
In the Fld	3-4-42	Pte	-	AWL from 2200 1-4-42 to 1430 hrs. 3-4-42 (1 day 16 hrs 30 mins) AA 15(1)	Sgt McDonald	14 days CB 6 days pay	6 Apr 42	Lt-Col. J.R. Kingham	2 days pay
In the Fld	13-4-42	Pte	-	AWL from 1620 hrs 13-4-42 to 0630 hrs, 14-4-42 (14 hrs) AA15(2)	Cpl Byron	3 days CB	14-4-42	Major D.C. Stephenson	1 days pay

Adjutant major

M11961 Glover, F.L. — Sqn., Battery, or Company: C — Corps: 1 C. Scot. R. — Date of enlistment: 25 Jun 40 — O.C. Badges — Service or Proficiency Pay — Character: L.S. Henderson Capt.

No. Name — Date of last entry in Company Conduct Sheet: - — No. and date of last drunk: - — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of earlier dispensing with trial	By whom awarded	Remarks
					Cpl. Ryaburn				
Currie Brks	13-9-40	Pte	-	AWL from 0200 hrs to 1130 hrs 13-9-40 A.A. 15(1) (10 days 9 hrs 30 mins)		10 days CB	14-9-40	Lt-Col. FMW Harvey	11 days pay
Currie Brks	28-9-40	Pte	-	AWL from 2130 hrs. 28-9-40 to 0900 hrs. 25-10-40(26 dys11hrs30mins)	Sgt. Wood	28 days dtn	2-12-40	Maj E.L.C.Gillman	27 dys pay
Fairview Alta	25-10-40	Pte	-	Convicted by Civil Power contrary to Sec 238(11) Crim Code of Can	Documentary	Fined $10 and costs $4.25 or 7 days impr.	26-10-40	Fairview	Police Magistrate
Currie Brks	28-2-41	Pte	-	Conduct to the prej etc AA 40 Disobeying a lawful order AA9(1)	CSM McCulloch Pte Kress " Weeks " Exelby	7 days dtn	3-3-41	Lt-Col. E.R. Knight	
Calgary, Alta	26-4-41	Pte	-	Conduct to the prej etc AA 40 Making false statement AA 18	S/Sgt OBrien Pte Wickson Cpl Reid,G	3 days CB 7 days CB	21-4-41 28-4-41	Major Evans Major Evans	1 days pay
Calgary, Alta	26-4-41	Pte	-	AWL from 2200 hrs. 26-4-41 to 2100 hrs. 27-4-41 (23 hrs)					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of earlier dispensing with trial	By whom awarded	Remarks
				CERTIFIED A TRUE COPY		"H".			
				CAPTAIN					
				ADJUTANT Capt. & Adjt.					
				CANADIAN SCOTTISH REGT., A. F.					

No M11961 Name Glover, F.L. Sqn., Battery, or Company } G Corps 1 C Scot R Date of enlistment } 25 Jun 40 G.C. Badges } Service or Proficiency Pay }

M.F.M. 6 (A.F.B. 122) 07SM—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet } - No. and date of last drunk } - Period not reckoning towards freedom from extra fine } - Sheet No. 3 Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	4-10-42	Pte	-	AWL from 0600 hrs. 4-10-42 to 0600 hrs. 5-10-42(24 hrs)AA15(2)	Sgt Wyatt L/C Andrews	10 days pay	6-10-42	Lt-Col. R.G.L. Parker	1 days pay
In the Fld	31-10-42	Pte	-	AWL from 2359 hrs. 31-10-42 to 1655 hrs. 1-11-42 (16 hrs 56 mins.) A.A. 15(1)	Cpl MorganC Cpl Shergold	14 days FP 14 days py	2-11-42	Lt-Col. R.G.L. Parker	1 days py
In the Fld	23-12-42	Pte	-	Dirty Scabbard on Guard Mounting A.A. Sec 40	Sgt Olsen Cpl Truesdale	3 days CB	24-12-42	Capt. R.McD. Horsey.	
In the Fld	22-1-43	Pte.	-	AA 15(1) AWL from 2200 hrs 22 Jan 43 to 0200 hrs 25 Feb 43 (33 days, 4 hrs)	Documentary	8 mos detn Forf 185 day py FRI 149(1)(b)	26-6-43	FGCM	Forf 84 days pay FRI 149 I1)(a)
In the Fld	12-3-43	Pte	-	AA 15(1) AWL from 0800 hrs 12 Mar to 2055 hrs 30 Apr 43 (Absent 49 days, 12 hrs, 55 mins)	Documentary	Forf 31 days py FRI 149(1)(c)(ii) Cost of app £4-18-2 FRI 172(8)			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of earlier charge being with trial	By whom awarded	Remarks
In the Fld	2-7-42	Pte	-	AWL from 2200 hrs. 3-7-42 to 0630 hrs. 4-7-42 A.A. 15(1)	Cpl Proverbs	14 days FP 14 days pay	6-7-42	Lt.-Col. R.G.L. Parker	
In the Fld	2-7-42	Pte	-	Breaking out of brks whilst under open arrest A.A. 10(4)	Cpl.Proverbs	7 days FP 7 days pay	6-7-42	Lt.-Col. R.G.L. Parker	
In the Fld	2-7-42	Pte	-	Breaking into brks. A.A. 10(4)	Cpl Proverbs	7 days FP 7 days pay	6-7-42	Lt.-Col. R.G.L. Parker	
In the Fld	23-8-42	Pte	-	On church parade requiring haircut A.A. 40	RSM Stothard	Admonished	29-8-42	Major D.C. Stephenson	
In the Fld	8-9-42	Pte	-	Dirty boots on parade A.A. 40	Sgt Wyatt	5 days CB 2 days pay	8-9-42	Major D.C. Stephenson	
In the Fld	10-9-42	Pte	-	Conduct to the Prejudice of Good Order and military discipline A.A. 40	Lt.D.C. Bowen	14 days FP 14 days pay	11-9-42	Lt.-Col. R.G.L. Parker.	

Adjutant, [illegible]

No. M11961 Name Glover, F.L. Sqn., Battery, or Company 6 Corps 1 C Scot R Date of enlistment 25 Jun 40 C.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.B. 122
17536—7-41 (1219-20)
H.Q. 1272-30-1552

Date of last entry in Company Conduct Sheet – No. and date of last drunk Period not reckoning towards freedom from extra fine – Sheet No. 2 Signature O.C. Company, etc. – Character –

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order (Especially with trial	By whom awarded	Remarks
In the Fld	19-4-42	Pte	-	Breaking out of brks A.A. 10(4) AWL from 1800 hrs. 19-4-42 to 2200 hrs. 21-4-42 (52 hrs.)AA 15(2)	Sgt James,S CSM Walker AF	28 days FP 28 days py	23-4-42	F.N. Cabeldu Major 21/c	3 days pay
In the Fld	8 Jun 42	Pte	-	AWL from 0700 hrs. to 1200 hrs. 8 Jun 42 AA 15(2)	Documentary	5 days CB 2 days py	10-6-42	Major D.G. Stephenson	
In the Fld	15-6-42	Pte	-	AWL from 2200 hrs. 15-6-42 to 0600 hrs. 16-6-42(8 hrs)AA15(2)	CSM WalkerAF	4 days CB	16-6-42	Major D.G. Stephenson	1 days pay
In the Fld	2 Jul 42	Pte	-	Appeared on Brigadier's inspection unsatisfactorily blancoed equip. A.A. Sec. 40	C/MS Stirling	14 days CB	16-7-42	Lt-Col. R.G.L. Parker	

(P.T.O.)

W.F.B. 255
40/F & S/975

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M11961	Pte.	Glover, F.L.	1st Bn. C. Scot. R.,(A.F.)

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For AWL A.A. 15(1)	9 times	13 times
For Conduct to Prej AA 40	5 times	10 times
For Breaking out of Bks AA10	3 times	3 times
For Making false statement AA 18	times	1 times
For Disobeying a command AA9(2)	times	1 times
For Striking a Superior AA9(1)		

Number of instances of gallantry or distinguished conduct N11

or,

2. Previous convictions of the accused by a court-martial or a of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. or,

The accused at the present time is under sentence for 8 months beginning on the 25th day of June 1943

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which N11 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 years

6. The date of his attestation specified in his attestation paper is 25 June 1940

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 13 days

8. The accused is entitled to reckon as in (7) service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no decoration, or reward military military

10.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated N.A., and in his regiment (or corps), the rank of dated N.A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— N.A. Date of promotion.

In the rank of ..... years.

In the rank of N.A. ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number M11961 Rank Army Pte.

Name Glover, F.L. of 1st Bn. Canadian Scottish Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Police Magistrate's Court	Fairview, Alta, Canada 26 Oct 40	Sec 238(ii) Criminal Code of Canada	Fine of $10 and costs of $4.25 or 7 days impr.	Nil Fine paid.
Field-General Court Martial	In the Field England 19 Jan 42	Disobeying a lawful command A.A. Sec 9(2) Striking a Superior offr. (A.A. 8(1)	50 days detention	16 days detention
Civil Court at Rochdale	Rochdale	Drunk & Disorderly. Two cases of larceny bailee of a watch. Being a deserter from the Cdn Scottish Regt.	Fined 10/- 1 mos impr. each charge of larceny Ordered to be handed over to military on expiration	Nil
Field-General Court Martial	In the Field 26 Jun 43	Two charges A.A. 15(1) Absence without leave.	8 months detention	Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Sun~~ 9th day of July 1943 (D.N.GABELDU) Major A.O.C. 1 C Scot R (AF)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "I" signed by the president, and annexed to the proceedings.

Allegany Major

8 Jul 43

O.C.
1st Bn. C. Scot. R., (AF)

Sir,-

I respectfully request that

Lieut R.S. Marshall

act for my defence.

F.L. Glover

A Gregory
Major

LIST OF EXHIBITS.

Exhibit "A" Carton 1,000 Sweet Caporal Cigarettes

Exhibit "B" One Battle Dress (complete).

Major

HH-93 (cave #2)

PTE GLOVER FL.

See E-218 for 1st cave

HH-93

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Twenty third day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~ JM

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~I am unable to appoint~~ JM

~~(1) Three Officers to form the Court~~

~~(2) A Field Officer as President~~ JM

~~(3) Three Officers having more than one year's service~~

~~to the following reasons namely~~ JM

"A" Promoted Jones Major.

Proceedings Reviewed for Major 6 Jul 43

74

President.

Rank.	Name.	Regiment.
Major	J.M.D. Jones	R Wpg Rif

Members.

Rank.	Name.	Regiment.
Capt.	R.M. Lendrum	1 C Scot R
Capt.	F.L. Peters	Regina Rif
Waiting Member Capt.	F.W. Christie	3 Bn R Wpg Rif

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed J.M. Meldram (J.M. Meldram) Lt.-Col., Commanding Bde Comd, 7 Canadian Infantry Brigade

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M11961 Pte GLOVER, Frederick Lewis R C Scot R	First Charge A.A. Sec. 15 (1)	Guilty	Guilty on both charges 8 months detention Stoppage of pay $ 11/18/2	Confirmed.
	Second Charge A.A. Sec. 15 (1)	Guilty		
	see charge sheet attached		25th June 1943 Dennistoun Jones Maj.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (J.M. MELDRAM) Lt.-Col., A/Bde Comd — *Commanding* 7 Canadian Infantry Brigade — *Convening Officer* (c)

(Signed) (J.M.D. JONES) Major, R Wpg Rif — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of June, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~ D.F.

were duly sworn.

* Omit if not applicable

Signed this 25th day of June 1943.

Dennistoun Jones Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 D.F.

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison until further order.)~~ J.M.

Signed this 25th day of June 1943

J.M. Meldram
Confirming Officer.
(J.M. MELDRAM) Lt.-Col.,
A/Bde Comd, 7 Canadian Infantry Brigade.

Promulgated and extracts taken in the case of M 11961 Pte. Glover, F.L.

(a) (Dated) 26 Jun 43 (Signed) J.D. Macbeth (J.D. MACBETH) Lt.-Col., 1 C.Scot.R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41759) Wt. 40115—893 300 M. 12/40 P. St. G. 1340

B.2. Dennistoun Jones Dra-for

CHARGE SHEET

The accused, M11961, Pte. Frederick Lewis Glover, 1st Battalion The Canadian Scottish Regiment, a soldier of the Canadian Army placed on Active Service in England, is charged with:-

First Charge 15(1) AA.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2200 hrs., 22nd January 1943, until apprehended by C.M.P. at Manchester, at 0200 hrs., 25th Feburary 1943 thereby incurring costs of apprehension in the amount of £3-0-2.

(Absent 33 days 4 hours)

Second Charge 15(1) AA

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave, while in arrest, from 0800 hrs., 12th March 1943 until apprehended by civilian police in Rochdale at 2055 hrs., 30th April 1943, thereby incurring costs of apprehension in the amount of £1-18-0

(Absent 49 days, 12 hours, 55 minutes)

J.D. Macbeth

(J.D. MACBETH) Lt.-Col.,
O.C. 1st Bn., C. Scot. R., (A.F.)

In the Field
19 June 1943.

To be tried by Field General Court Martial

John H. Feldham, Lt.-Col
A/Adv. Council & Adm. Inf. Adv.
Signature of Convening Officer.

"N"
Dennis Town Jones
Pty

MEDICAL OFFICER'S REPORT

I certify that No. Zn-11961, Pte. GLOVER, F.L.
of 1 C. Scot. Regt. is in a Good state of health,
and Fit to undergo Trial by Court Martial.

Thos. N. Tweddell Capt/R Came
Medical Officer
R.M.O. - 1 C. Scot. Regt.

Station In Field

Date 25/June/43.

M F B. 246
40 F A 8/572

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 25th day of June 1943 by order of Lieut-Col J. M. Meldrum

Commanding 7th Canadian Infantry Brigade

dated the 23rd day of June 1943

President.

Major J. M. D. Jones R.Copg. R.F.

Members.

Capt. R. M. Lendrum I. C. Scot. R.

Capt. F. L. Peters Regina Rifles

Trial of* M11961 Pte Frederick Lewis Glover ~~Judge Advocate~~ I. Can Scot. R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ..... is not available to serve owing~~ to ..... D.J.

~~....., waiting member takes his place as a member of the Court.~~ D.J.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. Frank Huron Werts I. C. Scot. R.

Counsel‡ or defending officer† Lieut. J. Jameson Quirk I. C. Scot. R.

At 0900 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

I have satisfied myself that none of the officers detailed as members of this court have previously served on any court of inquiry respecting the matters forming the subject of the charges before this Court Martial.

Dennis John Jones Major
President F.G.C.M.

B

The President, members and ~~judge-advocate~~ are duly sworn.

9f. ~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Yes Sir *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

yes Sir *Answer.*

~~Are you guilty or not guilty of the third charge against you, which~~ you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to both charges, the provisions of Rule of Procedure 35 (b) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused ~~is again brought~~ before it, and the charge ~~to which he has pleaded~~ "Guilty" read ~~to him again.]~~ D.J.

The accused M.11961 Pte Glover, F.L. is found guilty of absence without leave (both charges) Dennis' town Jones, Maj President

D.J.

†The summary ~~(or abstract)~~ of evidence is read, marked "J" signed by the President, and attached to the proceedings.

Question to the accused.

Do you wish to make any statement in mitigation of punishment?

My Defending officer will D.J.

Answer.

The accused in mitigation of punishment ~~says~~ :—

[~~he~~ hands in a written statement, which is read, marked "K", signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No Sir

Answer

Evidence as to character

E

~~Finding.~~*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused M 11961~~ D.J.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence.

*~~The Court being re-opened, the accused is again brought before it.~~ D.J.

Lieut-Frank Sturon Worts 1 C. Set R. is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes I will produce M.F.B. 355 & Cert Copy of M.F.M. 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "L" & "M" signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

~~Cross-examined by the accused.~~ D.J.

The depending officer declines to cross-examine

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or statement, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No Sw.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused Mngbl Pte Fredrick Lewis Glover 1. C. Scot R. to undergo detention for Eight (8) months and to be put under stoppages of pay until he has made good the sum of four pounds Eighteen Shillings and two-pence (£4/18/2) in respect of the cost of apprehension and return to his unit.

Sentence.
Detention
8 months
Stoppages
£ 4/18/2

Signed in the Field 15th day of June 1915

Tennistoun Jones
Major
Royal Winnipeg Rifles
President

File No. 19/177.

Officer Commanding,
C/Coy. Cdn. Scottish Regt.
Re:- M-11961 Pte. GLOVER [illegible]

Comments on Fines Reg

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated [illegible] Oct. 40.

Capt.
([illegible]) D. A. P. M.,
London Area.

London
18-June 43.

No Complaint

Officer Commanding,
C/Coy. Cdn.Scottish Regt.

Re- M-11961 Pte.GLOVER V.L.

The a/m soldier is being returned to your unit under escort from H.M.Prison Manchester at about 1630 hrs. on the 17-June 43. to the Cdn.Provost Corps.

The a/m soldier was A.W.L. at the time of his arrest.

W. [illegible] D.A.P.M. London Area.

London.
18-June 43

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No M11961 Rank Pte Name Plowe, F.L. Unit 6th, Scot.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit ~~From~~ London from Manchester

Date	Particulars (½ portion)	Amount		
18 Jan 44	Escorts return fare from LONDON To Manchester		14	0
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ portion		4	2
	Total £	1	12	4

I certify that the above statement of Expenses is correct, and that the amounts are fair and just.

CAPT.
(W. FERN) D.A.P.M.
LONDON AREA.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. M-11961 Rank Pte. Name Glover, F.L. Unit Cdn. Scot. Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (½ portion	Amount		
18 June 43	Escorts return fare from LONDON To Horsham		2	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Horsham		2	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	8

Sentence fare for [illegible]

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

(W. FERN) D.A.P.M.
LONDON AREA.

..... Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. M-11961 Rank Pte. Name Glover, F.L. Unit 1 Btn. Cdn. Scot.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars	Amount		
27 Feb. 13	Escorts return fare from LONDON To Manchester	1	8	2
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed,~~ Meals, Bus fares		9	4
	Total £	2	11	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Jennings [illegible] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 711961 Rank Pl. Name Glover, F. Unit Cdn Sect Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount		
27 Feb 43	Escorts return fare from LONDON To Shoreham-by-sea		8	7
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Shoreham by sea	Own ticket		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	7

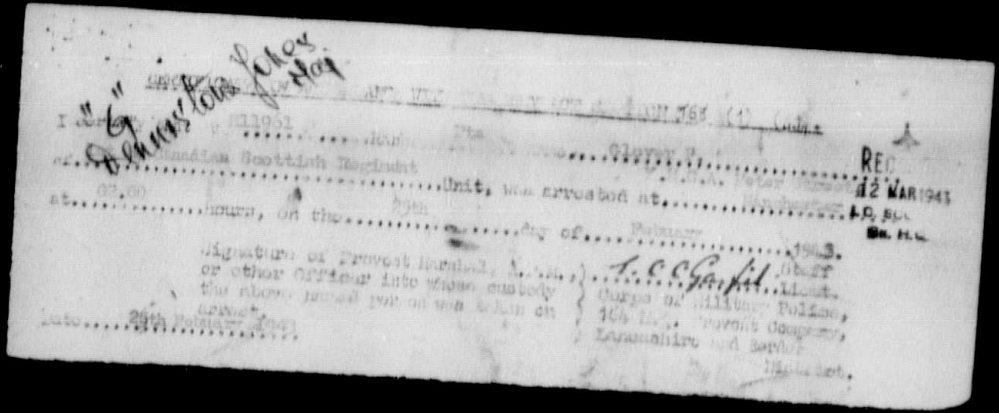
Denis Stanford

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] [signature]

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483



"K"

Defending Officer:
Lieut. T. J. Kirk
1. C. Scot. R.

PLEA OF MITIGATION

Reg. no. 111961 Pte. GLOVER, F.L. , 1. C. Scot. Regt.

The above noted soldier enlisted in the Canadian Active Army on the 25th of June 1940, at which time he was fifteen years of age. He was born on the 22nd of September 1924 and is accordingly, at the present time only eighteen years of age. He was born at Hannah, Alberta, where his family lived until he was about twelve years old & until this age he attended school for a matter of a few weeks only, being in a rural district and miles from the nearest school. His family then moved to a remote pioneer district in the Peace River area of northern Alberta where again educational facilities were very limited. As a consequence of this and the fact that he was one of ten children, he received only about two years schooling as he was required at home to assist his parents in the maintenance of a poor homestead in the bush country. The conditions under which he spent the most formative years of his life can be judged by the fact that in addition to poultry and livestock his family had under cultivation approximately only two acres of land. It should be obvious from this that his home life was a hard existence, and his past anti-social tendencies can, it is respectfully believed, be traced in a large measure to the environment under which he spent his childhood. It can be seen that he was in fact, only a child when he enlisted in the Army; and with his unfortunate background of poverty and hardship, it will be readily observed that the regimented discipline of Army life would be to him a strange tenure, and one to which he would quite naturally have great difficulty in adjusting himself. He is able to read with a minor degree of ease but can do little more than sign his own name, and this handicap of semi-illiteracy together with his almost complete lack of ordinary civilized social contacts prior to his joining the Army obviously made him fair game for the many pitfalls awaiting a man of this type, when first he acquires spending money of his own and complete freedom from parental control. Not having the educational advantages of his comrades it is not unnatural that a young lad of his age should have tried to make up for this deficiency by becoming a sort of "Bad Man" as he thought, and acquiring a reputation as an outlaw. Although this lad has many previous convictions against him it will be noted that none of them were of an actually vicious nature; most of them being in fact nothing more than a show of defiance against authourity. He felt from the start of his military career that he was, in his own words, being "pushed around" and not being given a square deal. In effect, it was his determination that he would break the Army's heart before it broke his. In addition to this he has as is often the case, come under the influence of a woman older than himself and with probably considerably more sophistication. He is not unintelligent, but at the same time can not be described as having any great strength of character, although again his extreme youth and not entirely desirable background must be taken into consideration. He appears to have had from the start, a sense of

inferiority, and undoubtedly to a certain degree also a sense of frustration. He achieved a bad start early in his Army life, and persisting in his own false logic he has gone steadily from bad to worse, culminating in his present plight. During his absence from his Unit he continued to wear uniform xxxxx and there seems little doubt that had he had word that his unit were seeing action against the enemy or about to do so, that he would have returned forthwith. It is respectfully requested that consideration be given to the fact that to any young, active soldier, and particularly to a man not having the usual educational outlets and recreations, as in the case of the accused, the "long alert" and comparatively static role of the Canadian Army would have an undesirable effect in some way or ways. This man has been three years in the Army in a combatant unit and yet his only knowledge of the war is hearsay. Is it not understandable that this could very likely have something to do with his behaviour whilst in this country ?

The accused has assured the undersigned that he has seen the folly of his past actions, and that he now realizes that the only xxxxxxx manner in which he can build a firm basis for his future life is by reforming, and making an honest effort to eventually become a good soldier and a good citizen.

Pte. Glover is pleading guilty to two charges of being A.W.O.L., amounting to a totoal of 86 days and 16 hours, and whilst not attempting to minimize the seriousness of his offence, it is respectfully suggested that to a man Glover's extreme youth and irresponsible nature, a sentence of too great severity might in the final consideration have the effect of completely ruining his life and embittering him permanently, rather than of reforming him. It is respectfully asked that this angle of the case be xxxxxx not overlooked in the final decision reached.

T. Jamieson Quirk

(T. Jamieson Quirk) Lieut.,
1st. Bn. The Canadian Scottish Regiment.

In the Field.
25th June, 1943.

Dennis Lean Jones
Maj

Summary of evidence in the case of M11961 Pte. Glover, F.L., 1st Bn., The Canadian Scottish Regiment.

By direction of the Commanding Officer the Summary of evidence is taken on oath.

1st Witness for the Prosecution.

K63151 Cpl. Selinger A.N., 1st Bn. C.Scot.R. (AF), having been duly sworn, states:

"Sir, I was Company Orderly Sergeant on 22 Jan 43. Pte. Glover, the accused, whom I now recognize, was reported absent at 2200 hours, having failed to return on the expiration of nine days Privilege Leave. He was absent from all roll calls until I handed over my duties to Cpl. Shergold on 26 Jan 43, and to the best of my knowledge, Pte. Glover did not return to camp during that period.

The accused declined to cross-examine the witness.

A.N. Selinger Cpl.
Signature of Witness

2nd Witness for the Prosecution.

K62369 Cpl. Shergold C., 1st Bn. C.Scot.R. (AF), having been duly sworn, states:

"Sir, I relieved Cpl. Selinger of his duties as Company Orderly Sergeant on the 26th Jan 1943. Pte. Glover's absence was reported to me, and during my tour of duty he was absent from all roll calls. I handed over my duties to Cpl. Sked on the 31st Jan 1943, and to the best of my knowledge Pte. Glover did not return to camp during that period.

The accused declined to cross-examine the witness.

C. Shergold Cpl.
Signature of Witness

3rd Witness for the Prosecution.

K57595 L/Sgt. English R.W., 1st Bn., C.Scot.R. (AF), having been duly sworn, states:

"Sir, I took over the duties of Company Orderly Sergeant from Cpl. Sked, who is now away at school, on the 7th Feb 1943, and was informed by him that Pte. Glover, the accused whom I now recognize, was absent and had been absent during Cpl. Sked's tour of duty. During my tour of duty, ending 14 Feb 1943, Pte. Glover was absent from all roll calls, and to the best of my knowledge did not return to camp during that period.

The accused declined to cross-examine the witness.

R.W. English L/Sgt.
Signature of Witness

4th Witness for the Prosecution.

K57497 Cpl. Morgan, C., 1st Bn., C.Scot.R. (AF), having been duly sworn, states:

"Sir, I took over the duties of Orderly Sgt. from L/Sgt. English on the 14 Feb 43. Pte. Glover's absence was reported to me, and he was absent from all roll calls since that time and to the best of my knowledge did not return to camp during that period. I am the section commander of the accused, and during the whole period from 2200 hours 22 Jan 43, till Pte. Glover was brought back under escort, to the best of my knowledge he did not return to camp.

The accused declined to cross-examine the witness.

C. Morgan Cpl.
Signature of Witness

The accused having been duly cautioned in accordance with Rule of Procedure 4(E), reserves his defence.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 28th day of February, 1943 at Monks Common Camp.

.....
Signature of Officer
taking summary.

Sentence four years
Maj

Additional summary of evidence in the case of M11961 Pte. Glover F.L., - 1st C. Bn., The Canadian Scottish Regiment, A.F.

5th & 6th Witnesses for the Prosecution — L/Cpl J. Collinge and L/Cpl. M Tray C.M.police.

A statement purporting to be signed by these witnesses, having been read to the accused, is included as an appendix to this summary.

The accused does not demand the presence of these witnesses for cross-examination.

The attendance of these witnesses cannot, in my opinion, be readily procured, owing to the exigencies of the service, and the expense and loss of time involved.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 9th. day of March, 1943 in the Field.

Signature of Officer taking Summary.

Statement of Evidence in the case of M11961 Pte. Glover F.L.,
1st.Bn., The Canadian Scottish Regiment, AF.

"Sir
At Manchester on the 25 Feb 43 at about 0200 hrs, acting upon instructions I proceeded to the Y.M.C.A. Peter St., accompanied by L/Cpl. M. Tray where I saw the a/m soldier in bed. I told him I had reason to believe he was absent from his unit, he replied 'yes'. I arrested him and conveyed him to the C.M.Police Detention Barracks, Ardwick and handed him over to the N.C.O. i/c Guard to be detained.
He was sober and had military uniform."

Sgd J.Collinge L/Cpl.
C.M.Police

Manchester
25 Feb 43

" Sir
I have read over and corroborate the above statement"

Sgd M. Tray L/Cpl.
C.M.Police

Manchester
25 Feb 43

CERTIFIED A TRUE COPY
(J.D.M.GILLAN)
Capt. & Adjt.
1 C Scot R

"J" Dennis Tom Jones Pat

Summary of Evidence in the case of M11961 Pte. Glover, F.L., 1st Bn. The Canadian Scottish Regiment.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st Witness for the Prosecution

K62195 L/Cpl. Parker, R.C., 1 C. Scot. R.,(AF) having been duly sworn, states:

"On 5th March 1943, during scheme "Spartan", we marched all day over the Downs and consequently most of my section fell out. Amongst those who fell out was Pte. Glover. As I was not able to stop, myself, I called to Pte. Wright and told him to stay with Pte. Glover. I reported this to Lieut. V.C. Moore, my platoon commander. Since that time I have never seen Pte. Glover until now."

The accused declined to cross-examine the witness.

..R.C. Parker..L/Cpl.
Signature of Witness.

2nd Witness for the Prosecution

Lieut. V.C. Moore, 1 C. Scot. R.,(AF.) having been duly sworn, states:

"I was Platoon commander of Pte. Glover on exercise "Spartan". He came on the exercise under close arrest pending Court Martial. During the exercise it was reported that he had fallen out on the march with his escort Pte. Wright, C. I have not seen him since that time nor has he reported back to my knowledge. A few days after the return of the Unit to billets, Pte. Wright reported back and Pte. Glover was reported to me as being absent without leave."

The accused elected to examine this witness:

Question- "Sir, the day I fell out, who detailed Pte. Wright as my escort?"

Answer - "Your section commander, L/Cpl. Parker, detailed Pte. Wright."

Question- "Was it reported that day that I was missing or after the scheme? By that I mean when the Unit returned to billets."

Answer- "You were reported missing on the day when you fell out".

Question- "The day that I was reported missing was I the only one reported missing from the section?"

Answer- "No, several fell out that day but all reported back during the scheme or shortly after, most of them passing through normal channels."

Question- "Did you hear L/Cpl. Parker detail Pte. Wright to be my escort?"

Answer- "No I did not."

[illegible].....
Signature of Witness

3rd Witness for the Prosecution

M12252 Pte. Wright, C., 1 C. Scot. R.,(AF), having been duly sworn, states:

"On the afternoon of 5th March 1943, I fell out of a route march during exercise "Spartan" and Pte. Glover fell out at the same time. We fell out at a place about 10 miles from Wallingford and carried on in our own time. We reported to the C.C.S. at Wallingford but rations were scarce there so we had to pull out. From there we went to Oxford. Pte. Glover was still with us. On the afternoon of Friday 12 March we officially heard that the scheme was over. I decided to head back to camp. Pte. Glover said he wasn't going back. As I hadn't been definitely appointed or detailed to guard Pte. Glover, I left. I left him at approximately 0800 hrs. 13th March 1943 and I arrived back in camp at 1500 hrs. 14th March 1943.

The accused declined to cross-examine the witness.

.....Signature of Witness.

4th Witness for the Prosecution

Police Constable Jack Whewell of Rochdale.

A written statement of this witness's evidence, purporting to be signed by him, has been read to the accused and is included in this summary of evidence as follows:

"Pte. M11961, Glover, F.L., who was arrested at Rochdale 8.55 p.m. on the 30th day of April 1943 and was committed to confinement at Rochdale on the 7th day of May 1943 as a deserter from the Canadian Scottish Regiment - age 19 - height 5' 8" - complexion fresh - hair dark brown - eyes grey - in uniform, was arrested for a civil offence. Whilst in custody he was questioned and admitted he was a deserter from the Canadian Scottish Regiment."

Signed "Jack Whewell", P.C.

Having regard to the exigencies of the service the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attention of this witness for cross-examination.

The accused, having been duly cautioned in accordance with Rule of Procedure 4 (E), elects to make a statement.

M11961 Pte. Glover, F.L. 1 C. Scot. R.,(AF), having been duly sworn states:

"While I was on the scheme "Spartan", I was placed under close arrest. I was in #1 Section of "C" Coy and during the scheme there was nobody in charge of me when the section leader was away.
On 5th March 1943, I fell out with Pte. Wright, C., who, to the best of my knowledge, was not my escort. We had a rest and something to eat and then we tried to catch up to the Coy. However we were unable to do do. Finally we arrived at Oxford and the next day Pte. Wright caught a ride to Aldershot and I carried on from Oxford."

No M11961 Name Glover F.L. Sqn., Battery, or Company C Corps 1 C Scot R Date of enlistment 25 Jun 40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 172) 1936—7-41 (1218-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet - No. and date of last drunk - Period not reckoning towards freedom from extra fine - Sheet No. 3 Signature O.C. Company, etc. - Character -

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	4-10-42	Pte	-	AWL from 0600 hrs 4-10-42 to 0600 hrs 5-10-42(24 hrs)AA15(2)	Sgt Wyatt L/Cpl. Andrews	10 days pay	6-10-42	Lt-Col R.G.	L. Parker 1 days pay
In the Fld	31-10-42	Pte	-	AWL from 2359 hrs 31-10-42 to 1655 hrs 1-11-42 (16 hrs56 mins) A.A. 15(1)	Cpl Morgan C Cpl Shergold	14 days FP 14 days pay	2-11-42	Lt-Col R.G.	L. Parker 1 days pay
In the Fld	23-12-42	Pte	-	Dirty scabbard on Guard Mounting A.A. Sec 40	Sgt Olsen Cpl Truesdale	3 days CB	24-12-42	Capt R.McD.	Horsey
Rochdale		Pte	-	(1) Drunk & Disorderly (2) Two cases of larceny bailee of a watch (3) Being a deserter from the Cdn Scottish Regt	Documentary	Fined 10/- 1 mos imprisonment on each charge Ordered to be handed over to military on expiration.	7 May 43	Civil Court at Rochdale	

CERTIFIED A TRUE COPY

(R.S. GRAY) Capt & Adjt.

Dennis Stone Jones Hal

F

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	2-7-42	Pte	-	AWL from 2200 hrs 3-7-42 to 0630 hrs 4-7-42 AA 15(1)	Cpl Proverbs	14 days FP 14 days pay	6-7-42	Lt-Col R.G.L. PARKER	
In the Fld	2-7-42	Pte	-	Breaking out of bks whilst under open arrest AA 10(4)	Cpl Proverbs	7 days FP 7 days pay	6-7-42	Lt-Col R.G.L. Parker	
In the Fld	2-7-42	Pte	-	Breaking into bks AA 10(4)	Cpl Proberbs	7 days FP 7 days pay	6-7-42	Lt-Col R.G.L. Parker	
In the Fld	23-8-42	Pte	-	On church parade requiring haircut AA 40	RSM Stothard	Admonished	29-8-42	Major D.C.Stephenson	
In the Fld	8-9-42	Pte	-	Dirty boots on parade AA 40	Sgt Wyatt	5 days CB 2 days pay	8-9-42	Major D.C.Stephenson	
In the Fld	10-9-42	Pte	-	Conduct to the Prejudice of good Order and military discipline A.A. Sec 40	Lieut D.C. Bowen	14 days FP 14 days pay	11-9-42	Lt-Col R.G.L. Parker	

M.F.M. 6
(A.F.B. 122)
17334—7-41 (1219-20)
H.Q. 1771-39-1682

No. M11961 Name Glover F.L. Sqn., Battery, or Company C Corps 1 C Scot R Date of enlistment 25 Jun 40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet - No. and date of last drunk - Period not reckoning towards freedom from extra fine - Sheet No. 2 Signature O.C. Company, etc. - Character -

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	19-4-42	Pte	-	Breaking out of bks AA 10(4) AWL from 1800 hrs 19-4-42 to 2200 hrs 21-4-42 (52 hrs)AA15(2)	Sgt James S CSM Walker AF	28 days FP 28 days pay	23-4-42	F.N. Cabeldu	Major 21/c 3 days pay
In the Fld	8 Jun 42	Pte	-	AWL from 0700 hrs to 1200 hrs 8 Jun 42 AA15(2)	Documentary	5 days CB 2 days pay	10-6-42	Major D.C.	Stephenson
In the Fld	15-6-42	Pte	-	AWL from 2200 hrs 15-6-42 to 0600 hrs 16-6-42(8hrs)AA15(2)	CSM WalkerAF	4 days CB	16-6-42	Major D.C.	Stephenson 1 days pay
In the Fld	2 Jul 42	Pte	-	Appeared on Brigadier's Inspection unsatisfactorily blancoes equip A.A. Sec 40	CQMS Stirling	14 days CB	16-7-42	Lt-Col R.G.L.	Parker

Jennifer Jones
Nat.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Calgary Alta	26-6-41	Pte	-	Conduct to the prej etc AA 40	Cpl Exley	2 days CB	26-6-41	Capt W.G. Rose	
do	15-7-41	Pte	-	AWL from 2200 hrs 15-7-41 to 2400 hrs 16-7-41(1 day 2 hrs)	Cpl Carroll	3 days CB	17-7-41	Major H.E.Robertson	2 dys pay
do	1-8-41	Pte	-	AWL from 0600 1-8-41 to 0100 4-8-41 (2 days 19 hrs) A.A. 15(1)	Cpl.Dunbar	7 days CB	4-8-41	Major Evans	3 days pay
Ash, Hants	4-11-41	Pte.	-	Conduct to prej AA 40	Sgt Turnbull	4 days CB	8-11-41	Major D.C.Stephenson	
Paxhill Pk	6-12-41	Pte	-	Conduct to Prej AA 40	Sgt Turnbull	5 days CB	8-12-41	Major D.C.Stephenson	
In theField	10-1-42	Pte	-	Disobeying a lawful comd AA9(2) Striking a superior AA 8(1)	CQ Grimmond Sgt James CSM Jackson	50 days dtn	19-1-42	FGCM	9 days pay
Released from the detention barrack on 21-2-42, sentence having expired. Remission earned under "Rules for detention bks and military prisons" 16 days									
In the Fld	3-4-42	Pte	-	AWL from 2200 1-4-42 to 1430 hrs 3-4-42 (1 day 16hrs30mins)AA15(1)	Sgt McDonald	14 days CB 6 days pay	6 Apr 42	Lt-Col W.R.Kingham	2 dys Pay
In the Fld	13-4-42	Pte	-	AWL from 1620 hrs 13-4-42 to 0630 hrs. 14-4-42 (14 hrs)AA15(2)	Cpl Byron K	3 days CB	14-4-42	Major D.C.Stephenson	1 days pay

M.F.M. 6

No. M1 961 Name Glover, F.L. Sqn., Battery, or Company C Corps 1 C Scot R Date of enlistment 25 Jun 40 Service or Proficiency Pay C. Badges

Date of last entry in Regimental Conduct Sheet - No. and date of last drunk - Period not reckoning towards freedom from extra fine 1 1 - Sheet No. 1 Signature O.C. Company, etc. L.S. Henderson Capt.

"M"

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Currie Bks	13-9-40	Pte	-	AWL from 0200 hrs to 1130 hrs 13-9-40 A.A. 15(1) (10 days 9 hrs 30 mins)	Cpl. Rayburn	10 days CB	14-9-40	Lt-Col FMW Harvey	11 days pay
Currie Bks	28-9-40	Pte	-	AWL from 2130 hrs 28-9-40 to 0900 hrs 25-10-40(26 dys11hrs30mins)	Sgt Wood	28 days dtn	2-12-40	Major E.L.Gillman	27 dys pay
Fairview Alta	25-10-40	Pte	-	Convicted by Civil Power contrary to Sec 238(ii) Crim Code of Can	Documentary	Fined $10 and costs $4.25 or 7 days impr	26-10-40	Fairview Police Magistrate	
Currie Bks	28-2-41	Pte.	-	Conduct to the prej etc AA40 Disobeying a lawful order AA9(1)	CSM McCulloch Pte Kress Pte Weeks Pte Exelby	7 days dtn	3-3-41	Lt/Col E.R. Knight	
Calgary, Alta	20-4-41	Pte	-	Conduct to the prej etc AA40 Making false statement AA18	S/Sgt OBrien Pte Wickson	3 days CB	21-4-41	Major Evans	
Calgary, Alta	26-4-41	Pte	-	AWL from 2200 hrs 26-4-41 to 2100 hrs. 27-4-41 (23 hrs)	Cpl. Reid G	7 days CB	28-4-41	Major Evans	1 days pay

(P.T.O.)

"L" Dennistoun Jones Maj.

M.F.B. 388
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M 11961	Pte.	Glover, F.L.	1 C. Scot. R., (A.F.)

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron Battery~~ Conduct sheets ~~[illegible]~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For AWL AA 15(1)	8	times	12	times
Conduct to Prej AA 40	5		10	
For Breaking Barracks AA10	3	times	3	times
For Making false statement AA 18		times	1	times
For Disobeying a command AA9(2)		times	2	times
Striking a superior AA8(1)			1	

Number of instances of gallantry or distinguished conduct Nil.

or,

~~[illegible]~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~[illegible]~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~[illegible]~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for 30 days in civil custody, and 40 days in military custody, making a total of 70 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 21 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is ~~N.A.~~ 25 June 1940

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 363 days

8. The accused is entitled to reckon as in(7) service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~[illegible]~~ military decoration, or ~~[illegible]~~ military (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
dated N.A., and in his regiment (or corps), the rank of

dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of N.A. years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

ANNEXE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number M11961 Rank Pte

Name Glover, F.L. of 1st Bn. C. Scot. R.,(AF) Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Police Magistrate's Court	Fairview, Alta, Canada 26 Oct 40	Sec 238(ii) Criminal Code of Canada.	Fine of $10 and costs of $4.25 or 7 days impr.	nil fine paid.
Field-General Court Martial	In the Field England, 19 Jan 42	Disobeying a lawful command A.A. Sec 9(2) striking a Superior officer (A.A. 8(1)	90 days detention	16 days detention
Civil Court at Rochdale	Rochdale,	Drunk & Disorderly. Two cases of larceny bailee of a watch. Being a deserter from the Cdn Scottish Regt.	Fined 10/- 1 mos impr each charge of larceny Ordered to be handed over to military on expiration.	Nil.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of June, 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

(J.D. MACBETH) Lt.-Col.
O.C., 1st Bn. C. Scot. R.,(A.F.)

O.C.,
1st Bn. C. Scot. R.,(A.F.)

Sir:-

I respectfully request that Lieut. T.J. Quirk act for my defence.

Pte F.L. Glover
(M11961 Pte. Glover, F.L.)

LIST OF WITNESSES

Prosecution

K63151	Cpl.	Selinger, A.N.	1st Bn. C. Scot. R.,(A.F.)
K62369	Cpl.	Shergold, C.	"
K57595	L/Sgt.	English, R.W.	" (In Canada)
K57497	Cpl.	Morgan, C.	" (In Canada)
	L/Cpl.	Collinge, J.	C.M. Police
	L/Cpl.	Tray, M.	C.M. Police
Lieut.		V.C. Moore	1st Bn. C. Scot. R.,(A.F.)
K62195	L/Cpl.	Parker, R.C.	"
M12252	Pte.	Wright, C.	"

Defence

Nil.

NN·92 (case #4)

PTE GLOVER G·H·

See E·218 for 1st case

" HH·93 " 2nd "

" JJ·28 " 3rd "

Correspondence to be PINNED here.

N N - 92

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Twenty-ninth day of July, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

119-120

"Dennis Jones" Maj

PROCEEDINGS REVIEWED "E.K. McDougall Capt" "WPT" 29 Sep 43

Certified true copy of original proceedings herein.

J C Campbell major
18 Aug 44
J.A.G. Ban Ukr. & Sec CMHQ

President.

Rank.	Name.	Regiment.
Major	J.M.D. Jones	R Wpg Rif

Members.

Rank.	Name.	Regiment.
Capt.	F. R. Dickson	Regina Rif
Capt.	E.G. English	1 C Scot R
Waiting Member Lieut	J.A Davidson	3 Cdn Div Sigs

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed "C.C. Mann"
(C.C. MANN) Brigadier,
Commanding 7 Canadian Infantry Brigade
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M11961 Pte GLOVER Frederick Lewis 1 C Scot R	First Charge A.A. SEC. 15(1) Second Charge A.A. SEC. 22 see charge sheet attached	Guilty Guilty	Guilty 23 months detention Guilty Stoppage £1-18-0 ~~Forfeits 10 days pay~~ "Dennistown Jones" ~~30 Jul~~ Maj ~~Jan~~ Jul 1943	Confirmed "C.C. Mann Brig" 31 Jul 43. "D.J."
K57729 Pte DOUGLAS George Herbert 1 C Scot R	First Charge A.A. SEC. 15(1) Second Charge A.A. SEC. 22 Third Charge A.A. SEC. 40 Fourth Charge A.A. SEC. 40 see charge sheet attached	Guilty Guilty Guilty Guilty	Guilty 60 days detention Guilty Stoppage Guilty £1-18-0 Guilty ~~Forfeits 10 days Pay~~ "Dennistown Jones" ~~30 Jul~~ Maj. ~~Jan~~ Jul 1943	Confirmed "C.C. Mann" Brig 31 Jul 43. "D.J."

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "C.C. Mann" (C.C. Mann) Birgadier, *Commanding* 7 Canadian Infantry Brigade.

(*Signed*) "Dennistown Jones" (J.M.D. JONES) Major, R Wpg Rif, *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th day of July 1943. , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
"D.J." ~~3. The interpreter~~
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 30th day of July 19 43.

"Dennistown Jones" Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1949.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

"DJ"
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*I direct that the soldier named in the margin be not committed to prison until further orders.) "C.C.M"

Signed this 31 ~~Jul~~ day of July 19 43 .
"C.C.M"

"C.C.Mann"
Confirming Officer.
(C.C. MANN) Brigadier
7 Canadian Infantry Brigade

Promulgated and extracts taken in the case of M11961 Pte. Glover F.L.

(*a*) (Dated) 31 July (Signed) "J.D. MacBeth Lt Col"

Promulgated and extracts taken in the case of K57729 Pte. Douglas G.H.

(Dated) 31 July 1943 (Signed) "J.D MacBeth" (J.D. MACBETH) Lt-Colonel & O.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44756) W1. 40(13)—9/43 200 m. 1/40 P. St. G. 6a

CHARGE SHEET

B 2

The accused, M11961 Private Frederick Lewis GLOVER, 1st Battalion, The Canadian Scottish Regiment, A soldier of the Canadian Army, palced on Active Service in England, is charged with:--

ABSENTING HIMSELF WITHOUT LEAVE

in that he

ARMY ACT SECTION 15(1)

in the Field, absented hinself without leave from 2340 hours, 16 July 1943, until apprehended by C.M.P. a t Manchester at 0245 hours, 26 July 1943 (total absence of 9 days, 3 hours, 5 minutes); thereby incurring costs of apprehension in the amount of £1-~~11-11~~
18-0 "D.J."

WHEN IN CONFINEMENT, ESCAPING

ARMY ACT SECTION 22.

in that he

in the Field, at 2340 hours, 16 July 1943, when in confinement in the Unit Guard Room, at Monks' Common Camp, escaped.

In the field
29th July 1943

"J.D. MacBeth"
(J.D. MACBETH) Lt.-Colonel
O.C., 1st Bn. C. Scot.R. (AF)

To be tried by Field-General Court Martial.

Date: 29 Jul 43

Place: In the field

"G.G. Mann Brig"
(Signature of
Convening Officer)

"Dennistoun Jones"
Maj.

"M"

MEDICAL OFFICER'S REPORT

I certify that No. M 11961 GLOVER, F.L.

of _____ is in a Good State of Health,

and is fit. to undergo Trial by Court Martial.

"P. M. Molouf Capt."

Station The Field

Date 30-7-43

M.F.B. 246

A Field "D.J." Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General ~~and District~~ Courts-Martial.

Proceedings of a Field General Court-Martial held at in the field on the 30 th day of July 1943 by order of Brigadier "C.C.Mann " D.S.O.

Commanding ~~of the~~ 7th Canadian Infantry Brigade dated the 29th day of July 1943

President.

Major J.M.D. Jones 1 R Wpg Rif

Members.

Capt E.G. English 1. C. Scot R.

Capt F.R. Dickson 1. Regina Rif.

"D.J."

Trial of* M. 11961 Pte GLOVER, F.L. 1. C. Scot R.

The order convening the Court, the charge-sheet and the summary "DJ" of evidence are laid before the Court.

"DJ"

"DJ"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J.H. Russell 1 C. Scott R.

"DJ" ‡ or defending officer† Lieut A.W. Dean 1 C. Scot. R.

At 1545 o'clock the Trial commences.

The order convening the Court is read, and is marked X , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charges before this Court-Martial

"Dennistown Jones" Maj
R. W. Rif.

B

"DJ"
The President, members and [redacted] are duly sworn.

The following officers under instruction are duly sworn.

Lieut J. A. Davidson R.C.C.S.
Lieut K.S. Corsan 1.C. Scot. R.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty Sir. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty Sir *Answer.*

"DJ" [redacted] *Question.*

Answer.

"DJ" [redacted] *Question.*

Answer.

The accused having pleaded Guilty to both charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

"DJ"

The accused M.11961 Pte 6LOVER F.L. 1. C.Scot-R.

is found guilty of both charges
(Absence without leave
(when in confinement - escaping)

"DJ"

†The summary (or abstract) of evidence is read, marked "J" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says :— I do not wish to make any statement in mitgation of Punishment

"DJ"

[~~The Court is cleared, and on the Court being reopened the proceedings of the President, and attached to the proceedings.~~]

"DJ"

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

"DJ"

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No Sir

Answer.

Evidence as to character.

"DJ"

"J"

Summary of Evidence in the case of M11961 Pte. Frederick Lewis GLOVER, 1st Bn. C.ScottR. (AF)

By direction of the Commanding Officer the Summary of Evidence is taken under oath.

First Witness for the Prosecution

K57807 A/L/Sgt. Gray J.D.A., 1st Bn., C.Scot.R. (AF) having been duly sworn, states:

"Sir, while N.C.O. i/c Guard at Monks' Common Camp on 16th July 1943, the accused escaped from my custody at 2340 hours. He escaped through the ventilator in his cell.

The accused declined to cross-examine the witness.

"J.D.A. Gray L/Sgt."
Signature of Witness

2nd Witness for the Prosecution.

K57462 Sgt. Tantrum, J.T.V., 1st Bn. C.Scot.R. (AF) having been duly sworn, states:

"Sir, at approximately 2355 hours night 16/17 July 1943, the roving picquet reported to me that the accused, Pte. Glover, had escaped from the Guard Room. I went to the Guard Room, and found that the accused had made his escape by pulling boards off the ventilator. At no time during his absence did I see him, nor did he report to the Guard Room, until the day he was returned to this Unit.

"Dennistown Jones"
Maj.

"J. Tantrum Sgt."
Signature of Witness

3rd Witness for the Prosecution

7688708 L/Cpl. Phinn, G., C.M.P.

A written statement of this witness' evidence, purporting to be signed by him has been read to the accused and is attached to this summary of evidence as Appendix "A"

Having regard to the time and expense involved, the attention of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness

"J.H. Russell Lt."
Signature of Officer
taking summary)

The Accused

The accused, M11961 Pte. Glover F.L., 1st Bn., C.Scot.R. (AF), having been duly warned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rule of Procedure 4 (c) (D) (E)(F)&(G) have been complied with.

Taken down by me in the presence and hearing of the accused this 29th day of July 1943.

"J.H. Russell Lt.
Signature of Officer
Taking summary)

"J" APPENDIX "A"

Statement of evidence in the case of M11961 Pte. Glover F.L. 1st Bn. Canadian Scottish Regt.

"Sir.

AT MANCHESTER, on the 26.7.43 at about 0245 hours, I was on duty in the Y.M.C.A PICCADILLY, accompanied by L/Cpl GREENSLADE C.M. Police, when I saw the above named soldier.

I asked him to produce his pass and milita book M.1 and this he could not do. I questioned him and he admitted being an absentee.

I arrested and conveyed him to the ARDWICK GREEN DRILL HALL where I handed over to the N.C.O. i/c Guard to be detained.

He was sober and wearing Military uniform.

"Dennistoun Jones"
Maj.
Manchester
26.7.43

"G. PHINN" L/CPL
C.M. Police.

REMARKS

"Sir"

I have read over and corroborate the above statement."

"V. GREENSLADE" L/Cpl
C.M. POLICE

Manchester
26.7.43

Certified a true copy.

"G.I Hope Lt"
(G.I. HOPE) Lieut. & A/Adjt.

"J" J

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (jj)

I certify that M11961 Pte.Glover F.L.

of 1st Bn. Canadian Scottish Regt, was arrested at King George's Canteen, Piccadily M/c at 0245 hours, on the 26th day of July 1943.

Signature of Provost Marshal, A.P.M. "E.C.C. GARFIT" Capt.
Corps of Mil. Police
164 H.Q. Provost Coy
Lancs. & Border District

Date: 26th July 1943

Certified a true copy.

"C.I. Hope Lt"
(C.I. HOPE)
Lieut. & A/Adjt.

"Dennistoun Jones"
Maj.

"J"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. M11961 Pte. Clover F.L.

1st Bn. Canadian Scottish Regt. was arrested at Manchester

at 0245 hrs. on 26 July 1943 and that at the time of his arrest he was wearing Military Uniform.

Signature of Deputy Asst. Provost-Marshall, in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

"W. FERN" Capt.
D.A.P.M.
London Area

London
27 July 43.

Certified a true Copy.

"Dennistoun Jones"
Maj.

"G.I. Hope Lt"
(G.I. HOPE)
Lieut. & A/Adjt.

E

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

~~Finding.~~

~~[illegible]~~ consideration of the finding.

The Court find that the accused

"DJ"

**When the Court is already open this sentence will be struck out.*

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

"DJ" ~~[illegible]~~ are it.

Lieut J.H. Russell 1 C Scot R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes Sir I produce M.F.B. 355 & M.F.M. 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked L. signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

The Defending Officer declines to cross-examine

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused M 11961 Pte Glover F.L. to undergo detention for twenty-three (23) months and to be put under stoppage of pay until he has made good the sum of £1-18-0 in respect to the cost of apprehension and return to his unit

Sentence.

Detention
23 months

Stoppage
£1-18-0
Forfeiture
10 days Pay

Signed in the field this 30th day of July 1943.

"Dennist~~on~~ Jones"
Major.
1 Royal Winnipeg Rifles

9949.

CHARGE

ARMY FORM B 252
(See King's Regulat)

1st BATT. CANADIAN SCOTTISH Regiment

(~~Battery~~
(~~Squadron~~
C (~~Troop or~~
(Company

CHARGE against No. M/11961 Rank Pte

Name GLOVER, F.L.

Place MANCHESTER Date of Offence 26.7.43.

OFFENCE WHILST ON ACTIVE SERVICE: -

ABSENT FROM UNTIL APPREHENDED

BY THE MILITARY POLICE IN THE

KING GEORGE, YMCA, PICCADILLY, MANCHESTER

ON THE 26th JULY 1943 AT ABOUT 02.45 HRS.

(2) NOT BEING IN POSSESSION OF HIS MILITIA BOOK M.I.

Names of Witnesses:-

7588708 L/CPL. G. PHIN[illegible] C.M. POLICE

783994 L/CPL. V. GREENSLADE, C.M. POLICE

Signature of O.C Battery)
Squa dron, Troop or Company) G.E.E. GARPIT Capt
for A.P.M. Lancs & Border District

Punishment)
Awarded)

By whom)
Awarded)

Adjutant.

P.T.O.

Statement of EVIDENCE in case of

No. M/11961 Pte. GLOVER, F.L.
1st Batt. Canadian Scottish Regt.
Horsham, Suffolk.

Sir,

At Manchester on the 26.7.43 at about 02.45 hrs, I was on duty in the Y.M.C.A Piccadilly, accompanied by L/Cpl. Greenslade, C.M. Police, when I saw the above named soldier.

I asked him to produce his pass and Militia Book M. 1 and this he could not do. I questioned him and he admitted being an absentee.

I arrested and conveyed him to the ARDWICK GREEN DRILL HALL where I handed him over to the N.C.O. i/c GUARDS to be detained.

He was sober and wearing Military Uniform

MANCHESTER
26.7.43

G. Phinn L/Cpl
C.M. Police

REMARKS

Sir,

I have read over and corroborate the above statement

MANCHESTER
26.7.43.

V. Greenslade, L/Cpl.
C.M. Police

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. M11691 Rank Pte Name GLOVER, F.L. Unit Cdn Scot Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit Depot~~ London from Manchester.

Date	Particulars ½ portion	Amount		
27 July 43	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		3	0
	Total £	1	11	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"W. Fern" Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. M11961 Rank Pte Name GLOVER, F.L. Unit Cdn. Scot. Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars 1/2 Portion	Amount		
28 July 43	Escorts return fare from LONDON To Horsham		3	11
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Horsham		2	11
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		6	10

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

"W. Fern" Lieut.
Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 3000:55
40/P & S./483

Expense Voucher Re:

"M" M11961 Pte. Glover F.L. ~~[illegible]~~ Glover 1st Bn. C. Scot.R. (AF)

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from LONDON

Date	Particulars	1/3 portion	Amount.		
28 Jul 43	Escorts return fare from LONDON to Horsham		0	3	11
	Prisoners fare from LONDON to HORSHAM		0	2	11
		Total:	£ 0	6	10

I certify that the above statement of Expenses is correct, and the the amounts are fair and just.

"W. FERN" Capt.
Officer Issuing Railway Warrant and
Expense monies. No. 6 Pro Coy, C.P.C.
London

Certified a true copy

"G.I. Hope Lt"
(G.I. HOPE)
Lieut.& A/Adjt.

"Dennist~~own~~ Jones"
Maj

Expense Voucher Re:

M11961 Pte. Glover F.L. 1st Bn. C.Scot.R. (AF)

The following expenses were incurred in apprehending and returning the m/n soldier to London from Manchester.

	Date	Particulars	½ portion	Amount.
"M"	27 Jul 43	Escorts fare from London to Manchester		0 14 1
		Prisoners single fare to London from Manchester		14 1
		Escorts & Prisoners expenses for bed, meals, bus fares		3 0
			Total:	£ 1 11 2

I certify that the above statement of Expenses is Correct and that the amounts are fair and just.

"WPERN" Capt.

Officer issuing Railway Warrant and Expense monies. No. 6 Pro Coy, C.P.C. London

Certified a true copy

"G.I. Hope Lt"
(G.I. HOPE) Lieut. & A/ Adjt.

"Dennistoun Jones"
Maj.

File No.....
21/17

Officer Commanding,
1st Bn Canadian Scottish Regt.
Re:- m 11961 Pte. Glover, F.L.

1. Forwarded for you information and necessary action, please, and disposal C.A. F. o. No. 388 dated 29 Oct. 40.

"W. Fern" Capt.
(W.Fern) D. A. P. M.,
London Area.

London
27 July 43.

"No Complaint"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. M11961 Rank Pte Name Glover, F.L.

Unit 1st Bn Canadian Scottish was arrested at Manchester (Place)

At 0245 Hrs (hour) on 26 July 43 (date) and that at the time of his arrest he was wearing IMilitary Uniform) or XXXXXXX/XXXXXXXX/X Signature of Provost-Marshall, Assistant Provost-Marshall or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken onarrest.

LONDON
27 July 43

"W Fern" Capt.
(W. Fern) D. A. P. M.
London Area

Subject:- Reports C.M.P. References APM/1.

Officer Commanding,

1st Batt Canadian Scottish Regt.

Horsham Suffolk

The enclosed charge/s are forwarded for necessary action after disposal of the offence the A.F.B.252 should be disposedof according to instructions contained in para 562 (b) of King's Regulations 1940, and NOT returned to this office.

"G.E.E. Garfit"
Captain.
164.H.Q. Provost Company.
C.M.Police.

164.H.Q.Provost Company.
Manchester.
Date 26th July 1943.

"L"

No M11961 Name Glover F.L. | Sqn, Battery, or Company C | Corps 1 C Scot R | Date of enlistment 25-6-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet - | No and date of last drunk - | Period not reckoning towards freedom from extra fine 0 | Sheet No 3 | Signature OC Company, etc | - | Character -

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the Fld	4-10-42	Pte	-	AWL from 0600 hrs 4-10-42 to 0600 hrs 5-10-42(24 hrs)AA15(2)	Sgt Wyatt L/Cpl.Andrews	10 days pay	6-10-42	Lt-Col RGL Parker	1 day pay
In the Fld	31-10-42	Pte	-	AWL from 2359 hrs 31-10-42 to 1655 hrs 1-11-42 (16 hrs 56 mins (AA 15(1)	Cpl Morgan Cpl Shergold	14 days FP 14 days pay	2-11-42	Lt.Col RGL Parker	1 days pay
In the Fld	23-12-42	Pte	-	Dirty Scabbard on Guard Mounting A.A. Sec 40	Sgt Olsen Cpl Truesdale	3 Days CB	24-12-42	Capt. R.McD.Horsey	
Rochdale		Pte	-	(1)Drunk & Disorderly(2)Two cases of Larceny bailee of a watch(3) Being a deserter from the Cdn Scottish Regt	Documentary	1 months Imprisoment on each charge to run consectively. Ordered to be handed over to military on expiration 31 days pay 149(1)(b) 7 days pay 149(1)(c)(1)	7 may 43	Civil Court Rochdale	

"Dennistoun Jones" Maj

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	22-1-43	Pte	-	A.A. 15(1) AWL from 2200 hrs 22 Jan 43 to 0200 hrs 25 Feb 43 (33days 4 hrs)	Documentary	8 mos detn 245 days pay(FRI 149(1)(b)	26-6-43	FGCM	85 days pay FRI 149(1)(a)
In the Fld	12-3-43	Pte	-	AA15(1) AWL from 0800 hrs 12 Mar 43 to 2055 hrs 30 Apr 43(49 days 12 hrs 55 mins.)	Documentary	Forf 31 days pay FRI 149(1)(c)(ii) Cost of app £4-15-2 FRI 172(8)			
In the Fld	2-7-43	Pte	-	AA 15(1) AWL from 0020 hrs 2 Jul to 1440 hrs 2 Jul 43(14 hrs 20 mins) AA22 Breaking away from his escort and escaping.AA40 Improperly in possession of one Battle Dress and 1000 Sweet Caporal Cigarettes both the property of Pte Paterson	Documentary	15 mos detn. (7 mos concurrent) Forf 226 Days pay FRI 149(1)(b) 13 days FRI 149(1)(c)(ii) (Concurrent) Cost of app £)-5-10 FRI 172(8)	9-7-43	F.G.C.M.	1 days pay 149(1)(a) Concurrent

CERTIFIED A TRUE COPY

"G.I.Hope" Lt
(G.I.Hope)
Lieut. & A/Adjt.

"L" No M 11961 Name Glover, F.L. Sqn, Battery, or Company C Corps 1 C Scot R Date of enlistment 25 Jun 40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 60/P&S/156 (3428)

Date of last entry in Company Conduct Sheet - No and date of last drunk - Period not reckoning towards freedom from extra fine - Sheet No 1 Signature OC Company, etc L.S. Henderson, Character Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Currie Bks	13-9-40	Pte	-	AWL from 0200 hrs to 1130 hrs 13-9-40 AA.15(1) (10 days 9 hrs 30 mins)	Cpl Rayburn	10 days CB	14-9-40	Lt/Col. FMW Harvey	11 days pay
Currie Bks	28-9-40	Pte	-	AWL from 2130 hrs 28-9-40 to 0900 hrs s5-10-40(26 dys11hrs30mins)	Sgt Wood	28 days dtn	2-12-40	Maj E.L.Gillman	27 days pay
Fairview Alta	25-10-40	Pte	-	Convicted by Civil Power Contrary to Sec 238(ii) Crim Code of Can	Documentary	Fined $10 and costs $4.25 or 7 days impr.	26-10-40	Fairview Police Magistrate.	
Currie Bks	28-2-41	Pte	-	Conduct to the prej etc AA 40 Disobeying a lawful order AA9(1)	CSM McCulloch Pte Kress Pte Weeks Pte Exelby	7 dys dtn.	3-3-41	Lt-Col E.R.Knight	
"Dennistown Jones" Maj									
Calgary Alta	20-4-41	Pte	-	Conduct to the prej etc AA 40 Making false statement AA 18	S/Sgt OBrien Pte Wickson	3 days CB	21-4-41	Major Evans	
Calgary Alta	26-4-41	Pte	-	AWL from 2200 hrs 26-4-41 to 2100 hrs 27-4-41 (23 hrs)	Cpl Reid G	7 days CB	28-4-41	Major Evans	1 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Calgary Alta	26-6-41	Pte	-	Conduct to the prej etc AA 40	Cpl. Exley	2 days CB	26-6-41	Capt.W.G.Rose	
do	15-7-41	Pte	-	AWL from 2200 hrs 15-7-41 to 2400 hrs 16-7-41 (1 day 2 hrs)	Cpl. Carroll	3 days Cb	17-7-41	Major H.E.Robertson	2 days pay
do	1-8-41	Pte	-	AWL from 0600 1-8-41 to 0100 4-8-41 (2 days 19 hrs)AA15(1)	Cpl. Dunbar	7 days CB	4-8-41	Major Evans	3 days pay
Ash,Hants	4-11-41	Pte	-	Conduct to prej A.A. 40	Sgt Turnbull	4 Days CB	8-12-41	Major D.C.Stephenson	
Paxhill Pk	6-12-41	Pte	-	Conduct to prej A.A.40	Sgt Turnbull	5 days CB	8-12-41	Major D.C.Stephenson	
In the Field	10-1-42	Pte	-	Disobeying a lawful comd AA9(2) Striking a superior AA8(1)	CQ Grimmond Sgt James CSM Jackson	50 days dtn	19-1-42	FGCM	9 days pay
sentence having expired. Remission earned under "Rules for detention bks and military prisons" 16 days.									Released from detention barrack on 21-2-42
In the Field	3-4-42	Pte	-	AWL from 2200 1-4-42 to 1430 hrs 3-4-42 (1 day 16hrs30mins)AA15(1)	Sgt McDonald	14 days CB 6 days pay	6 Apr 42	Lt-Col JR Kingham	2 days pay
In the Fld	13-4-42	Pte	-	AWL from 1620 hrs.13-4-42 to 0630 hrs 14-4-42 (14 hrs)AA14(2)	Cpl Byron	3 days CB	14-4-42	Major,D.C.Stephenson	1 days pay

"L" No. M11691 Name Glover F.L. Sqn, Battery, or Company C Corps C Sect R Date of enlistment 25 Jun 40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/PAS/156 (3434)

Date of last entry in Company Conduct Sheet - No and date of last drunk - Period not reckoning towards freedom from extra fine - Sheet No 2 Signature OC Company, etc - Character -

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	19-4-42	Pte	-	Breaking out of Bks AA19(4) AWL from 1800 hrs 19-4-42 to 2200 hrs 21-4-42 (52 hrs) AA15(2)	Sgt James CSM WalkerAF	28 days FP 28 Days pay	23-4-42	F.N.Cabeldu	Major 2 i/c 3 days pay
In the Fld	8-Jun 42	Pte	-	AWL from 0700 hrs to 1200 hrs 8 Jun 42 AA15(2)	Documentary	5 days CB 2 days pay	10-6-42	Major D.C.	Stephenson
In the Fld	16-6-42	Pte		AWL from 2200 hrs 15-6-42 to 0600 hrs 16-6-42(8 hrs)AA15(2)	CSM WalkerAF	4 days CB	16-6-42	Major D.C.	Stephenson 1 days pay
In the Fld	2-jul 42	Pte	-	Appeared on Brigadiers inspection unsatisfactorily blancoed eqpt A.A. Sec 40.	CQMS Stirling	14 days CB	16-7-42	Lt-Col RGL	Parker

"Dennistoun Jones"
Maj

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	2-7-42	Pte	-	AWL from 2200 hrs 3-7-42 ~~to~~ 0630 hrs 4-7-42 AA15(1)	Cpl Proverbs	14 days FP 14 days Pay	6-7-42	Lt.Col RGL Parker	
In the Fld	2-7-42	Pte	-	Breaking out Bks whilst under under open arrest AA 10(4)	Cpl Proverbs	7 days FP 7 days pay	6-7-42	Lt.Col RGL Parker	
In the Fld	2-7-42	Pte	-	Breaking into Bks AA 10(4)	Cpl Proverbs	7 days FP 7 days pay	6-7-42	Lt.Col RGL Parker	
In the Fld	23-8-42	Pte	-	On church parade required a haircut A.A.40	RSM Stothard	Admonished	29-8-42	Major D.C.Stephenson	
In the Fld	8-9-42	Pte	-	Dirty boots on parade A.A.40	Sgt Wyatt	5 days CB 2 days pay	8-9-42	Major D.C.Stephenson	
In the Fld	10-9-42	Pte	-	Conduct to the Prejudice of Good Order and military discipline A.A. Sec 40	Lieut D.C. Bowen	14 days FP 14 days pay	11-9-42	Lt.Col RGL Parker	

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (ii)

I certify that M/11961 Rank Pte Name Glover, F.L.
of 1st Battn Canadian Scottish Unit, was arrested At Piccadilly King Georges Canteen M/c
at 0245 hours, on the 26th day of July 1943.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest

Staff
G.E.E. Carfit" Lieut
Corps of Military Police,
164 H.Q. Provost Company
LANCASHIRE Manchester and
Border District

Date 28th July 1943

11.	XXXXX	XXXX	XXXX	XXX	XXXX
12.	XXX	XXXX	XXXXX	XXXX	XXXX

SCHEDULE

Of convictions by a court-martial or civil court, of summary under section 47 of the Army Act and of case in which trial has been dispensed with of accused, Number m11961 Rank Pte Name Glover F.L. Unit 1st Bn., Cdn. Scottish Regiment.

Note:- A verbatim extract from the regimental books stating those convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Police Magistrate's Court	Fairview Alta Canada 26 Oct 40	Sec 238(11) Criminal Code of Canada	Fine $10 and costs of $4.25 or 7 days impr	Nil Fine paid
Field-General Court Martial	In the Field England 19 Jan 42	Disobeying a lawful command AA. Sec 9(2) Striking a superior Officer	50 days Detention	16 days Detention
Civil Court at Rochdale	Rochdale Lancs.	Drunk & disorderly Two cases of larceny bailee of a watch, Being a deserter from the Cdn Scottish Regt Two Charges	Fined 10/- 1 mos. impr. each charge of larceny. Ordered to be handed over to Military on Expiration,	Nil
Field-General Court-Martial	In the Field 26 Jun 43	A.A. 15(1) Absence without Leave	8 months Detention	Nil
Field-General Court-Martial	In the Field 9 Jul 43	1 charge A.A. 15(1) Absence without Leave. A.A. 22 Breaking from escort A.A.40 Improperly in possession of Battle Dress, cigarettes.	15 months Detention (to run concurrent with) (8 months detention)	Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed twenty-ninth day of July 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked _____ signed bt the president and annexed to the proceedings.

"J.D MacBeth"
(J.D. MACBETH) Lt./Colonel
O.C. 1st Bn.C.Scot.R.(AF)

M.F.E. 355

"L"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M11961	Private	Glover F.L.	10.Scot.R. (AF)

1. The following is a fair and true summary of the entries in the FIELD GENERAL Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a civil court, fo summary awards under Section 47 of the Army Act and of case in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL A.A. 15(1)	9 times	13 times
For A.A.40Conduct to prej. A.A. 5		
For Breaking out B'ks. AA10	3 Times	10 times
For Making False Statement A.A. 18	times	3 times
For Disobeying a command AA9	2 times	2 times
Striking a superior Officer A.A.5		1

Number of instances of gallantry or distinguished conduct

XXXXXXXXXXXXXXXXXXXXXXXXX

Note:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. XXXXXXXXXXX

XXX

Previous convictions of theaccused by a court-martial or acivil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. XXXXXXXXXXXXXXXXXXX

XXX

8 mos.

The accused at the present time is under sentence for 15 mos. beginning on the 25 day of Jun 43) to run concurrently)

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and three days in military custody, making a total of three days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 yrs. 10 mons.

6. The date of his attestation specified in his attestation paper 25 Jun 1940

7. The service which the accused is allowed to reckon towards discharge is 3 yr. 1 mo. 3 days

8. The accused is entitled to reckon 2yrs 1 mo. 3 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

"Pemiston Jones"

KK-60 (AFRICA)
SPR GLOVER J.N.

B39768, Spr. James, Norman, GLOVER,
3 Bn., 1 Cdn Base Rft Depot. KK-60

A-35

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this thirteenth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of No. 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for [illegible]]~~ GB

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint:—~~
~~*[illegible]~~
~~*[illegible]~~
~~[illegible]~~ GB

Judge Advocate

Major K. G. Morden

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C. H. Campbell,	2 Bn., 1 CBRD

Members.

Rank.	Name.	Regiment.
Capt.	D.G. Drummond-Young,	3 Bn., 1 CBRD
Capt.	C.F. O'Neil,	1 Bn., 1 CBRD

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G. Kevey Basher
Commanding Officer.
Colonel
Commandant, 1 Cdn Base Reinforcement Depot

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B39768, Spr. Glover, J.N. 3 Bn., 1 CBRD	FIRST CHARGE AA Sec. 40	not Guilty	Guilty	I confirm the findings and sentence of the Court. G Hedley Basher Lord
	SECOND CHARGE AA Sec 8(1)	not Guilty	Not Guilty	
	THIRD CHARGE AA Sec 10(3)	not Guilty	Guilty	
	FOURTH CHARGE AA Sec 19	not Guilty	Guilty except that the offence took place at about 2330 hrs and NOT at 2230 hrs	
	FOR FULL DETAILS OF CHARGE SEE CHARGE SHEET annexed, marked "G"		To suffer field punishment for 14 days and to forfeit all ordinary pay for 14 days 15 Aug 43	

* Question to be asked of accused, if he pleads not guilty (R. of P. 59 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— no

(Signed) G Hedley Basher ..... Colonel
Commandant, 1 Cdn Base Reinforcement Depot
Convening Officer (e)

(Signed) C W Campbell Major
2nd Bn 1 CBRD
President.
K G Unwin Major
Judge Advocate

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the fifteenth day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court and Judge Advocate
2. The witnesses
~~*(3. The Interpreter)~~ CWL
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 15th day of August 1943

K G Unwin Major
Judge Advocate

C W Campbell Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ..... day of ..... 19 .

CWL

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.)~~ GB

Signed this 16 day of Aug 1943

G Hedley Basher
Confirming Officer ..... Colonel
Commandant, 1 Cdn Base Reinforcement Depot.

Promulgated and extracts taken in the case of B39768 Spr Glover J.N. 17 Aug 1943

(a) (Dated) 17 August 1943 (Signed) A J McTeer ..... Adjutant
3 Bn 1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Cutanghill
major.

I Certify that I have this morning examined B.39768 Spr. J.N. GLOVER and find him fit..... to undergo trial by Court Martial.

[illegible] Woolner Capt
(R.C.A.M.C.)

In the Field
15 Aug 1943.

Accused B-39768 Spr. James Norman Glover 3 Bn 1 CBRD
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in North Africa on 15 Aug 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	CH. Campbell	CAC 2 Bn 1CBRD
MEMBERS:	Capt	DG Drummond	Young RCASC 3 Bn 1CBRD
	Capt	CF O'Neil	1 Bn 1CBRD
JUDGE ADVOCATE: (If any)	Major	KG Morden	Can Sec GHQ 1 Ech
OFFICERS UNDER INSTRUCTION:	Lieut	H K Pfeiffer	3 Bn 1CBRD
	Lieut	H Critchley	
	Lieut	AR Tretwell	
	Lieut	PS. Herring	
	Lieut	DR Fraser	
PROSECUTING OFFICER:	Lieut	PRV Carr Harris	Lawyer? Ans no
DEFENDING OFFICER:	Lieut	HC Burt	Lawyer? Ans no

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(~~s~~) CWC to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (~~are~~) CWC amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (~~are~~) CWC brought before the Court, and at 1100 hrs hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is ~~[illegible]~~ fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to NA as interpreter? Ans NA

The interpreter is duly sworn.

Do you object to NA as shorthand writer? NA

~~The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.~~
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans NO

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(~~s~~) CWC is (~~are~~) CWC initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~ CWR (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge	not guilty	Fifth Charge	NA
Second Charge	not guilty	Sixth Charge	NA
Third Charge	not guilty	Seventh Charge	NA
Fourth Charge	not guilty	Eighth Charge	NA

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.38(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdrew his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans _____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans _____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans _____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163(1)(a) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans _____ (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans NO

2. The Prosecutor's opening address(~~if any~~) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans NO
Q. Do you intend to call any other witness in your defence? Ans YES
Q. Is he a witness as to character only? (R.P.40(B)) Ans NO

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(2)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "B", and "C", initialled by the President and attached to the proceedings, (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans YES. No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

C H Campbell Major
(Signature of President)

CWS

Opening Address of Prosecutor.

Pros. intends to prove that the accused with full knowledge and control of the faculties was capable of forming intent to constitute crime alleged in first three charges and subsequently was drunk.

Evidence for Prosecution CWC (1)

First Witness: #7686 40 L/Cpl Bilham. H.
CMP. having been duly sworn
states—
I recognize the accused (indicates
the accused) On 27 Jul 43 at about
2200 hrs I was on duty as Cpl
in charge of guard room ~~where~~
Kgm ~~the French civilians~~ As a result
of information I received, I
proceeded with three French civilians
to Rue Admiral Corbet. I then saw
4 soldiers, 2 Br and 2 Cdn. I saw
one fellow with two bottles with
necks broken in his hand. I spoke
to 2 of the soldiers and found them
to be British. I ordered them to their
billets. On flashing my light again
I saw the other two soldiers the accused cans.
I saw the taller of the two in possession
of the two bottles. They seemed in a
slight argument with themselves.
One of the soldiers I spoke to and
asked him what was wrong. He
said I must have fallen down
and sprained my wrist. I requested
him to go down to Pohertruck &
be taken to M I room for treatment.
During my conversation, I received
a blow with back of the neck and on
turning around I saw the accused.
I tried to arrest him but he
became very violent and abusive.
For 15-20 mins, I struggled with
him and finally arrested him
and conducted him to Cdn guard
room and handed him over to
NCO i/c. He seemed very violent when
I struggled with him. This occurred
at lower end of town near square
on main street. 5 mins walk from
Arab quarter. There was no one else
present except the 2 Cdn soldiers

Questions by Court:-

The accused said to me just after I received the blow in the neck: "you cock sucking bastard liney." The accused was the only one behind me - a matter of inches away - when I turned after receiving the blow.

RP 83(B) complied with

Second Witness: 5832075 L/Cpl Bunyan, J CMP, having been duly sworn, states:

I recognize the accused (indicating accused) At Philippeville, on 27 Jul 43 at about 2230 hrs I was called to a disturbance in company with L/Cpl Bilham. On arrival at the scene, I saw 2 Can soldiers, one of them was holding his wrist, the other one whom I found later to be Sgt. Glover, the accused, of Can Army. Carrying two bottles of wine. Two Br. soldiers were standing a little way off on the pavement. We approached the two in the middle of the road and asked the soldier who was holding his arm what was the matter with him. He said I have fallen down and believe I have sprained my wrist. L/Cpl Bilham then asked the soldier to accompany us to the British Medical Officer to receive treatment. This he declined to do Sgt. Glover who stood back when we were talking to the other soldier, then shouted out "you're not taking my buddy away. You liney cock-sucking bastard" and at the same time he dropped the bottles of wine he was carrying and struck

Evidence for Prosecution CWC (1)

First Witness: #7686 40 L/Cpl Bilham. H.
CMP. having been duly sworn
states—
I recognize the accused (indicates
the accused) On 27 Jul 43 at about
2200 hrs I was on duty as Cpl
in charge of guard room ~~where~~
~~the Finish civilians~~ As a result
of information I received, I
proceeded with three Finish civilians
to Rue Admiral Corbet. I then saw
4 soldiers, 2 Br and 2 Cdn. I saw
one fellow with two bottles with
necks broken in his hand. I spoke
to 2 of the soldiers and found them
to be British. I ordered them to their
billets. On flashing my light again
I saw the other two soldiers, the accused cans.
I saw the taller of the two in possession
of the two bottles. They seemed in a
slight argument with themselves.
One of the soldiers I spoke to and
asked him what was wrong. He
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and sprained my wrist. I requested
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be taken to M I room for treatment.
During my conversation, I received
a blow with back of the neck and on
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I tried to arrest him but he
became very violent and abusive.
For 15-20 mins, I struggled with
him and finally arrested him
and conducted him to Cdn guard
room and handed him over to
NCO i/c. He seemed very violent when
I struggled with him. This occurred
at town end of town near square
on main street. 5 mins walk from
Arab quarter. There was no one else
present except the 2 Cdn soldiers

and W/Cpl. Bunyan, J.C.M.P. who accompanied me

Cross examination by Defending Officer

I didn't know what slight argument was about. The three civilians pointed out the soldiers to me. I ordered the soldiers to their billets because it was after time. I didn't take the bottles away from the soldier. Afterwards I hear a smash. The accused was sober. In my opinion, he was not drunk. W/Cpl. Bunyan was standing by. The other soldier was not doing anything. I really felt the blow - it was quite severe. I laid the charge at C.M.P. HQ the same evening. I didn't tell Cdr Provost the charge. I filled out 252 on two shuts. I charged him with being in possession of wine, using obscene language, striking NCO of the police and resisting arrest. I signed a statement, which is part of the Summary of Evidence, in the hospital. I was not sworn. The accused was present but declined to ask me any questions.

Re. examination by Prosecutor.

I was more concerned with Chap who sprained his wrist who was not the accused. The ~~sold~~ accused was standing quite natural and doing nothing to arouse my suspicions that he was drunk. When I signed the Summary of Evidence (Ex. A. ~~[illegible]~~ signed by Pres. and attached to the proceedings) which is a replica of my original statement. It is exactly the same as far as my memory goes.

Questions by Court:-
The accused said to ~~the~~ guest after I received the blow in the neck: "you cock sucking bastard liney." The accused was the only one behind ~~[illegible]~~ me - a matter of inches away - when I turned after receiving the blow.

RP 83(B) complied with

Second Witness: 5832075 L/Cpl Bunyan, J CMP, having been duly sworn, states:
I recognize the accused (indicating accused) At Philipsville, on 27 Jul 43 at about 2230 hrs I was called to a disturbance in company with L/Cpl Bilham. On arrival at the scene, I saw 2 Can soldiers, one of them was holding his wrist, the other one whom I found later to be Sgt. Glover, the accused, of Can Army. Carrying two bottles of wine. Two Br. soldiers were standing a bottle way off on the pavement. We approached the two in the middle of the road and asked the soldier who was holding his arm what was the matter with him. He said I have fallen down and believe I have sprained my wrist. L/Cpl Bilham then asked the soldier to accompany us to the British Medical Officer to receive treatment. This he declined to do Sgt. Glover who stood back when we were talking to the other soldier, then shouted out "you're not taking my buddy away. You liney cock-sucking bastard" and at the same time he dropped the bottles of wine he was carrying and struck

L/Cpl. Bilham in the neck with his fist. L/Cpl Bilham then turned around and tried to catch hold of the soldier. A struggle took place which lasted for approx 15-20 minutes. The struggle ended and L/Cpl. Bilham took ahold of the soldier's arm and the four of us went to Cau Provost HQ. and handed the two men over to NCO ½. The fracas took place just off the main square up a side strut near a cross roads. Most door to cinema. I was present the whole time. No one else was present except the soldiers who moved off. The accused may have been drunking but at the time in my opinion he was sober. The two roads were approx 20' wide and the incident took place in the middle of the cross roads. The Q. Cars and the 2 provosts were all in view of each other at same spot during incident

Cross examinatory Refunding Officer

This incident took place at about 2230 hrs. The two soldiers were just standing there talking. ~~the~~ The civilians came to guard room, took us back to the scene and pointed up strut to 2 soldiers and then they disappeared. I didn't check the other two soldiers. There was no disturbance when we arrived. I heard accused move and bottles fell. I saw the blow struck. a fairly hard blow. I didn't take part in the struggle. I held the light to let L/Cpl Bilham have light to see the man. It was 2-3 mins walk to Cau Provost Corps. I didn't go into the guard room

he didn't get the particulars of the men until next morning from Can Provost Corps. Our reports go into DAPM's office. I did not appear before CO as a witness. I signed the summons of Evidence - (identifies Ex A). The accused was not present when I signed - I was sworn. The accused asked me one question.

Re-examination by Prosecutor.

The Bn soldiers were asked to have before struggle commenced. I didn't see faces of Bn soldiers. I was close to Widdifield, the man with spanned wrist. Bn soldiers were standing up the road. Widdifield was not one of the two who were standing up the road.

RP 83(B) complied with

Court adjourned at 1250 hrs.
Court re-opened at 1400 hrs
Accused is brought before the Court

Third Witness: L 4730 Sgt Harnois N. 3 Bn 1 CBRD. having been duly sworn, states. On 27 Jul 43, I was NCO i/c Charge 3 Bn guard I recognize the accused (indicating accused) RP about 2250 hrs the accused was turned over to me by the provost, he was under the influence of liquor. I had a bed made up for him where I put him and covered him up. The Can provost handed him over to me. The smell of liquor, he was unsteady on his feet, arguing, he was wobbling over the bench. He was talking about something that happened at Philippeville. I put him to bed because I didn't think he could go to bed by himself. In the morning he said he had a big

head. He looked woozy. I would not have put him on duty the night before

Cross-examination by Defending Officer

I had no instructions as to how long to hold him: There was no charge brought to me. I didn't know what his offences were. I was relieved at 2000 hrs 28 Jul 43. I don't remember reporting to anyone that he was in the guard-room. I had no instructions as to charge of prisoners in the guard room. The accused was taken out of guard room and I was told he was now under "open arrest." I don't know the name of the cpl. who took the accused away.

Re-examination by Prosecutor

That was the first time I was on guard in North Africa. The document stated that the accused had been turned over to me at a certain time

Questions by the Court

In my opinion, the accused was armed

RP 83(B) complied with

Fourth Witness: A.102079. Cpl. Heron, WA. 3 Bn 1 CBRD, having been duly sworn. States

On 27 Jul 43 I was cpl of 3 Bn guard. I recognize the accused (indicating him) He was brought into guard room in an intoxicated condition. I sat him on a bench and he fell sideways. I had to detail a man to stand ~~behind~~ passing him to make sure he didn't fall down and hurt himself. Then the Sgt and myself had to made accused sit and remove his boots. He was jabbering away in a childish manner

I don't remember what he was saying

Cross examination by Defending officer:

When the accused was brought in we weren't told what the charges were

~~I assumed then that the accused was in an intoxicated condition.~~

I assumed that there was a drunk charge against the accused

RP 83(B) complied with

Case for prosecution closed

Defence

Fifth witness: B. 20563 Spr. Widdefield Att. 3 Bn, CBRD. having been duly sworn, states

On night 27 Jul 43 I was in Philippeville Spr. Davis & I were walking down the street ~~when~~ about 2200 hrs when we heard Spr Glover's voice. He was talking with a French sailor and a civilian. We asked him to come home with us as he was under the influence of liquor. On our way down the street both Spr Glover & I slipped and fell. After we got up the MPs came along. One asked me for my pass and I told him I didn't have one but showed him my pay book. The other one had grabbed Spr Glover and went around the corner. When I went around, Spr Glover was laying on the street with his face covered with blood. They then took us down to Cdn Provost and we were brought back to Camp. The argument between French civilian & Sailor & Glover was in French and English. When MPs came along I was talking about my wrist. It took us couple of minutes to walk to Provost HQ. There were three or four others at scene. They might have been M.Ps. The struggle didn't

Just more than 2 minutes. It took us about 25 mins to get back to camp by Truck.

Cross-examination by Prosecutor:

I went down to Philippeville with Sgt Davis. Saw accused in pub for one drink at 6.45. I had had a few drinks. Sgt Glover was pretty well gone. I couldn't tell exact spot trouble took place. It was above the theatre. I was about 35 yds away the accused when I heard his voice. I saw civilian & sailor when I got up to them. Sgt Davis, Glover, I were together when provosts came up. My wrist was not sprained. The provosts offered me treatment. I turned it down - my wrist was not swollen. I didn't see accused strike provost or say anything out of the way. I didn't see Sgt Davis until the next day. If Sgt Glover had struck CMP I would have seen it for sure. I didn't know how the fight started. The other MP stepped around the corner with Sgt Glover with 2 or 3 other fellows. And I went around the corner and there was Sgt Glover lying on the ground. Blood on his face. Tooth out. We walked down to the Truck 2-3 minutes walk.

Questions by the Court

The only way I know they were provosts was by flashlight on their caps. I went to Philippeville at 6.30. Walked around the Town with Sgt Davis. Saw Sgt Glover leave the pub at 7.00 pm. He had no bottles with him then nor later at 10 o'clock when we met him again. I didn't hear any breaking of glass.

RP 83(B) complied with

(9) CWR

Sixth Witness: # 13052 Spr Davis G.
3 Bn, 1 CBRD, leaving him only
sworn, stated.

On night of 27 Jul 43, I was
at Philippeville, with Spr Widdifield
we went into a pub about 1830
hrs and had a drink. Saw Spr
Glover. We had a couple of drinks
together. When pub closed we left
him outside the door. Spr Widdifield
and I went for a walk and on our
way back to camp we were proceeding
along the main street of Philippeville
It was then I heard Spr Glover's
voice up one of the side streets. It was
approx 2200 hrs. Spr Widdifield went
up this street to get Spr Glover to bring
him home. When we approached
him he was talking quite loudly to
an Arab and a French sailor. When
we got up to him Spr Glover didn't
recognize us. Wouldn't come home with us
at first. We managed to get an arm
each around him and get him
down the street. We proceeded
about a block down the street when
~~we~~ all slipped Spr Glover slipped & pulled
the two of us down. It was then that
Spr Widdifield hurt his wrist. It
was just after we got up and started
down to the main street that the
MPs came along. They asked us for
our passes. Spr Widdifield reached
in his pocket for his pay book & Spr
Glover was taken around the corner
by the other MP. Spr Widdifield went
around the corner and the other
MP told me to go home which I
did. The argument was not heated
between Spr Glover & Cuban & sailor.
His voice was just boisterously loud
~~just him~~ to when MPs came along
we were talking about Spr Widdifield's
wrist. When I was present there was
no striking or foul language

CWC

(10)

I and not give evidence before
Coy Coe or OC

Cross examination by Prosecutor.

We left pub as it was closing.
about 7 pm. We wandered around
the streets for 3 hours. We stopped
and talked. We were two short
blocks from Sp. Glover when we
heard him. I had to get close
before I saw civilians & sailors.
The cross roads was about 3 blocks
from the ~~main~~ square on
main street. We were on rough
blocks - hob-nailed shoes stepped on it.
I saw Sp. Widdifield talking to
provost. It was another one that
told me to go home. Sp. Widdifield
and provost went around the
corner. I'm not sure the soldier
who told me to go home was a
provost. I thought he was. I
didn't think that Widdifield &
~~Davis~~ Glover were in trouble. About 5
soldiers approached. I at least
were provosts. When I left I went
down to main street & caught a
truck back to camp.

Questions by the Court.
Fixing location of the incident
Our provost went around corner
with Glover - another followed
Widdifield around the corner. I
was going to follow when a
provost stepped up and told me
to go home. I didn't see any
provost truck.

RP83(B) complied with

CWC

(11)

Seventh Witness: F54887 Sgt Roberts, WA
Cdn Pro Corps, having been duly
Sworn, states:
On night of 27 Jul 43 I was in
Philippeville ifc Cdn Pro patrols.
The accused whom I recognize
was turned over to me by COIP.
I didn't know what charge was
against him. The accused was
turned into me at approx 2220 hrs.
He was kept until about 2300 hrs
and would arrive at his unit
about 2325 hrs. I did not appear
in Glovers case before his Coy Cdr or
O.C. nor on summary of Evidence.
It was not possible that provosts
or the accused were drinking on the Truck on the
way home.

Cross-examinatively Prosecutor
Accused was sober when handed
over to me. He had been drinking
he was talking in a loud and
boastful manner. He said
getting out of the Truck "It took 5
of them to get take me in" and
there was one in particular he
wanted to meet man to man.
The accused was not unsteady.
He was bleeding from the mouth.
He was rational. This was at
2220. We handed him over to
S Bn Guard room not later than
2330 hrs.

~~Questn~~ RP(83) complied with

CWC

(12)

Eighth Witness: M.38.91 Cpl. Cassidy E.R.
3 Bn 1 CBRD, having been duly
sworn, states
I am cpl clerk in 3 Bn orderly
room. I received a charge
against Sp 8 Wm at 1850 hrs
30 Jul 43 from HQ 1 CBRD and
I forwarded it to D Coy on same
day.

Cross-examination by Prosecutor.
I received the charge myself.
I have no idea how long the
charge had been at Bfd HQ
RP 83(B) complied with.

Reply.

Cpl. Bilham the first witness
recalled with consent of court
and examined by Prosecutor.
My duty on 23 Jul 43 was to take
~~was~~ in anyone whom patrols
brought in. It was possible that
another provost was present
at scenes but hardly ~~[illegible]~~
L/cpl. Bunyan was the man on
that beat and he was with me.
Refreshing officer declined to
cross-examine
RP 83(B) complied with.

CWR:

(12)

Eighth Witness: M.38.91 Cpl. Cassidy E.R. 3 Bn, 1 CBRD, having been duly sworn, states

I am Cpl. Clerk in 3 Bn orderly room. I received a charge against Sp. Grown at 1850 hrs 30 Jul 43 from HQ 1 CBRD and I forwarded it to D Coy on same day.

Cross-examination by Prosecutor

I received the charge myself. I have no idea how long the charge had been at Alfol HQ

RP 83(B) complied with.

Reply.

Cpl. Bilham the first witness recalled with consent of court and examined by Prosecutor

my duty on 23 Jul 43 was to take ~~[illegible]~~ in anyone whom patrols brought in. It was possible that another provost was present at scenes but hardly ~~[illegible]~~ Cpl. Bunyan was the man on that beat and he was with me.

Defendant officer declines to cross-examine

RP 83(B) complied with.

CWL

Defending Officer's address:

On first charge. Cpl. Bilham's evidence gives different construction to words. Time element 1000 hrs + 15 or 20 minutes. Evidence of Bilham was not sworn. Bunyan's discrepancy in time 2230 hrs. Sgt Glover says Glover arrived at Bn Guardroom 1030 o'clock. First charge should have been under sec 40. Second charge not properly framed. Should have been in confinement. Shows charges are not serious. Fourth charge. Prosecution's case is that Sgt Glover was sober at 2230 but drunk at 2330 hrs. The accused can not be guilty of 4 in charge & guilty of the other three. ~~If he was so~~ If fourth charge were under AA sec 40, rendering himself unfit by reason of previous indulgence, then might be guilty of all four. First three charges should have been grouped together in one charge. Two Bn soldiers were supposed to be in the scene - who were merely sent bound. L/Cpl Bunyan wanted the fight. Use of word "bloody" not common. Can swear word "kindly" not term of disrupt. Only MPs heard words spoken. Actual blow - only I saw it - I felt it and no one else saw it. Widdifield's evidence. Provost HQ - no warning. No one seemed to know what the charge was against him. 2230 hrs on 29 Jul 43. - placed under open arrest that day. His case was not investigated by Coy Cdr or O.C. Summary of evidence is incomplete. MML p. 459, para 6 - p 25, sec 47, RP 2. 3a. and 4 (C) (D) (E) & (F) are have not been complied with. Time element in charges are wrong.

Prosecution's Reply.

First three offences committed when accused was sober. ~~Evidence was~~ MML 106. intoxication - man intends natural consequence of his acts. Accused was sober & responsible

An hour later he was drunk. I feel that plea of drunkenness has no effect in support of or mitigation of the first 3 offences. but drunkenness overtook him later

Summing up by Judge Advocate

1. Evidence only to be considered
2. Facts for Court alone
3. Evidence of drunkenness. and effect on other charges
4. Goes over charges
5. Onus of proof
6. Reasonable doubt.

Address of Defending Officer in Mitigation:-

I recommend that Court. Glover by only 22 yrs. he joined army in Jun 40, came overseas 4 Sep 40 in 2 Bn R.C.E. The offences against him in the past have been minor AWLs and 1 under AA 40 - Not as steady as he might have been but has learned a great lesson from this offence - effects of local wine. We had been here about only 2 weeks when this offence was committed.

CWR

NO.1 CANADIAN BASE REINFORCEMENT DEPOT

ORDERS BY COL. G. HEDLEY BASHER, O.B.E., E.D.,
COMMANDING, 1 CANADIAN BASE REINFORCEMENT DEPOT "IN THE FIELD"

The detail of officers mentioned below will assemble at 3 Bn. on the 15th day of Aug 19 43 at hours for the purpose of trying by a Field General Court Martial the accused person hereinafter named, (and such other person or persons as may be brought before them).

B39768, Spr. James, Norman, GLOVER

PRESIDENT

Major C. H. Campbell, CAC, 2 Bn., 1 CBRD

MEMBERS

Capt. D. G. Sutherland-Young, RCASC, 3 Bn., 1 CBRD
Capt. C. F. O'Neil, B. Coy, 1 Bn., 1 CBRD

Judge Advocate

Major K. G. Morden

Due to the exigencies of the service this court is convened to try the accused on Sunday, 15 Aug 43

The accused will be warned and all witnesses duly required to attend.

Prosecuting and defending officers will be notified.

3 Bn. will be responsible for providing a court room correctly arranged.

3 Bn. will arrange to have five officers detailed to attend for purposes of instruction.

The proceedings will be forwarded to H.Q., 1 Cdn Base Reinforcement Depot.

Signed this 13th day of Aug 19 43.

L. J. Flynn

(L.J.Flynn) Major,
D.A.A.& Q.M.G.,
1 C.B.R.D.

Exhibit "A" ~~Gene~~

Cist Page 3

SUMMARY OF EVIDENCE in the case of B39768 Spr. Glover, J.N. (RCE) on strength 3 Bn. 1 C.B.R.D. a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

#7686110 L/Cpl. Bilham, H.G. (C.M.Police) an N.C.O. of the British North African Force having been duly sworn states:

"I have to report that at Philippeville, on the 27 July 1943, at about 2200 hrs, I was on duty as N.C.O. i/c Town Guard Room, where I was informed by a French civilian that some soldiers were fighting and causing a disturbance in the street of Rue Admiral Corbet. In company with L/Cpl. Bunyan, C.M.Police, I proceeded to the scene and saw 4 soldiers, two British, and two Canadian soldiers, one had in his possession two bottles of wine, both of which had had the necks broken off. I approached one of them, No. B20563, Sapper Widdiefield, A. "D" Sub-Unit, 3rd Battalion, No. 1 C.B.R.D. and asked him what the disturbance was about. He replied, "I have fallen down and think I have sprained my wrist." I requested him to accompany me to the Camp Reception Station for treatment. This he declined. During my short conversation with the a/m soldier, the other Canadian soldier intervened and said, 'You bloody cocksucking bastard limeys are not going to take my buddy away,' and with that he struck me with his fists on the back of the neck.

"I tried to arrest him but he became very violent. For about 15 to 20 minutes I struggled with him in which I was forced to use self-defense and finally arrested him and conducted him to the Canadian Provost, H.Q. and handed him over to the N.C.O. i/c to be detained.

"He was sober.

"His particulars were given to me and are as follows: No.B39768 Spr.Glover,J.N., "D" Sub-Unit,3 Bn. No.1 CBRD."

The accused declines to cross-examine this witness.

...H.C.Bilham L/Cpl. C.M.P...

SECOND WITNESS FOR THE PROSECUTION

L/Cpl. Bunyan, J. (C.M. Police) an N.C.O. of the British North African Force, having been duly sworn states:

" At approximately 2200 hrs on the 27th July,43, I was on duty in the Town Guard Room, when L/Cpl. Bilham was informed by a French civilian that some soldiers were fighting and causing a disturbance in the street of Rue Admiral Corbet. I accompanied L/Cpl. Bilham to the scene and saw four soldiers(two British and two Canadian). A slight argument was in progress between the Canadians. One had in his possession two bottles of wine, both of which had the necks broken off. L/Cpl. Bilham approached one of them (#B20563 Spr. Widdifield, A.) and asked what the disturbance was. He replied, 'I have fallen down and think I have sprained my wrist.' He declined to go to the Camp Reception Station for treatment.

"The other Canadian soldier then intervened and said, 'You bloody cock-sucking bastard limeys are not going to take my buddy away..' With that, he struck L/Cpl. Bilham on the back of the neck with his fists. L/Cpl. Bilham tried to arrest him but had to struggle with him for fifteen or twenty minutes. We conducted him to the Canadian Provost H.Q. and handed him over to the N.C.O. in charge. He was sober. His particulars are #B39768 Spr. Glover, J.N., 3 Bn. 1 C.B.R.D.

The accused declines to cross-examine this witness.

J. Bunyan & Sgt.....
C.M. Police

FIRST WITNESS FOR THE DEFENCE

#H 13052 Spr. Davis, L. (R.C.E.) on strength 3 Bn., 1 C.B.R.D., a soldier of the Canadian Army Overseas, having been duly sworn states:

"At approximately 2200 hrs on the 27th July 43, I was walking on a street in the Arab quarter with #B20563 Spr. Widdifield, A. I heard Spr. Glover in an argument with a French sailor and a civilian. We tried to get Spr. Glover to come home as he was under the influence of liquor. He did not have any liquor in his possession. Some English M.P.'s came along, an argument started and two of the M.P.s took him around the corner. Spr. Widdifield went around the corner and I was told to go home, which I did.

The accused declines to cross examine this witness.

L. Davis

SECOND WITNESS FOR THE DEFENCE

#B4730 Sgt. Harnois, R. (C.A.C.) on strength 3 Bn. 1 C.B.R.D. an N.C.O. of the Canadian Army Overseas, having been duly sworn states:

"At approximately 2230 hrs. on the 27th July 43 I was in charge of the Guard Room for 3 Bn. Spr. Glover was brought in by the Canadian Provost. He was under the influence of liquor. I had a bed prepared for him and put him to bed. He was so drunk he wasn't capable of performing any duties.

The accused declines to cross-examine this witness.

R. Harnois

THIRD WITNESS FOR THE DEFENCE

#B20563 Spr. Widdifield, A. (R.C.E.) on strength 3 Bn., 1 C.B.R.D. a soldier of the Canadian Army Overseas, having been duly sworn, states:

"At approximately 2200 hrs on the 27 July 43, I was walking on a street in the Arab section with #H13052 Spr. Davis,L.when we heard Spr. Glover in an argument with a sailor and a civilian. We tried to get him to come home with us as he was under the influence of liquor. He did not have in his possession at that time any liquor that I could see. While we were arguing with him the English M.P.'s grabbed Spr. Glover by the arm. They asked me for my pass, not having one they took my paybook. In the meantime the other M.P.'s took Spr. Glover around the Corner. When I got around the corner they had Spr. Glover down on the street, and his face was covered with blood. They then took both of us down to the Canadian Provost. We were then returned to camp.

The accused declines to cross examine the witness.

A. Widdifield

The accused, having been duly warned under Rule of Procedure 4 (E) does not elect to make a statement.

I hereby certify that Rules of Procedure 4(c)(d)(e) and (f) have been duly complied with.

Taken down by me in the presence and hearing of the accused, on the 3rd day of August, 1943 in the Field.

Sgd... W.R.Crooks.....
(W.R.Crooks) Capt. C.A.C.
Officer detailed to take the Summary.

"B"

C10C

ARMY FORM B 200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B39768	Spr	J.N. GLOVER	3 Bn 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers hereto stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	AA Sec 40	1 times	AA Sec 15 (1)	times.
For	AA Sec 15 (1) AWL	2 times	AWL	5 times
For		times		times.
For		times	AA Sec 19: 1	times.
For		times	AA Sec 40: 1	times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct~~ nil

or

~~There are no entries in the conduct sheets of the accused~~ nil

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section ~~47~~ nil of the Army Act, and dispensations with trial under section 73 of the Army Act, are ~~set out~~ in the schedule annexed to this statement.

3. The accused is ~~not under sentence~~ at the present time, *or* The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ nil attestation paper is 22 yrs 12 mos

6. The date of his ~~commission~~ nil attestation specified in his ~~record of service~~ nil attestation paper is 28 Jun 40.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 39 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 39 days service.

9. The accused is entitled to reckon 3 yrs 39 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of ~~or~~ entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he ~~was~~ nil made a warrant officer last held the regimental rank of .....

12. (*~~In the case of an officer.~~*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

(*16546) WL30246/842 75,000 12/40 A.& E.W.Ltd. Op.4/98

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the disposing authority.	Punishment remitted.

a/M.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of August 1943.

a/M. [illegible] Capt. Adjutant
3 Bn I Cdn Base Reinforcement Depot

In the accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

"C"

No. B 39768 Name Glover, J.H. Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 28 Jun 40 — Service or Proficiency Pay N/A — M.F.M. 6

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	-	Spr		A.A. Sec 15(1)		1 days pay FR&I 149(1)(a)	13 Mar 41	O.C.	
Field	-	Spr		A.A. Sec 15(1)		2 days pay FR&I 149(1)(a)	28 May 41	O.C.	
Field	-	Spr		A.A. Sec 15(1)		1 days pay FR&I 149(1)(a)	2 Jun 41	O.C.	
Field	-	Spr		A.A. Sec 19 Drunkeness		Admonished	20 Aug 41	O.C.	
Field	-	Spr		A.A. Sec 40		Placed under stoppage of pay for £4-1-6 FR&I 158 (2)	19 Nov 42	O.C.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Spr		AWL from 1330 hrs 10 Jan 42 to 2200 hrs 10 Jan 42. (Absent 8 hrs 30 min) Sec 15( ) A.A.		1 days pay FRsI 149(1)(a)	14 Jan 42	O.C.	
Field		Spr		AWL from 2300 hrs 28 Jan 42 to 0950 hrs 29 Jun 42. (Absent 10 hrs 50 min) Sec 15(1) A.A.		7 days pay FRsI 149(2) 1 days pay FRsI 149(1)(a). Total 8 days pay	29 Jun 42	O.C.	

CERTIFIED TRUE EXTRACT OF
OFFENCES AND AWARDS AS SHOWN
ON M.F.M. 4 of B 39766 Spr
Glover, J.N.

John B. Steele

(John B. Steele) Lieut
for Officer i/c
Canadian Section G.H.Q., 2nd Echelon

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

BB-152.
PTE GLOVER S.

BB-152

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of April, 1943

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian Division Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~[illegible]~~]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[~~[illegible]~~ :—

*(1. ~~[illegible]~~)

*(2. ~~[illegible]~~

~~for the following reasons, namely:~~—]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

Proceedings Reviewed

Reviewing Officer (J.A.G. C.M.H.Q.)

17

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj	F.W. Court	Tor Scot R (MG)

Members.

Rank.	Name.	Regiment.
Capt or Lieut	(to be detailed by OC 8 Cdn Recce Regt (14H))	8 Cdn Recce Regt(14H)
Capt or Lieut	(to be detailed by CRE 2 Cdn Div)	RCE
Waiting Member		
Capt or Lieut	(to be detailed by OC 8 Cdn Recce Regt (14H))	8 Cdn Recce Regt(14H)

*Signed (J.H. ROBERTS) Major-General

Commanding 2 Cdn Div

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.86[illegible]0 Pte Stanley GLOVER, 6 Cdn Inf Bde Coy, RCASC	Sec 15(1) A.A. (See Charge Sheet attached)	Guilty	Guilty To undergo detention for 180 days 9 April 43 D.M. Court Major.	Confirmed. J.W.R.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.W. Roberts (J.W. ROBERTS) Major-General, *Commanding* 2 Cdn Div *Convening Officer* (*e*)

(Signed) D.M. Court Major *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~ The officers under instruction

were duly sworn.

* Omit if not applicable.

Signed this 9th day of April 1943.

D.M. Court Mjr
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (k) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ J.W.R.

Signed this 10 day of Apr. 1943.

J.W. Roberts Maj-Gen
Confirming Officer.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of B86200 Pte. Glover S.

(*a*) (Dated) 12 Apr 43 (Signed) J.W. Taylor Major.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 42365/1937 25 M. 5/43 K.H.,S.(S.H.Q.) Gp. 67&3

CHARGE SHEET

B-86290.Pte Stanley CLOVER 6 Cdn Inf Bde Coy R.C.A.S.C. a soldier of the Cdn Army Overseas is charged with.

Charge
Sect 15(1) absenting himself with out leave
Army Act.

in that he, in the field ~~XXX~~ absented himself from 6 Cdn Inf Bde Coy R.C.A.S.C. from 2359 hrs 24 Jan 43 until apprehended by the civil police at Brooks Green at 1715 hrs 30 Mar 43

.....
(T.W Bigelow)Major
O.C. 6 Cdn Inf Bde Coy
R.C.A.S.C. C.A.(O)

Field
2 April 43

To be tried by F.G.C.M.

for (J.H. ROBERTS) Major-General,
GOC 2 Cdn Div

In the Field,
8 Apr 43.

6 Cdn Inf Bde Coy R.C.A.S.C.

Canadian Army (Overseas)

9 Apr 43

This is to certify that I have this date examined B86290 Pte Glover, S. and find him to be free from all infectious diseases and fit to undergo Field General Court-Martial .

(J.C. Steer) Capt.
M.O. 6 Cdn Inf Bde Coy RCASC
Canadian Army (Overseas)

Court Exhibit

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the field on the 9 day of April 1943 by order of Maj Gen J H Roberts

Commanding 2 Cdn Div

dated the 8 day of April 1943

President.

Maj F W Court, Tor Scot R (MG)

Members.

Capt A W Hamilton 8 Cdn Recce R (4H)

Lieut W A Ewener, 7 Cdn Fd Coy RCE

Trial of* B8690 Pte Stanley Glover, ~~Judge Advocate~~ 6 Cdn Inf Bde Coy, RCASC.

The order convening the Court, the charge-sheet and the summary (or ~~abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that ..... is not available to serve owing to~~

~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt W D S Careless, 6 Cdn Inf Bde Coy RCASC

~~Counsel,‡ or~~ defending officer† Lieut E A Martin " " " "

At 1045 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, Full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q1261 [illegible] Form A 9/[illegible]

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.
Capt W M W Shaw, HQ, 2 Cdn Div

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8), the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to ~~the~~ charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

Capt W D S Careless is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness* AFB 296 & MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H & 2, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer* yes

not Cross-examined by the accused.

[Instruction.—If the nature of the nature of the service of the accused be a departmental copy, or otherwise, the finding of the Court tenders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer* Then my defending officer.

~~The Court is closed for the consideration of the sentence.~~

F

~~Sentence.~~

~~The Court sentence the accused~~ Sentence

many men in army no sense of responsibility particularly of same age as accused. 6 mos after entering High school accused lost his father & was compelled to leave school to make living altho he had no training. From one job to another due to lack of training — enlisted Sept '39. Enlisted to be a diver & chose RCASC. Has been employed as a general fatigue man & as a result he was disillusioned & "browned off". AWL is predominant offence he has committed. Was without advice of father when most needed. Now realizes seriousness of offence but if was employed in a job which would hold his interest he is not incorrigible — he is still very young in many ways.

Earnest appeal for leniency

Court closed to consider sentence.

W. Court
Major.

SUMMARY OF EVIDENCE IN THE CASE OF B-86290 PTE.STANLEY GLOVER
6 Cdn Inf Bde Coy R.C.A.S.C. Cdn Army Overseas.
The accused is informed of his rights
The accused does not demand and the Officer Commanding does not direct that the evidence be taken on Oath.

First Witness for the Prosecution.
Lieut.B.A.Martin 6 Cdn Inf Bde Coy R.C.A.S.C. states.
I herewith present certified true copy of Offical Declartion of Court of Inquiry held on 17 Feb 43. The person named therin is the accused B-86290 Pte Stanley Glover (whom I recogonize)
Question to accused"Do you wish to cross-examine this witness?)
Answer."No Sir."

B.A.Martin
(B.A.Martin)Lieut.

G

The accused is cautioned un der R.P. 4 C.D.E.and F. and declines to make any statement.
CERTIFIED THAT R P (4) Complied with

W.B.S.Careless Capt.
(W.B.S.Careless)Capt.
Officer detailed to take summary.

Summary of Evidence in the case of B-84290 Pte Glover S.C.

Second Witness for the Prosecution. P.C.216.Porter T.E.
Petworth Police Station. Sussex Police Force.
A written statement of this witness"evidence purporting to be signed by him has been read to the accused and is included in this summary(attached as exhibit "B")having regard to: the loss of time involved;the attendance of this witness cannot in my opinion,be readily procured.

The accused does not demand the attendance of this witness for the purpose of cross-examination.

W.B.Barlow... Capt
Officer detailed to take summary.

Record of the Declaration of a Court of Inquiry assembled at the Field on the 17 day of February 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B86290 Pte Glover, S.

DECLARATION

The Court declare that No. B86290 Pte. Glover, S. illegally absented himself without leave 2359 hours in the Field on the 24th day of Jan 43; and that he is still so absent and that on the 17 Feb 43 he was deficient, and that he is still deficient of the following articles;-

Articles		Value £	S	D	Less Depreciation £	S	D
Badges, cap	1			4½			4½
B.D. Blouses, S.D.	1	1	7	8	1	7	0
B.D. Blouses, S.D.	1	1	7	11	1	7	0
Bootlaces, black, prs.	1			1½			1
Boots, ankle, prs.	1	1	1	6	1	1	0
Brushes, boot, blacking	1			8			6
Brushes, boot, polishing	1			9			7
Brushes, shaving	1		1	4		1	2
Brushes, tooth	1			4½			2
Caps, comforter	1		1	1½		1	1
Caps, F.S.	1		3	8		3	2
Combs, hair	1			2			1
Drawers, woollen, prs.	2		10	6		10	2
Holdalls,	1			9			8
Knife, clasp and lanyard	1		5	2½		5	0
Trousers, denim, prs.	1		11	9		11	0
Razors	1		1	10½		1	8
Shirts, flannel, khaki	1		9	2		9	0
Shirts, woollen	2		10	2		10	0
Bags, ration	1			1½			1
Belts, waist, W.E. Patt'37	1		6	7		6	4
Carriers, cartridges	2		8	9		8	0
Braces, web, left	1		1	10		1	5
Braces, web, right	1		1	8		1	4
Vests, cotton, gym	1		1	6		1	2
Drawers, cotton, shorts	2		4	1		4	0
Wallets, anti-gas,	1		1	5½		1	4
Total		8	1	1	7	13	4½

J.H.S. Banting, Capt. --- President
W.D.S. Careless, Capt. --- Member
J. Grieves-------Lieut.--Member

Signed In the Field

this 18th day of Feb 1943

Signature of Commanding Officer-T.W. Digelow, Major

CERTIFIED TRUE COPY

(T.W. Bigelow) Major,
O.C. 6 Cdn Inf Bde Coy, RCASC,
Canadian Army (Overseas)

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No.B86290. NAME - Glover, S. UNIT - 6 Cdn Inf Bde Coy RCASC

AGE - yrs MARRIED OR SINGLE - Single No. OF DEPENDENTS - None.

DATE OF ATTESTATION - Sept 1939

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL) days.

CIVIL- MILITARY- 9 days HOSPITAL- TOTAL- 9 days.

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM.

[signature] Capt.
(Officer i/c Records)
6 CDN. INF. BDE. COY.
R.C.A.S.C. Unit

Dated at Field
This 9 day of april. 1943
(To be dated and signed as of date of trial)

"H"

[signature] Major

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Nov 42	Pte		(Sec 15(1) A.A.) In that he absented himself without leave from 2359 hrs 1 Nov to 2315 hrs 22 Nov 42 (Absent 20 days 23 hrs 16 mins) (Close Arrest 2315 hrs 22 Nov 42 to 1400 hrs 27 Nov 42 Total (4 days 16 hrs 45 mins)	Sgt Peters CPL Pellington	28 Days Field Punishment 28 Days Pay FR&I (b)	27 Nov 42	Major T.W. Bigelow	Forfeits 21 days pay FR&I 149(1)(a) 5 days pay FR&I 149(1)(c) 11 28 days pay FR&I 149 11(b) Total Forfeiture 54 days Pay

Certified true copy

T.W. Bigelow

(T.W. Bigelow) Major
O.C. 6 Cdn Inf Bde Coy RCASC
Canadian Army (Overseas)

Kaunt Major

No. B86290 Name GLOVER, S Sqn., Battery, or Company 6 Cdn. Inf. Bde. Coy. Corps R.C.A.S.C. Date of enlistment 11/9/39 G.C. Badges n/a Service or Proficiency Pay n/a

M.F.M. 6 (A.F.H. 172) 175M—7-45 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk Period not reckoning towards freedom from extra fine n/a Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
				Sheet destroyed 11/3/40					
Camp Borden	5/6/40	Pte		A.W.L. 0700 hrs. 17/6/40 till 0700 hrs. Sec. 15 (1) A.A.	Cpl. Matthews	12 days detention	21/6/40	Major Montague	Forfeits 5 days pay
Gournay	18/4/40	Pte		Sec. 40 A.A. In that he failed to have web equip. blanco'd.	Sgt. Bradshaw		PTS 22/4/40 20/4/40	Maj. Montague	Forfeits 3 days pay
Field	17/9/41	Pte		Sec. 15(1) A.A. In that he absented himself without leave from 1500 hrs. 17/9/41 to 1630 hrs. 17/9/41 in film guard duty (Sec. 15 A.A.) ~~[illegible]~~	Cpl. Wood	23 days Field Punishment	18/9/41	Maj. [illegible]	forfeits 28 days pay
Field	8/12/41	Pte		(Sec. 40 A.A.) In that he failed to wear his respirator	Cpl. [illegible]	7 days C.B.	8/12/41	Capt. [illegible]	
Field	8/3/42	Pte		(Sec. 15 A.A.) Absent from church parade at 0813 hrs 8/3/42.	Sgt. McNulty Dean		9/3/41	Capt. McInnery	
Field	5/6/42	Pte		Sec. 40 A.A. In that he after being warned to draw bulk at 0630 hrs 5/6/42 failed to report	S/Sgt. McKenzie	14 days C.B.	6/6/42	Maj. Bigelow	

(P.T.O.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~

The accused B86290 Pte Stanley Glover is found guilty of the charge

†The summary (~~or abstract~~) of evidence is read, marked G, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No Sir

~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

No. 13862/40 Name GLOVER, S Sqn., Battery, or Company 6 Adm. Bde. Coy. Corps R.C.A.S.C. Date of enlistment 11/9/39 O.C. Badges n/a Service or Proficiency Pay n/a

M.F.M. 5 (A.F.H. 1/39) 17534—7-41 (1275—30) H.Q. 1772-99-1002

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk Period not reckoning towards freedom from extra fine n/a Sheet No. 2 Signature O.C. Company, etc. Character

Date	Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					Sheet destroyed 11/3/40					
1940	Camp Borden	17/6/40	Pte		A.W.L. 0700 hrs. 17/6/40 to 0700 hrs. 22/6/40 Sec. 15 (1) A.A.	Cpl. Matthews	12 days detention	22/6/40	Maj. Scantlebury	7 days pay
	Gravenhurst	18/6/40	Pte		Sec. 40 A.A. in that he failed to report with a certain volunteer	Sgt. Bradshaw		22/6/40	Maj. Scantlebury	14 days pay
	Field	17/6/41	Pte		Sec. 15 (1) A.A. in that he absented himself without leave from 1500 hrs. 17/6/41 to 1630 hrs. 17/6/41 when on guard duty Sec. 40 A.A.	Cpl. Wood	7 days Field Punishment	22/6/41	Lt. Col. Eden	3 days pay forfeited 28 days pay
	Field	5/8/42	Pte		(Sec. 40 A.A.) in that he failed to parade his vehicle	Cpl. Green	7 days C.B.	8/8/42	Capt. Kenny	
	Field	8/8/42	Pte		(Sec. 15 A.A.) Absent from colonel parade at 0812 hrs 8/8/42	Lt. Roberts Bty.		8/8/42	Capt. Mahoney	
	Field	5.8.42	Pte		Sec. 40 A.A. in that he after being warned to draw truck at 0620 hrs 7/8/42 failed to report	S/Sgt. Mckenzie	14 days C.B.	6/8/42	Maj. Hopkins	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Nov 42	Pte		(Sec 15(1) A.A.) In that he absented himself without leave from 2359 hrs 1 Nov to 2315 hrs 22 Nov 42 (Absent 20 days 23 hrs 16 mins) Close Arrest 2315 hrs 22 Nov 42 to 1600 hrs 27 Nov 42. Total (4 days 16 hrs 45 mins)	Sgt Peters CPL Pettington	28 Days Field Punishment 28 Days Pay FR&I (a)	27 Nov 42	Major T.W. Bigelow	Forfeits 21 days pay FR&I 149(1)(a) 5 days pay FR&I 149(1)(c) 11 28 days pay FR&I 149 (1)(b) Total Forfeiture 54 days Pay

Certified true copy

T.W. Bigelow

(T.W. Bigelow) Major
O.C. 6 Cdn Inf Bde Coy RCASC
Canadian Army (Overseas)

2

Kent Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Nov 42	Pte		(Sec 15(1) A.A.) In that he absented himself without leave fro 2359 hrs 1 Nov to 2315 hrs 22 Nov 42 (Absent 20 days 23 hrs 16 mins) Close Arrest 2315 hrs 22 Nov 42 to 1600 hrs 27 Nov 42 Total (4 days 16 hrs 45 mins)	Sgt Peters CPl Pollington	28 Days Field Punishment 28 Days Pay FR&I (a)	27 Nov 42	Major T.W. Bigelow	Forfeits 21 days pay FR&I 149(1)(a) 5 days pay FR&I 149(1)(b) 11 28 days pay FR&I 149 (1)(b) Total Forfeiture 54 days Pay

Certified true copy

T.W. Bigelow

(T.W. Bigelow) Major
C.C. 6 Cdn Inf Bde Coy RCASC
Canadian Army (Overseas)

2

Lamb Major

Do you wish to give evidence yourself or to call any witnesses as to character ? no, Sir

Question to the accused.

Answer.

Evidence as to character

CC

Proceedings on Plea of Guilty.

* To be struck out if, after the plea of "Not Guilty" has been recorded and

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused B86290 Pte Stanley Glover is found guilty of the charge

†The summary (~~or abstract~~) of evidence is read, marked "C", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No Sir

~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

CERTIFICATE OF APPREHENSION

I certify that S.86290, Pte. Stanley Glover, 6 Cdn Inf Bde Coy, R.C.A.S.C., was apprehended by me at Brooks Green at 1715 hours on 30 March, 1943, and at the time of his arrest he was wearing military uniform.

T.E. Perty, P.C. 216.

Southwater Station,
Sussex Police Force

Naval Major

4N-119

Pte. Glover T.J.

4N-119

FIELD GENERAL COURT-MARTIAL

CP.A.86 (To face of AFA81 40/P.W.& S./1908 (4)

4/7/45

Convened by Order of Lt Col D. Douglas Comd RCASC 4 Cdn Armd Div dated 28 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 18, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K 45117	Pte	Trueman Joseph	Glover	4 Cdn Armd Div Tps Coy

Certified true Copy
D. Thompson Capt
A.D.J.A.,
Cdn. Sec. C.M.G. 1st Cdn Corps

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) 30 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc., which recrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 357. 2. AA 46(F), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to N/R as interpreter? Ans N/R

The Interpreter is sworn.(1) Do you object to N/R as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 31, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.G. Lamb	4 C.A.P. Coy RCASC
Member	Capt	J.A. Moran	4 Cdn Armd Div Tps Coy
Member	Capt	A.J. Blamey	10 C.I.B. Coy RCASC
Judge-Advocate			
Prosecutor	Lieut	C. Scarr	4 Cdn Armd Div Tps Coy
Defending Offr	Lieut	L.E.N. Selkirk	4 Cdn Armd Div Tps Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(C), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AE rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 61; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 5. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

V. 3 Ne [illegible]

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 45117 Pte Glover T.J.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AWL Sec 15(1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

One year imprisonment without hard labour.

(Sgd) Judge-Advocate, if any. 30 Dec 44 Date awarded. (Sgd) (J.G. Lamb) Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the ac~~ and be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) (D. Douglas) Lt Col

Date 1 Jan45 Commanding RCASC 4 Cdn Armd Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K45117 Pte Glover T.J. 4 Cdn Armd Div Tps Coy	2 Jan 45	(NRV Faiers) Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E2 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (~~are~~) so informed, and he (~~they~~) charge(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes witnesses, statement, evidence and any surrender up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (d), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 187, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3619, 2323, MML p 60, 757-759. As to sentences imposed for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K 45117 Pte Trueman Joseph GLOVER, 4 Cdn Armd Div Tps Coy, Royal Canadian Army Service Corps, a soldier of the Cdn Army Overseas, is charged with:

AA Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field did absent himself without leave from [illegible] hrs 27 Oct 44 until apprehended by military Police at Paris at 1456 hrs 29 Nov 44(absent 33 days 10Hrs)

In the Field
24 Dec 44.

(G.F. Stevenson) Major.
OC 4 Cdn Armd Div Tps Coy.,
R.C.A.S.C.

To be tried by Field General Court Martial.

Field
26 Dec 44.

(D. Douglas) Lt Col.
C,AASC 4 Cdn Armd Div.

CHARGE SHEET

The accused, K 45117 Pte Trueman Joseph GLOVER, 4 Cdn Armd Div Tps Coy, Royal Canadian Army Service Corps, a soldier of the Cdn Army Overseas, is charged with:

AA Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field did absent himself without leave from 0600 hrs 27 Oct 44 until apprehended by military Police at Paris at 1406 Hrs 29 Nov 44(absent 33 days 10Hrs)

In the Field
24 Dec 44.

(G.F. Stevenson) Major.
OC 4 Cdn Armd Div Tps Coy.,
R.C.A.S.C.

To be tried by Field General Court Martial.

Field
25 Dec 44.

(D. Douglas) Lt Col.
C.RASC 4 Cdn Armd Div.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1a, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 45117	Pte		Trueman Joseph	GLOVER	4 Cdn Armd Div Tps Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(s) attached and on (*date*) 28 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.G. Lamb	4 Cdn Armd Div Tps Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.A. Moran	4 Cdn Armd Div Tps Coy
Capt	A.J. Blamey	10 Cdn Inf Bde Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	S.W. Tischler	4 Cdn Armd Bde Coy

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.) (D. Douglas) (Signed personally. RP 105 fn 2.) Lt Col (Rank.)

Date 28 Dec 44 Commanding RCASC 4 Cdn Armd Div. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

4th CDN ARM'D DIV TPS COY RCASC.

4DTC 4-6-1

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined K 45117 Pte Glover T.J. of 4 Cdn Armd Div Tps Coy RCASC and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field.

Date 20 Dec 44.

(F.N. Spearling) Capt
Medical Officer

SUMMARY OF EVIDENCE

in the case of

K 45177 Pte Trueman Joseph GLOVER of the 4th Cdn Armd Div Tps Coy R C A S C, Canadian Army Overseas.

The Commanding Officer, Major G.E. Stevenson, directs that the evidence be taken on oath.

FIRST WITNESS Lt S.W. Adams, 4 Cdn ARmd Div Tps Coy., RCASC., having been duly sworn states:-

"I am Lt S.W. Adams, Administration Officer of 4 Cdn Armd Tps Coy., RCASC. I hereby produce certified true copy of the record of declaration of a Court of Inquiry dated 20 Nov 44 on the illegall absence of K45117 Pte Trueman Joseph Glover. I also produce certificate under Section 163 sub para(1) (jj) (ACI 2283, 1942) also provided for in CARO 2111, certifying that K 45117 Pte Glover, T.J. was arrested in Paris at 1445 hrs 20 Nov 44, signed by an officer of the APM & officer British Army Staff, PARIS."

(S.W. Adams) Lt.

The accused declined to cross-examine this witness.

The above mentioned documents were read over to the accused marked Exhibits "A" and "B" respectively and signed by me.

(C. Scarr) Lt.

The accused was then warned in the following manner:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

ACCUSED "I decline to make a statement."

(T.J. Glover) Pte.

Certified that RP 4 has been complied with.

In the Field,
14 Dec 44.

(C. Scarr) Lt.
Officer detailed to take the summary.

RECORD of the Declaration of a Court of Inquiry assembled at

on the 20 day of November 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K 45117 Pte GLOVER, T.J.

DECLARATION

The Court declare that No. K 45117 Pte Glover, T.J.

4 Cdn Armd Div Tps Coy., R C A S C.

illegally absented himself without leave Unit

at 0600 hrs on the 27th day of October 1944

and he is still so absent this 20 Nov 44.

that he is still so absent, and that on the 3 Nov 44 he was deficient, and

that he is still deficient of the following articles:— Voc Price 75%

ARTICLES		VALUE	ARTICLES	VALUE
Anklets Web	1 pr	.99		.74
Battle Dress Blouse	1	5.25		3.94
" " Trousers	1	5.39		4.04
Boots Ankle	1 pr	5.46		4.09
Drawers Cellular shorts	1	.43		.32
Shirts angola drab	1	2.03		1.52
Socks, worsted	1 pr	.37		.28
		$19.92		$14.93

(Rde la B Girouard) Capt President

(R.O. Jones) Lt. Member

(H. Townsend) CSM. Member

Signed at Field

this 20 day of Nov 1944

Signature of Commanding Officer (G.E. Stevenson) Major OC 4 Cdn Armd Div Tps Coy RCASC.

Certified true copy

Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 115
SSM—6-41 (750)
H.Q. 1172-39-207

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT
SECTION 163 (1) (jj) (A.C.I. 2083 of 1942)

I certify that Y 45117 Pte GLOVER T.J. of the 84 Canadian Supply Coy was arrested at Paris at 1445 hrs on 29th Nov 44.

He was dressed in military uniform.

(illegible) Capt.
Assistant Provost Marshall
British Army Staff PARIS.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K45117 *Rank* Pte *Name* Glover, T.J. of 4 Cdn Armd Div Troops S Coy R.C.A.S.C. Regiment (or as the case may be).

(INSTRUCTION. A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 4 Mar 44	A.A. Sec 15(1) A.W.L. 3 days 17 hrs 55 mins	120 days detention Awarded stoppage of £5-16-0 (Cost of apprehension)	40 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 st day of December 1944

(Sgd) J.R. Hoodie Capt & A.C.,
for C.C. 4 Cdn Armd Div Troops Coy RCASC

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date

In the rank of N/A years.
In the rank of N/A years.
In the rank of N/A years.

Date of Promotion

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be verified from the regimental books the paragraph must be struck through in red, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph inserted accordingly.)

EXHIBIT "B" JGL

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name.*	*Regiment (or as the case may be)*
K 45117	Pte	Glover, T.J.	4 Cdn Armd Div Troops Coy RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry and to any recognised special acts of gallantry or distinguished conduct.
INSTRUCTION. — If the charge is for drunkenness t.b.e. entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. Sec 15(1)	* 3 times	1 times
For A.A. Sec 24(2)	1 times	Nil times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct. Nil

or

There are ~~no~~ entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, *or*~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ beginning on the day of x

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 31 days in military custody, making a total of days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30 years 2 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 10 Mar 42

7. ~~The service which the accused is allowed to reckon towards his first or further term in the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 9 mos service.

9. ~~The accused is entitled to reckon xxxxxxxxxxxxxxxx service for the purpose of determining his pension or~~

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M. & Clasp

11. (*If the accused is a warrant officer*) ~~The accused before he was made a warrant officer last held the regimental rank of x~~

12. (*In the case of an officer*) ~~The accused holds in the army the rank of xxxxxxxxxxxxxxxx dated~~ and in his regiment (*or corps or department*) the rank of ~~xxxxxxxxxxxxxxxx dated~~

W1.5847/3519 20M. 5/42. P. Ltd. T54-3.

MFM 6
(AFB 122)
40/PAM/136 (3438)

No. 45117 Name GLOVER, W.J. | Sqn. Battery or Company | Corps RCASC | Date of enlistment 10 Mar 42 | QC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 9 Jun 42 | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field AA sec 15(1)	2 Dec 43	Pte	Sheet Nil	destroyed on completion of six months service - 10 Sep 43 AWL from 2352 hrs 2 Dec 44 to 1231 hrs 14 Dec 44 (Absent: 11dys 23 hrs, 44 mins)	Documentary Cpl Everett	14 dys FP forf 14 dys pay FR&I 149(2)	16 Dec43	Lt Co J.A. Roberts	forf 12 days pay 149 (1)a
Field AA Sec 24(2)	20 Dec43	"	"	Losing by neglect kept and necessities to the amount of $2.57	CQMS Andrews	Awarded stoppage of $2.57	4 Mar 44	Lt Col JA Roberts	
Field AA Sec 15(1)	20 Dec43	"	"	Awl from 0600 hrs 20 Dec 43 to 2355 hrs 11 Feb 44 (Absent: 53 days 17 hrs, 55 mins) (Escort expenses: £5-16-0)	Documentary	120 dys detn & stoppage of £5-16-0 FR&I 172 (b)	4 Mar 44	F.O.C.M.	forf 21 days pay 149(1)a) forf 54 days pay 149(1)a forf 120 days pay 149(1)b

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field AA Sec 15(1)	26 Sep 44	Pte	Nil	Awl from 2215 hrs 26 Sep 44 to 1300 hrs 27 Sep 44 (Absent: 14 hrs, 45 mins)	Sgt McLeod L/Cpl Wilson	28 days pay 149 (1) (a)	28 Sep 44	Maj. G.F. Stevenson	forf 1 days pay 149 (2)

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

(J.H. Moodie) Capt & A.C.,
for OC 4 Cdn Armd Div Tps Coy, RCASC.

FIRST WITNESS

I am K 47117 Pte Trueman Joseph GLOVER, 4 Cdn Armd Div Tps Coy RCASC. I was suffering from a very bad disease (VDG) and have been taking treatments since July 1942. I have had several treatments from different Medical Officers but it still came back on me. Previous to going AWL I had heard of a civilian Doctor in Antwerp and being more or less desperate I went to see him. This Doctor could not do anything for me and advised me to go to Bruges. I went to Bruges and found the Doctor I was to see had gone to Paris. I then went to Paris. I found this Doctor in Paris and took treatments from him.

As I have a wife and family at Home, in Canada. I was desperate and as the Military Medical Officers apparently could not cure me I decided to try civilian doctors in this country.

SECOND WITNESS

I am R 58659 L/Sgt Charles Alexander Joseph CONNOR, 4 Cdn Armd Div Tps Coy., RCASC. During the past three months I have known Pte Glover. During that time he has been employed as Pl Cook, cooking without trades Pay. Everyone in the platoon has found him to be one of the most agreeable and most satisfactory cooks the Pl has had.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 45117 PTE GLOVER T. J.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.W.L. S40(1)(a) A.A.	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 723, and in lieu of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(1). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 117 days, of which N.I.L. days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

One year imprisonment without hard labour

(Sgd) ..... Judge-Advocate, if any. 30 Dec 1944 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(B). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

Date 1 Jan 45 (Sgd) [signature] Lt Col Commanding 5 C.A.C.R. & 5 CDN ARMD. DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K 45117 Pte GLOVER T.J. 4 Cdn Armd Div Tps Coy	2 Jan 45	[signature] Lt Lt. Supply Officer

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 4N-319

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col D. Douglas Comd R.L.A.S.C. dated 28 Dec 44

ACCUSED. 4 Cdn. Armd. Div.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-45117	Pte	TRUEMAN JOSEPH	GLOVER	4 Cdn Armd Div Tps Coy

PROCEEDINGS REVIEWED

6 Jan 45 [signature] Lt

PROCEEDINGS REVIEWED BY OFFICERS AND BRANCH CAPTAIN

PROCEEDINGS OF TRIAL.

Held in the Fd in (Country) HOLLAND on (date(s)) 30 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Captions as NOT include all relevant from AOs. For guidance as to procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of each operation CF A95, for words and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 537. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 543(c). Delete, if not applicable.

A5. President to accused: Do you object to N/a as interpreter? Ans ✓

The Interpreter is sworn.(1) Do you objject to N/a as shorthand writer? Ans ✓

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans N/a (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 46(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J.G. LAMB	4 C.A.D. Coy. R.C.A.S.C.
Member	CAPT.	J.A. MORAN	4 Cdn. Armd. Div Tps Coy
Member	CAPT.	A.J. BLAMEY	10 C.F.B. Coy R.C.A.S.C.
Judge-Advocate	✓	✓	✓
Prosecutor	LIEUT.	C. SCARR	4 Cdn Armd Div Tps Coy
Defending Offr	LIEUT	L.E.N. SELKIRK	4 Cdn Armd Div Tps Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Qu p 3.)

A8. The accused ..... before arraignment make(s) (no) ✓ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 36, 39(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Ref cited. Insert in AE rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~understand~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N/C .(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E2 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea[s] of Guilty to Not Guilty on the charge[s]. The accused is [not] so informed, and he [they] change(s) his (their) plea(s) on n/a charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by usn of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fit here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 90(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 90(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet[s] and in mitigation of punishment ?(1) Ans. No Yes [illegible] .(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisb, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K-45117 Pte. Trueman Joseph GLOVER, 4 Canadian Armoured Divisional Troops Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, is charged with:

Sec 15 (1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he in the field did absent himself without leave from 0600 hrs 27 Oct 44 until apprehended by Military Police at PARIS at 1445 hrs 29 Nov 44. (absent 33 days 10 hrs)

(G.F. Stevenson) Major.
O.C. 4 Cdn Armd Div Troops Coy.,
R.C.A.S.C.

In the Field
24 Dec 44.

To be tried by Field General Court Martial.

(D. Douglas) Lt.Col.,
C,RASC 4 Cdn Armd Div.

Field.
28 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.45117	Pte		TRUEMAN JOSEPH	GLOVER	4 Cdn Armd Div Tps Coy.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J. G. Lamb	4 Cdn Armd Bde Coy
~~Major~~	~~H. B. Miller~~	~~HQ RCASC 4 Cdn Armd Div~~

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J. A. Moran	4 Cdn Armd Div Tps Coy
Capt	A. J. Blamey	10 Cdn Inf Bde Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	S. W. Tischler	4 Cdn Armd Bde Coy

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(D. Douglas) (Signed personally. RP 105 fn 2.)

Lt.Col. (Rank.)

Dat: 28 Dec 44

Commanding R.C.A. S.C. 4 Cdn Armd Div.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 55 (In lieu of AFA 2) 40/P & S/1697 (6142)

4TH CDN ARMD DIV TPS COY, R.C.A.S.C.

4 DTC 4-6-1

Date _____

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. K45112.

Rank ...Pte..... Name ...GLOVER, T.J.....

of ...4 Cdn Armd Div Tps Coy. R.C.A.S.C.....

and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial

Station ~~Inth Field~~.....

Date ...30 Dec 44.....

[signature]

Medical Officer

First Witness

I am K-45117 Pte Trueman Joseph Glover 11 Edm. Armd. Div Tps Coy R.C.A.S.C. I was suffering from a very bad disease (V.D.S.) and have been taking treatment since July 1942. I have had several treatments from different Medical Officers but it still came back on me. Remains to going A.W.L. I had heard of a civilian Doctor in Antwerp and being more or less desperate I went to see him. This Doctor could not do anything for me and advised me to go to Bruges. I went to Bruge and found the Doctor I was to see there had gone to Paris. I then went to Paris. I found this Doctor in Paris and took treatment from him.

As I have a wife and family at home, in Canada, I was desperate and as the Military Medical Officers apparently could not cure me I decided to try civilian doctors in this Country.

Second Witness

I am B-58659 L/Sgt Charles Alexander Joseph Connor 4 Edm. Armd. Div. Tps Coy. R.C.A.S.C. During the past five months I have known Pte Glover. During that time he has been employed as M. cook, cooking without trade pay. Everyone in the Platoon has found him to be one of the most agreeable and most satisfactory cooks the M. has had.

Exhibit "A"

SUMMARY OF EVIDENCE

in the case of

K-45117 Pte. Trueman Joseph GLOVER of the 4th Canadian Armoured Divisional Troops Company, Royal Canadian Army Service Corps, Canadian Army Overseas.

The Commanding Officer, Major G.F. Stevenson, directs that the evidence be taken on oath.

FIRST WITNESS: Lt. S.M. Adams, 4 Cdn Armd Div Troops Coy., RCASC., having been duly sworn, states:

"I am Lt. S.M. Adams, Administration Officer of 4 Cdn Armd Div Troops Coy., R.C.A.S.C. I hereby produce certified true copy of the record of declaration of a Court of Inquiry dated 20 Nov 44 on the illegal absence of K-45117 Pte. Trueman Joseph Glover. I also produce certificate under Section 163 sub para (1)(jj) (AC1 2253, 1942) also provided for in CARO 2111, certifying that K-45117 Pte. Glover, T.J. was arrested in Paris at 1445 hrs 29 Nov 44, signed by an officer of the APM's office British Army Staff, Paris."

The accused declined to cross examine this witness.

The above mentioned documents were read over to the accused, marked Exhibits "A" and "B" respectively and signed by me.

The accused was then warned in the following manner:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

Accused: "I decline to make a statement."

Certified that R.P. 4 has been complied with.

(C. Scarr) Lieut.
Officer detailed to take the Summary.

In the Field
this 14th day
of December
1944.

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 20 day of NOVEMBER 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K-45117 Pte. Glover, T.J.

DECLARATION

The Court declare that No. K-45117 Pte. Glover, T.J. 4 Cdn Armd Div Troops Coy., R.C.A.S.C. illegally absented himself without leave Unit at 0600 hrs on the 27th day of October 1944, and he is still so absent this 20 Nov 44, and that on the 3 Nov 44 he was deficient, and that he is still deficient of the following articles:—

Voc Price 75%

ARTICLES		VALUE	ARTICLES	VALUE
Anklets Web	1 pr	.99		.74
Battle Dress Blouse	1	5.25		3.94
" " Trousers	1	5.39		4.04
Boots Ankle	1 pr	5.46		4.09
Drawers Cellular shorts	1	.43		.32
Shirts angola drab	1	2.03		1.52
Socks, worsted	1 pr	.37		.28
Total	$	19.92	$	14.93

CERTIFIED TRUE COPY of entry in Mil Bk 68 now in my possession.
(S.M. Adams) Lt. & A.O.
for OC 4 Cdn Armd Div Tps Coy
R.C.A.S.C.

(signed) . Rde la B Girouard Capt. President

Signed at Field (signed) R.O. Jones Lt. Member

this 20 day of Nov 19 44 (signed) H. Townsend CSM. Member

Signature of Commanding Officer (signed) G.F. Stevenson) Major.
O.C. 4 Cdn Armd Div Tps Coy
R.C.A.S.C.

Mil. Bk. 68
5500 Bks.—6-41 (940)
H.Q. 1772-61-40

RECORD of the Declaration of a Court of Inquiry assembled at

on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. _____

_____

illegally absented himself without leave _____

at _____ on the _____ day of _____;

and that on the _____ he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

_____ President

Signed at _____ _____ Member

this _____ day of _____ 19__ _____ Member

Signature of Commanding Officer _____

Mil. Bk. 68
5500 Bks.—6-41 (940)
M.G. 1772-61-48

Exhibit "B"
C Scarr Lt.

CERTIFICA[illegible] ACCORDANCE WITH THE ARMY ACT

SECTION 1-3 (i) (jj) (A.C.I. 2253 of 1942)

I certify that (No)..X-45117..... (Rank) ..PTE.....

(Name) ....GLOVER, T.J..... (Unit) 84, CANADIAN SUPPLY COY.

was arrested at (place) .....PARIS.....

at (hour) .....1445..... on (date) ..29TH. NOV. 1944....

He was dressed in military uniform * (strike out whichever inapplicable)
xxxxxxxxxxxxxxxx

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above-named person was taken after arrest

[illegible] Capt

.....

.....

Assistant Provost Marshal's Office
British Army Staff PARIS.

Exhibit "B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
K 45117	Pte	Glover, T.J.	4 Cdn Armd Div Troops Coy, RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	• Within last 12 months.		• Since Enlistment.	
For A.A. Sec 15 (1)	3	times	1	times.
For A.A. Sec 24 (2)	1	times	Nil	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are ~~no~~ entries in the conduct sheets of the accused.

2. ~~The accused has no previous convictions~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused was under sentence of~~ ~~imprisonment for~~ ~~days~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 31 days in military custody, making a total of days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 30 years 2 months

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 10 Mar 42

7. ~~The service which the accused is about to render reckons~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 9 mos service.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his pensionary

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). C.V.S.M & Clasp

11. ~~If the accused is a warrant officer~~ The accused before becoming a warrant officer held the rank of

12. ~~If the accused is a warrant officer~~ The accused holds or has held in the army the rank of , dated ,

and in his regiment (*or corps or department*) the rank of , dated

(*Reprint*) W1.84998/1739 20,000 10/43 A.& E.W.Ltd. Gp.698
(*Reprint*) W1.53934/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K 45117 Rank Pte Name Glover, T.J. of 4 Cdn Armd Div Troop s Coy, R.C.A.S.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 4 Mar 44	A.A. Sec 15 (1) A.W.L. 53 days 17 hrs 55 mins.	120 days detention. Awarded stoppage of £5-16-0 (Cost of apprehension)	40 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 st day of December 1944.

(J R[illegible]ie) Capt & A.O.,
for OC 4 C[illegible]rmd Div Troops Coy, RCASC

Moodie Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of N / A . years, ...

In the rank of N / A . years .....

In the rank of N / A . years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Exhibit "C"

No. K 45117 Name GLOVER, T.J. Sqn, Battery, or Company — Corps N.Z.A.S.C. — Date of enlistment 10 Mar 42 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 172) 40/FAS/156 (3)

Date of last entry in Company Conduct Sheet 9 Jun 43 — No. and date of last drunk Nil — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed on completion of six months service - 10 Sep 42					
Field A.A. Sec 15(1)	2 Dec 43	Pte	Nil	AWL from 2359 hrs 2 Dec 44 to 2315 hrs 14 Dec 44 (Absent: 11 days 23 hours 44 mins)	Documentary Cpl Everett	14 days FP forf 14 dys pay FAM I 149 (2)	16 Dec 43	Lt-Col JA Roberts	Forf 12 dys pay 149 (1)a
Field A.A. Sec 24(2)	20 Dec 43	Pte	Nil	Losing by neglect eqpt and necessities to the amount of $2.57	CQMS Andrews	Awarded stoppage of $2.57	4 Mar 44	Lt-Col JA Roberts	
Field AA Sec 15 (1)	20 Dec 43	Pte	Nil	AWL from 0600 hrs 20 Dec 43 to 2355 hrs 11 Feb 44 (Absent: 53 days 17 hours 55 mins) (Escort expences: £5-16-0)	Documentary	120 days detention and stoppage of £5-16-0 FAM I 172 (b)	4 Mar 44	F.G.C.M.	Forf 21 days pay 149(1)a) Forf 54 days pay 149(1)a Forf 120 dys pay 149(1)b)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field A.A. 15 (1)	26 Sep 44	Pte	Nil	AWL from 2215 hrs 26 Sep 44 to 1300 hrs 27 Sep 44 (Absent: 14 hrs 45 mins)	Sgt McLeod L/Cpl Wilson	28 days pay 149 (1) (a)	28 Sep 44	Maj G F Stevenson	Forf 1 days pay 149 (2)

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

21 Dec 44.

(J R Moddie) Capt & A.O.,
for O.C., 4 Cdn Armd Div Troops Coy,
R.C.A.S.C.

4N 119

FIELD GENERAL COURT-MARTIAL

CFAES (To Initial AFAD) 40-1-8 8/1/44 — 4/388

Convened by Order of Lt Col D. Douglas Com RCASC 4 Cdn Armd Div dated 28 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 45117	Pte Certifies true Copy W.H. Thompson Capt A.D.J.A., Cdn Sec G.H.Q. 2	Trueman Joseph	Glover	4 Cdn Armd Div Tps Coy

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) 30 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to N/A as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(5). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.G. Lamb	4 C.A.E. Coy RCASC
Member	Capt	J.A. Moren	4 Cdn Armd Div Tps Coy
Member	Capt	A.J. Blamey	10 C.I.B. Coy RCASC
Judge-Advocate			
Prosecutor	Lieut	C. Scarr	4 Cdn Armd Div Tps Coy
Defending Offr	Lieut	L.E.N. Selkirk	4 Cdn Armd Div Tps Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused ..... before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 885 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

V. 3 No. 115

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 45117 Pte Glover T.J.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AWL Sec 15(1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 43 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (*date*) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

One year imprisonment without hard labour.

(Sgd) ..... Judge-Advocate, if any. 30 Dec 44 Date awarded. (Sgd) (J.G. Lamb) Major President. (RP 45, 58.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) (D. Douglas) Lt Col

Date 1 Jan 45 Commanding RCASC 4 Cdn Armd Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K45117 Pte Glover T.J. 4 Cdn Armd Div Tps Coy	2 Jan 45	(HRV Faiers) Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is ~~(are)~~ so informed, and he ~~(they)~~ change(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. P 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....Do you intend to call witnesses on your behalf ? Ans.....Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 46(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K 45117 Pte Trueman Joseph GLOVER, 4 Cdn Armd Div Tps Coy, Royal Canadian Army Service Corps, a soldier of the Cdn Army Overseas, is charged with:

AA Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field did absent himself without leave from 0600 hrs 27 Oct 44 until apprehended by military Police at Paris at 1456 hrs 29 Nov 44(absent 33 days 10Hrs)

In the Field
24 Dec 44.

(G.F. Stevenson) Major.
OC 4 Cdn Armd Div Tps Coy.,
R.C.A.S.C.

To be tried by Field General Court Martial.

Field
28 Dec 44.

(D. Douglas) Lt Col.
C,RASC 4 Cdn Armd Div.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP [illegible] 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 3036, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K 45117	Pte		Trueman Joseph	GLOVER	4 Cdn Armd Div Tps Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Dec 44 endorsed by me, (~~order an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J.G. Lamb		4 Cdn Armd Div Tps Coy

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.A. Moran		4 Cdn Armd Div Tps Coy
Capt	A.J. Blamey		10 Cdn Inf Bde Coy

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	S.W. Tischler		4 Cdn Armd Bde Coy

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(D. Douglas) (Signed personally. RP 105 fn 2.)

Lt Col (Rank.)

Date 28 Dec 44

Commanding RCASC 4 Cdn Armd Div.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (UPAGS 12b Mem of AFAS) 40-1 M & S/1691 (4601).

(See overleaf for oaths and notes for use on trial.)

4th CDN ARMD DIV TPS COY RCASC. 4DTC 4-6-1

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined K 45117 Pte Glover T.J. of 4 Cdn Armd Div Tps Coy RCASC and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field,

Date 20 Dec 44.

(F.N. Sparling) Capt
Medical Officer

RECORD of the Declaration of a Court of Inquiry assembled at

on the 20 day of November 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K 45117 Pte GLOVER, T.J. - -

DECLARATION

The Court declare that No. K 45117 Pte Glover, T.J.

4 Cdn Armd Div Tps Coy., R C AS C.

illegally absented himself without leave Unit

at 0600 hrs on the 27th day of October 1944

and he is still so absent this 20 Nov 44.

that he is still so absent, and that on the 3 Nov 44 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES	VALUE
		Voc Price		75%
Anklets Web	1 pr	.99		.74
Battle Dress Blouse	1	5.25		3.94
" " Trousers	1	5.39		4.04
Boots Ankle	1 pr	5.46		4.09
Drawers Cellular shorts	1	.43		.32
Shirts angola drab	1	2.03		1.52
Socks, worsted	1 pr	.37		.28
		$19.92		$14.93

(Rde la B Girouard) Capt President

(R.O. Jones) Lt. Member

(H. Townsend) CSM. Member

Signed at Field

this 20 day of Nov 1944

Signature of Commanding Officer (G.F. Stevenson) Major
OC 4 Cdn Armd Div Tps Coy RCASC.

Certified true copy

Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 115
HM-4-41 (700)
H.Q. 1771-39-287

SUMMARY OF EVIDENCE

in the case of

K 45177 Pte Trueman Joseph GLOVER of the 4th Cdn Armd Div Tps Coy R C A S C, Canadian Army Overseas.

The Commanding Officer, Major G.E. Stevenson, directs that the evidence be taken on oath.

FIRST WITNESS Lt S.M. Adams, 4 Cdn ARmd Div Tps Coy., RCASC., having been duly sworn states:-

"I am Lt S.M. Adams, Administration Officer of 4 Cdn Armd Tps Coy., RCASC. I hereby produce certified true copy of the record of declaration of a Court of Inquiry dated 20 Nov 44 on the illegall absence of K45117 Pte Trueman Joseph Glover. I also produce certificate under Section 163 sub para(1) (jj) (ACI 2253, 1942) also provided for in CARO 2111, certifying that K 45117 Pte Glover, T.J. was arrested in Paris at 1445 hrs 29 Nov 44, signed by an officer of the APM'S officer British Army Staff, PARIS."

(S.M. Adams) Lt.

The accused declined to cross-examine this witness.

The above mentioned documents were read over to the accused marked Exhibits "A" and "B" respectively and signed by me.

(C. Scarr) Lt.

The accused was then warned in the following manner:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

ACCUSED "I decline to make a statement."

(T.J. Glover) Pte.

Certified that RP 4 has been complied with.

In the Field.
14 Dec 44.

(C. Scarr) Lt.
Officer details to take the summary.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT

SECTION 163 (1) (ii) (A.C.I. 2253 of 1942)

I certify that K 45117 Pte GLOVER T.J. of the 84 Canadian Supply Coy was arrested at Paris at 1445 hrs on 29th Nov 44.

He was dressed in military uniform.

(illegible) Capt.
Assistant Provost Marshall
British Army Staff PARIS.

EXHIBIT "B" JGL

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
Y 45117	Pte.	Glover, E.J.	4 Cdn. Amt Div Troops Coy RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.
INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For A.A. Sec 15(1)	3 times	1 times
For A.A. Sec 24(2)	1 times	Nil times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, Nil

or

There are ~~no~~ entries in the conduct sheets of the accused.

2. The accused has ~~not~~ been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 31 days in military custody, making a total of days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30 years 2 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 10 Mar 42

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 9 mos service.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension &c.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M. & Clasp

11. (*If the accused is a warrant officer.*) ~~The accused before he was made a warrant officer last held the regimental rank of~~

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of~~ dated ~~and in his regiment (or corps or department) the rank of~~ dated

W.O.3707/1519 20M. 2/44. P. Ltd. T51-1

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E45117 Rank Pte Name Glover, S.J. of 4 Cdn Armd Div Troops C Coy R.C.A.S.C. Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.C.C.M.	Field 4 Mar 44	A.A. Sec 15(1) A.W.L. 3 days 17 hrs 55 mins	120 days detention Awarded stoppage of $5-15-0 (Cost of apprehension)	40 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 st day of December 1944

(Sgd) J.R. Woodie Capt & A.C.C.
for O.C. 4 Cdn Armd Div Troops Coy RCASC

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

Date of Promotion

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph answered accordingly.)

NX 45117 Name GLOVER, T.J. Sqn, Battery or Company | Corps RCASC | Date of enlistment 10 Mar 42 | QC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet 9 Jun 42 | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field AA sec 15(1)	2 Dec 43	Pte	Sheet Nil	destroyed on completion of six months service - 10 Sep 43 AWL from 2352 hrs 2 Dec 44 to 231 hrs 14 Dec 44(Absent: 11dys 23 hrs, 44 mins)	Documentary Cpl Everett	14 dys FP forf 14 dys pay FR&I 149(2)	16 Dec43	Lt Col J.A. Roberts	forf 12 days pay 149 (1)a
Field AA Sec 24(2)	20 Dec43	"	"	Losing by neglect eqpt and necessities to the amount of $2.57	CQMS Andrews	Awarded stoppage of $2.57	4 Mar 44	Lt Col JA Roberts	
Field AA Sec 15(1)	20 Dec43	"	"	Awl from 060 hrs 20 Dec 43 to 2355 hrs 11 Feb 44 (Absent: 53 days 17 hrs, 55 mins) (Escort expences: £5-16-0)	Documentary	120 dys detn and stoppage of £5-16-0 FR&I 172 (b)	4 Mar 44	F.G.C.M.	forf 21 days pay 149(1)a)i forf 54 days pay 149(1)a forf 120 days pay 149(1)(b)

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field AA Sec 15(1)	26 Sep 44	Pte	Nil	AWL from 2215 hrs 26 Sep 44 to 1300 hrs 27 Sep 44 (Absent: 14 hrs, 45 mins)	Sgt McLeod L/Cpl Wilson	28 days pay 149 (1) (a)	28 Sep 44	Maj. G.F. Stevenson	forf 1 day pay 149 (2

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

(J.S. Moodie) Capt & A.C.,
for OC 4 Cdn Armd Div Tps Coy, RCASC.

FIR T WITNESS

I am K 45117 Pte Trueman Joseph GLOVER, 4 Cdn Armd Div Tps Coy RCASC. I was suffering from a very bad disease (VDG) and have been taking treatments since July 1942. I have had several treatments from different Medical Officers but it still came back on me. Previous to going AWL I had heard of a civilian Doctor in Antwerp and being more or less desperate I went to see him. This Doctor could not do anything for me and advised me to go to Bruges. I went to Bruges and found the Doctor I was to see had gone to Paris. I then went to Paris. I found this Doctor in Paris and took treatments from him.

As I have a wife and family at home, in Canada. I was desperate and as the Military Medical Officers apparentlly could not cure me I decided to try civilian doctors in this country.

SECOND WITNESS

I am R [illegible]9 L/Sgt Charl s Alexander Joseph CONNOR, 4 Cdn Armd Div Tps Coy., RCASC. During the past five months I have known Pte Glover. During that time he has been employed as Pl Cook, cooking without trades Pay. Everyone in the platoon has found him to be one of the most agreeable and most satisfactory cooks the Pl has had.

EEE-113
PTE GLOVER T.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K- 45117 1G Gloner, T.J. RCASC attd 18 Cdn Armd C Regt (12D)

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~4/6~~ beginning on (date) ~~4/6~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 120 days and to be put under stoppages of pay whilst he has made good the sum of £ 5. 16. 0 in respect of the cost of return to his unit.

(Sgd) J.H. Jermyn, Judge-Advocate, if any. 4 Mar 44, Date awarded. (Sgd) P.F. Scannell Maj R.C.A., President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

~~I (here set out the finding) of the accused set forth in Part I is~~ Confirmed.

~~I direct that the accused be ordered to undergo detention barracks until further ordered.~~ (1) ~~not~~

(1. AA 57A. Delete if not used.)

Date 4 Jul 44. (Sgd) E.A. Kelly Brig, Commanding DDMS, 2nd Cdn Corps, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. T.J. Gloner. Date. 7 Mar 44. Signature of Offr. Jas. C. Roberts Lt-Col, 2nd i/c 18 Can Armd Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. 666 113

CFAAF (In lieu of AFA3) W.D. P.A.M. (1938) 2604

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig C.B. Ras Comd DDMS 2 Cdn Corps dated 3 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-45117	Pte.	Truman Joseph	Gloner	RCASC attd 18 Cdn Armd C Regt (12D)

PROCEEDINGS REVIEWED
W.C. Lind Lieut
23 Mar 44 Reg3
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 4 March 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Mbrs~~, JA, ~~if any, and Offrs attchd~~ Asst, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number (using reference to appropriate or preceding point number) hereon. See back of Convening Order, CF A95, for watts and instrs on how to record evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-79, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to the shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 740.)

A7. The President, Members, JA, ~~if any, and Offrs attchd~~ Asst, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	P.F. Scannell	2 Cdn Loy Regt RCA
Member	Capt.	E.L. Attio	2 Cdn Corps Sigs RCCS
Member	Lt.	J. Bannerman	HQ 6(C.W.) Wing C.I.S.
Judge-Advocate	Capt.	J.H. Jermyn	HQ 2 Cdn Corps.
Prosecutor	Lt.	P.R. Page	18 Cdn Armd C Regt (12D)
Defending Offr	Lt.	C.A. Cantelo	18 Cdn Armd C Regt (12D)

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 31.)

A8. The accused ..... before arraignment make(s) (no) ~~not~~ plea.(1)

(1. If a special plea is made (for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 93-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans No SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate remand thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do you intend to call witnesses on your behalf ?
Ans Are they witnesses as to character only ? Ans
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans yes sir, by my defending officer
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(3)
(*1. Where several accused tried separately see RP 34(F). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K-45117 Pte. Truman, Joseph Clever, RCASC attached to 18 Cdn Armd Car Regt (XII Manitoba Dragoons) a soldier of the Canadian Army Overseas is charged with:

Charge Sec 15(1) AA — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

in the field, on 20 Dec 43, whilst undergoing field punishment, absented himself without leave from his regiment, 18 Cdn Armd C Regt (XII Manitoba Dragoons), from 0600 hrs 20 Dec 1943 until he surrendered himself to civilian police at 2355 hrs 11 Feb 1944, thereby incurring expense to the public for his return to his unit in the sum of $5-15-0. (Total time absent: 53 Days 17 Hrs and 55 Mins.)

Jas A Roberts Lt Col
Comdg 18 Cdn Armd C Regt (12D)

In the Field
28 Feb 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

C. A. Rae
(C. A. Rae) Brigadier
DDMS, 2 Can Corps

In the Field
3 Mar 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8) 40/P&S/0607 (2002)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.45117	Pte		Truman Joseph	GLOVER	18 Cdn Armd C Regt (12D)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Mar 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ CAR

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ CAR

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	L. F. Swannell	2 Cdn Svy Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	G. L. Atteo	2 Cdn Corps Sigs RCCS
Lieut	G. Bannerman	No. 6 (CW) Wing, CTS

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	G. H. Jermyn	ADJA HQ 2 Cdn Corps

On Active Service in the Fd

in England (Country.)

C. A. Rae (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 3 Mar 44

(C. A. Rae)
~~Commanding~~ D.D.M.S. 2 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MESSAGE FORM

ARMY FORM 02136 (Small)

Register No.

Call | Sel. No. | Priority

Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator

Date Time of Origin 04 0835

Office Date Stamp

For Action

TO (W) For Information (INFO)

Message Instructions | GR

Originator's No.

I hereby certify that I have this day examined K45117 Pte Glover 1 S. and in my opinion he is fit to undergo trial by court martial

PEL

This Message may be sent AS WRITTEN

J.H. Bannerlaft

If leaded to be interpreted on to call into enemy hands, this message must be sent IN CIPHER

Originator's Instructions Decision of Facility

Time	Station	Op.
THI — TOR		
Time (hours)		

Defending Officer's Plea in Mitigation.

Pte Glover has been a member of this unit for approximately 1½ yrs. and since enlistment 2 yrs ago this month he has had only one crime on his MFM6 since being with this Regt. Pte Glover has been employed as a cook and there have been no complaints about his work or behaviour.

Circumstances bringing about this charge have been told me and I present them as follows. Pte Glover became acquainted with a lady whose name he declines to admit and through this relationship she became pregnant. He admits that he did not go through the proper channels to get special leave and took it upon himself to try to make some arrangements to help the girl. When he returned to the unit and was serving his punishment he received a letter and felt it necessary to see her again. At this point he had no money and decided he would have to earn some. He went to Scotland where he obtained work at several places and did not try to conceal his identity as a soldier but stated he was on leave. He worked for short periods at various farms until he had the money he required. He surrendered himself to the police in civilian clothes. Pte Glover did not contact the Regt. Padre as he did not wish the lady concerned to become involved nor will he state the names of the people he worked for as he does not want them to become involved.

PTL

I CERTIFY that the man whose personal description is given below surrendered himself to* Sergeant James Smith,

at Police Office, Alexandria. at (hour) 11-55p.m. on the 11th. day of Feburary, as being No. K.45117

(Rank and Name) Trooper Glover, T.J.

a deserter (or absentee without leave) from 18th. Canadian Armour Car, 'C' Squadron, stationed at Brighton. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age	29	Height	5	Feet	10 Inches
Complexion	fresh	Hair	brown	Eyes	blue
Marks					
In uniform or plain clothes	Plain Clothes.				

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	2-2-44. Brighton, England.

Signature of Officer of Police in charge of Alexandria Station.
Dunbartonshire.

12-2-44. Date of Signature.

Army Form O.1647
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(15038) Wt.27430/757 25,000 9/40 A.& E.W. Ltd. Gp.498
(17085) Wt.41200/1441 50,000 2/41 Forms/O.1617/14

This is Exhibit "A" referred to in the summary of evidence in the case of W45117 Pte Glover TJ taken before me this 18th day of February 1944.

Lt
WS McKeough
Officer taking Summary

CHARGE

Army Form B 252
(See King's Regulations)

16 th. Cdn. Arm'd Car Regt. — Regiment

"C" Sqdrn. — Battery / Squadron / Troop or Company

CHARGE against No. K-45117 Rank Tpr.

Name Glover, T.J.

Place Glasgow Date of Offence 11-Feb-44.

OFFENCE W.O.A.S. was absent without leave from ..? until surrendering himself to the Civil Police at Alexandria at about 23.55 hrs on the 11-Feb-44.

L.S. Grayson
CAPT.
L. S. GRAYSON O.A.P.M.
LONDON AREA

Names of Witnesses :—

P.S. James Smith Alexandria Civil Police.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

P.T.O.

20188 Wt.W.21274-1961 [illegible] H. & H., Ltd. [illegible]

EVIDENCE

Documentary Evidence Attached.

REMARKS

File No. 26/49.....

Officer Commanding,
18th Arm'd Car Regt. C Squad. 2nd Corps
Re:- K.45117 Tpr. GLOVER T.J.
Forwarded for your information and necessary action, please, and disposal under G.A.R.O. No. 388 dated 29 Oct. 40.

L.S. Grayson
Capt.,
(L.S. Grayson), D.A.P.M.,
London Area.

London
14 Feb.44. No complaints

This is Exhibit "B" referred to in the summary of evidence in the case of [redacted] Pte Glover TJ taken before me this 18th day of February 1944.

Lt
WS McKeough
Officer taking Summary

LIST OF WITNESSES IN THE CASE OF K.45117 PTE. TRUMAN JOSEPH GLOVER (RCASC), 18 CDN ARMD C REGT (XII MANITOBA DRAGOONS)

For the Prosecution

(1) H77380 Pte Clark, E J (RCASC)
18 Cdn Armd C Regt
(XII Manitoba Dragoons)

(2) H77513 A/Sgt Buckwold, H K (
18 Cdn Armd C Regt
(XII Manitoba Dragoons)

(3) H77745 SSM McCarthy, W J
18 Cdn Armd C Regt
(XII Manitoba Dragoons)

(4) Capt H Sinclair
18 Cdn Armd C Regt
(XII Manitoba Dragoons)

(5) Capt L S Grayson,
DAPM London Area

(6) Sgt J Smith,
Alexandria Civil Police

(7) H77656 SQMS Andrew, R V
18 Cdn Armd C Regt
(XII Manitoba Dragoons)

For the Defence

Nil.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. K 45117 Rank Tpr Name Glover T. J. Unit 18 Armd Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From Leeds from Glasgow

Date	Particulars	Amount		
14/2/44	Escorts return fare from LONDON To Glasgow	3	1	7
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		14	3
	Total £	5	6	8

This is exhibit 'B' referred to in the summary of evidence in the case of Pte Glover taken before me this 15 day of Feb 44

I Certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. K45119 Rank Tpr. Name Glover T. J. Unit 18 Armd Car Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (1/3 portion)	Amount £	s	d
15.6.44	Escorts return fare from LONDON To Brighton		5	4
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Brighton		4	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L.L. Thompson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

4.

This is Exhibit "C" referred to in the summary of evidence in the case of S45117 Pte Glover TJ taken before me this 18th day of February 1944.

Lt
WS McKeough
Officer taking Summary

LIST OF EXHIBITS IN THE CASE OF K.45117 PTE. TRUMAN JOSEPH GLOVER (RCASC), 18 Cdn ARMD C REGT (X11 MANITOBA DRAGOONS)

Exhibit "A" - AF O.1617 showing K45117 Pte T J Glover's surrender to civilian police at 2355 hrs 11 Feb 44

Exhibit "B" - Two CMHQ 1000:55 detailing expenses involved in escort of K45117 Pte T J Glover back to his regt.

Exhibit "C" - AF B290 Absentee Report, reporting K45117 Pte T J Glover A W L from 0600 hrs 20 Dec 43.

Army Form B 290
(In sheets of 6.)

ABSENTEE REPORT. "C"

Army No.	Rank and Name.	When Absent.	Hour of Return.	In what state.	Remarks.
K45117	Pte. Glover T J	0600 hrs 20 Dec 43			

Date 20 Dec 43

A/Sgt Buckett H K Orderly Sergeant.

LIST OF EXHIBITS IN THE CASE OF K.45117 PTE. TRUMAN JOSEPH GLOVER (RCASC), 18 Con ARMD C REGT (XII MANITOBA DRAGOONS)

Exhibit "A" - AF 0.1617 showing K45117 Pte T J Glover's surrender to civilian police at 2355 hrs 11 Feb 44

Exhibit "B" - Two CMHQ 1000:5 detailing expenses involved in escort of K45117 Pte T J Glover back to his regt.

Exhibit "C" - AF B296 Absentee Report, reporting K45117 Pte T J Glover A W L from 0600 hrs 20 Dec 43.

This as exhibit 'C' referred to in the summary of evidence in the case of Pte Glover taken before me this 18 day of Feb 44

I do not desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court-Martial.

(K[illegible]117 Pte Glover, T J)
18 Cdn Armd C Regt
(XII MANITOBA DRAGOONS)

In the Field

19 Feb 44

EXHIBIT "A"

18 CDN ARMD C REGT
(XII MANITOBA DRAGOONS)

Summary of evidence in the case of K45117 Pte Truman Joseph GLOVER, RCASC attached to 18 Cdn Armd C Regt (XII Manitoba Dragoons) Canadian Army Overseas, is charged with:

1. When on active service, absenting himself without leave, in that he in the field, on 20 dec 1943, whilst undergoing Field Punishment absented himself without leave from his regiment 18 Cdn Armd C Regt (XII Manitoba Draggons), from 0600 hrs 20 Dec 1943 until he surrendered himself to civilian police at 2355 hrs 11 Feb 44, thereby incurring expense to the public for his return to his unit in the sum of £5-16-0.
(Total time absent 53 days 17 hrs and 55 mins)

2. When on active service, Losing by neglect; in that he, in the field, between 20 Dec 1943 and 11 Feb 1944 did lose by neglect his equipments clothing [illegible] necessaries, ie on the 26 Feb 1944 he was deficient the following articles having the values as shown:

ARTICLE		VOCAB PRICE	75% VALUE
Sage Kit	1	$ 1.02	$ .76
Combs Hair	1	.04	.03
Badges Cap	1	.09	.07
Gloves Woolen	1	.47	.36
Cap Field Service	1	.56	.42
Brush Tooth	1	.11	.08
Knife clasp	1	.86	.64
Brush Boot Polishing	1	.28	.21
TOTAL		$ 3.43	$ 2.57

The Commanding officer directs that the evidence be taken on oath.

First Witness

Capt H Sinclair adjutant of 18 Cdn Armd Car Regt (XII Manitoba Dragoons, sworn States:

On 16 Dec 1943 the accused was awarded 14 days F.P. by lt-Col JA Roberts, commanding officer of 18 Cdn Armd C Regt (12D). I produce to the court AFO 1617 purporting to be signed by the officer in charge of Alexandria Police Station, Dunbartonshire. This document refers to K45117 Pte Glover TJ, whom I recognize, and shows that the accused surrendered himself to Sgt James Smith at 2355 hrs 11 Feb 1944, whilst wearing civilian clothes. I also produce to the court expense vouchers purporting to be signed by Capt LS Grayson, the officer issuing railway warrants and this document shows that the cost of the returning of K45117 Pte Glover TJ to his unit was £5-16-0. (AFO 1617 and CMHQ 1000:55 are attached and marked exhibit "A" & "B" respectively)

The accused declines to cross examine this witness.

H Sinclair Capt
H Sinclair

AFO 1617 and CMHQ 1000:55 referred to be the witness produced, read to the accused, marked exhibits "A" and "B" respectively and attached hereto.

[signature] Lt
[illegible] McKeough
Officer taking Summary

Second Witness

H77350 Pte Clark EJ, RCASC attached to 18 Cdn Armd C Regt (12D) sworn states:

On the 19 Dec 43 I was working in the Offrs' mess kitchen with Pte Glover TJ. We had been working there for over a month. At 0600 hrs 20 Dec 43 the accused did not report for duty, and I reported this to the Sqn Orderly Sgt. I did not see the accused again until 15 Feb 1944.

The accused declines to cross examine this witness.

E J Clark
H77350 Pte Clark EJ

Third Witness

H77513 A/Sgt Buckwold HK, 18 Cdn Armd C Regt (12D), sworn, states:

On the 20the Dec 43 I was Sqn Orderly Sgt. It was reported to me that Pte Glover, whom I am well acquainted with, was absent from his quarters and duty. At 0830 hrs 20 Dec 1943 I searched the camp area, but was unable to find the accused whom I recognize.

The accused declines to cross examine this witness.

H K Buckwold
H77513 A/Sgt Buckwold HK

Fourth Witness

H77743 SSM WJ McCarthy 18 Cdn Armd C Regt (12D) sworn, states:

On 20 Dec 43 it was reported to me by the orderly sgt, A/Sgt Buckwold HK that Pte Glover TJ was absent from the offrs' mess kitchen. I immediately proceeded to the offrs' mess and questioned Pte Clark EJ as to the whereabouts of the accused. I searched and found that the accused was not on duty and not in his quarters of the camp area. He was not marked present at any time from the 19 Dec 43 until 11 Feb 1944. I did not see the accused, whom I recognize until 15 Feb 1944, when he was returned to the regt by the Provost. (AFB 290 is attached as exhibit "C").

The accused declines to cross examine this witness.

W J McCarthy
H77743 SSM WJ McCarthy

This form AFB 290 referred to by the witness produced, read over to the accused, marked exhibit "C" and attached hereto.

W S McKeough Lt
WS McKeough
Officer taking Summary

Fifth Witness

H77655 SQMS Andrew RV 18 Cdn Armd C Regt (12D) Sworn, states:

On 27 Feb 1944 I conducted an inspection on Pte Glover's kit, comparing the articles he had in his possession with that shown issued to him in his MBM I pt III and found the following articles deficient. The value of the deficient articles is as follows:

ARTICLE		VOCAB VALUE	75% VAULE
		$	$
Bas Kit	18	1.02	.76

ARTICLE		VOCAB PRICE	75% VALUE
Bags Kit	1	$ 1.02	$ .76
Combs Hair	1	.04	.03
Badges Cap	1	.09	.07
Gloves woolen	1	.47	.36
Cap Field Service	1	.56	.42
Brush Tooth	1	.11	.08
Knife Clasp	1	.86	.64
Brush Boot Polishing	1	.28	.21
TOTAL		$ 3.43	$ 2.57

R Andrew
H7/65[illegible] [illegible] Andrew RV

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? Your are not obliged to do so or to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken in writing, and may be given in evidence."

The accused: " I have nothing to say at this time."

Glover F.J.
K4511/ [illegible] Glover FJ

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 27 day of Feb 1944.

W S Holdaugh
WS Holdaugh
Officer taking Summary

No K45117 Name GLOVER T J | Sqn, Battery, or Company | Corps C A C | Date of enlistment 10-3-42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFM 122) 40/P&S(CB)(2428)

Date of last entry in Company Conduct Sheet 5-6-42 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Two | Signature OC Company, etc J Hassard Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	Sheet #1 destroyed 10-9-42 or completion of 6 mos service OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Dec 43			WOAS AA Sep 15 AWL from 2359 hrs 2 Dec 43 to 2315 hrs 14 Dec 43. Time absent 11 days, 23 hrs, 44 min.	DOCUMENTARY Cpl Everett	14 days FP in concurrent pay forfeiture PRAI 149(2)	19 Dec 43	Lt-col JA Roberts	
				CERTIFIED A TRUE COPY OF THE ORIGINAL IN MY POSSESSION H Sinclair (H Sinclair) Capt & Adjt 16 Cdn Armd C Regt (12 D)		EXHIBIT "C"			

(PTO)

EXHIBIT "B"

M.F.B. 355
H.Q. 1772-29-620
10M-8-40 (W19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K45117	Pte	Truman Joseph GLOVER,	18 Cdn Armd C Regt (XII MANITOBA DRAGOONS)

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	~~Since enlistment~~
For AA 15(1) AWL	Once ~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused~~ by a court-martial or a civil court, ~~of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 22 days in military custody, making a total of 22 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 29 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 10 Mar 42

7. The service which the accused is allowed to reckon towards discharge is 1 year, 11 months, 9 days.

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military military military The Canadian Voluntary Service Medal and Clasp.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 day of Mar 44.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

H Sinclair
(H Sinclair) Capt & Adjt
18 Cdn Armd C Regt (12D)

DDD 79
PTE GLOVOR C.

DDD 79
PTE GLOVER C.

15

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Pte Curtis Glover

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for...~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which 240 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 6 months and to be dismissed with ~~stoppages of pay~~ until he has made good the sum of £8-14-2 in respect of costs of apprehension & return to this unit

(Sgd) W. F. Thomson Major 15 Feb 44 (Sgd) V. R. Fell President. (RP 45, 50.) Lt Col

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

~~I direct that the accused be not committed to prison on defaulting hereafter until further orders.~~ (1) 77C

(1. AA 57A. Delete if not used.)

Date 16 Feb 44 (Sgd) F.F. Worthington (F.F.WORTHINGTON) Maj-Gen

Commanding 4 Cdn Armd Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K78867 Pte Glover, Curtis	19 Feb 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

DDAG 79

FIELD GENERAL COURT-MARTIAL

Convened by Order of F.F. Worthington Maj Gen Comd 4 Cdn Armd Div dated 14 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or ~~confirmed~~ C, rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K 78867	Pte	Curtis	Glover	4 Cdn Armd Recce Regt

PROCEEDINGS REVIEWED

Sherwood Capt. 8 Mar 44

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED

Date 8 Mar 44

W. Martin Maj. for JUDGE ADVOCATE GENERAL ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 15 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 36, 63-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	A Col	V. R. Fell	HQ 4 Cdn Armd Div
Member	Captain	J. H. Cruchton	29 Cdn Armd Recce Regt
Member	Lieut	C. S. Glen	1 Cdn Inf Bde Coy Reconn
Judge-Advocate	Maj	W. F. Thomson	HQ 4 Cdn Armd Div
Prosecutor	Captain	C. J. Delaney	4 Cdn Armd Bde Coy Recce
Defending Offr	Captain	J. J. Grant	4 Cdn Armd Bde Coy Recce

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Pte Curtis Glover before arraignment makes(s) ~~sent~~ (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 128), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or the case of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded (see Notes). For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate covers of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, discuss and make appropriate record (see Notes.))

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(D), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 25 fn 2. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. no (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 2-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 75. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(B).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. no
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. yes then my defending Offr See Me (2)
(*1. RP 37(C), 46(2). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to comment on, with anything here or previously stated which would affect, the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 96(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 3099, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the Law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. K-78867 Private Curtis Glover, 4 Cdn Armd Bde Coy R.C.A.S.C.,C.A., a soldier of the Canadian Army Overseas when on active service, is charged with,-

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on the 23 December 43 absented himself without leave from the 4 Cdn Armd Bde Coy R.C.A.S.C. from 2200 hrs on the said23 Dec 43 until apprehended by the military police at Walton-on-the-Hill at 0745 hrs on the 31st day of January 1944, thereby incurring x cost of apprehension and return to his unit in the sum of £ 0-14-2.
Total Absence 38 days 45 mins

J.G. Lamb.
(J.G. Lamb) Major
Officer Commanding
4 Cdn Armd Bde Coy
R.C.A.S.C.

5 February 1944
In the Field.

HQ 4 Cdn Armd Div

To be tried by F.G.C.M.

F.F. Worthington
(F.F. WORTHINGTON) Maj-Gen
GOC 4 Cdn Armd Div

In the field
14 Feb 44

O.R. Fell Lt-Col
pr

28-3-44
B1

FIELD GENERAL COURT-MARTIAL

CF 646 (In lieu of AF A31 41-FAN/1607 (33662))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MAM, Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 78867	Pte	Curtis	GLOVOR	4 Cdn Armd Bde Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Feb 44 endorsed by me, (~~or by an offr of my staff for me~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~).
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. (~~I am unable to appoint (as) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~)
(AA 49, RP 106(5), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt Col	V.R. FELL	Hq 4 Cdn Armd Div	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.R. Crichton	29 Cdn Armd Recce Regt	
Lieut	C.D. GLOVER	10 Cdn Inf Bde Coy RCASC	

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J.A. McLEAN	6 Fd Pk Sqn RCE	

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Major	W.A.D. GUNN	Hq 4 Cdn Armd Div	

On Active Service in the Fd

in England (Country.)

Date 14 Feb 44

F.F. Worthington (Signed personally. RP 105 fn 2.)

(F.F. WORTHINGTON)

Maj Gen (Rank.)

Commanding 4 Cdn Armd Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

V.R. Fell Lt Col Pres

15 FEB 44.

This is to certify that I have examined the accused, K-78367 Pte. Glovor, Co, and find him fit this dut to undergo trial by FGCM.

O.R. Fell [illegible] for

[illegible] Capt. M.O.

15 FEB 44

[illegible]78863. Pte Glover C. aged 37 is a married man who enlisted with the 3rd Div Petrol Coy on 13 June 1940. Since that time, as evidenced by his M.&M. 6 he has had no serious crimes.

Approximately 18 months after enlistment Pte Glover started with severe pains in his back which extended to the rectum. His trouble was eventually diagnosed as Prostatites - a swelling of the prostate gland, the discharge of which runs through the penis. Even at the moment this man's organ is inflamed & shows evidence of pus. Normally this ailment catches up on men in their later forties & frequently has dire effects on the nervous system. The remedy is bed, warmth & four or five sits baths daily. Only for a short period was this man able to avail himself of these treatments.

Three times he has been under suspicion ~~[illegible]~~ & once confined for V.D. because of the appearance of his private caused by the ailment & on each occasion discharged - all of which together with the fact that he felt he was not receiving proper treatment tended to depress him.

When Pte Glover arrived at this unit's lines he was very discouraged & in a low mental state. For a man of his temperament, a reasonably well educated man, & one who in civil life had a business of his own, he was tired of what, in his estimation was "being pushed around". He figured he was being given

insufficient & inadequate medical attention. He was suffering physically & mentally & being about due for leave at this date (23 Dec) he asked his new but companions if he was likely to get leave at once. On being told "no" & looking back on the last four Christmas's when he had been on duty he decided he could stand it no longer & left at once & went to live with friends at Walton on Hill where he stayed until picked up by the Provost.

It is submitted to the Court that this man was in such low mental state of mind through physical & mental suffering at the time he went AWL that he was not capable of clear thinking.

The accused pleads guilty to the charge as read, but the ~~[illegible]~~ condition of the man, as it was at the time he left, is deserving more of hospital treatment than of a detention camp. If he is to be of any value to the Canadian Government he should be treated immediately. My understanding is that he is not getting sufficient treatment to cure his ailment.

Category changed from A to B.1. 28-Mar 41

"M"

TOS 1 Aug 41

O.R. Fell Home Pres

[illegible] Capt.

~~Exhibit No. 2~~

SCHEDULE "F"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APRIL 42.

I certify That No K 78867 Rank Pte Name GLOVOR, C

Unit R.C.A.S.C. 4th Armd. Bgd. 4th Armd. Div

was arrested at Walton-on-Hill at 0745 hrs.

on 31 Jan 44 and at the time of his arrest he was

wearing military uniform.

Signature of Provost-Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces ~~or the officer, warrant-officer, or non-commissioned~~ officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest

Exhibit No. 2.

[signature] Capt.

Officer taking summary of evidence

[signature] Lieut.
Officer i/c No. 1 S.S.,
Cdn Provost Corps,
H.Q. First Cdn Army.

Statement of **EVIDENCE** in the case of

K78867 Pte GLOVER, C.
RCASC., 4 Cdn Armd Bde, 4 Cdn Armd Div

Sir,
At 0745 hrs., 31 Jan 44, in company with Det Constable White, Leatherhead Police, I arrested the a/m soldier, who was an absentee from his unit.

C42046 Sgt Taylor, CAE
SIS., Cdn Provost Corps

Exhibit No 1

Officer taking Summary of Evidence

REMARKS

Exhibit [redacted] No. 1.

~~Cpl Delaney Capt~~

RGE

Form B 252

(Sec. King's Regulations)

Officer taking summary of evidence

RCASC 4 Cdn Armd Bde
(4 Cdn Armd Div)

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. K78867 Rank Pte

Name GLOVER, C.

Place Walton-on-Hill Date of Offence 31 Jan 44

OFFENCE WOAS, Absent without leave from ?
until 0745 hrs., 31 Jan 44.
(AA Sec.

J. D. Matson
Officer i/c No. 1 S.S.
Cdn Provost Corps
H.Q. First Cdn

Names of Witnesses:—

C42046 Sgt Taylor, CAE - Cdn Pro Corps

D/C E. White - Leatherhead Police)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

Exhibit No 3 2 pages page 1

Expense Voucher Re—: (Reg. K.R. & O. (Can) 539)

Officer taking summary of evidence

Reg. No. 578867 Rank Pte Name Glover, C Unit 4 Armd Bde

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Bothill

Date	Particulars		Amount	
31 Jan 44	Escorts return fare from LONDON To	Bothill	3	5
	Prisoners single fare to LONDON From	Bothill	1	9
	Prisoners fare from	To		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
		Total £	5	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

(C.J. Delaney) Capt
Officer taking summary of evidence

C.M.H.Q. 1000/55
40/P & S/4851(2287)

Exhibit No 3 2 pages - page 2

Expense Voucher Re—: Ref: K.R. & O. (Can) 5[illegible]

Officer taking summary of evidence

Reg. No. 1178367 Rank Pte Name Glover, C. Unit 4 C.A.B. Coy,

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount	
1 Feb 44	Escorts return fare from LONDON To Crowborough	6	0
	Prisoners single fare to LONDON From		
	Prisoners fare from London Crowborough	3	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	9	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L S Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

(C. J. Delaney) Capt
Officer taking summary of evidence

C.M.H.Q. 1000/50
40/P & S/483(3287)

Ex "A"

SUMMARY OF EVIDENCE

In the case of

K-78867 Pte. Curtis Glover, 4 Cdn Armd Bde Coy R.C.A.S.C. a soldier of the Canadian Army placed on Active Service.

Charge. 1. Absent without leave.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS Capt.W.G.Ross, 4 Cdn Armd Bde Coy RCASC C.A. having been duly sworn states,-

I am Capt.W.G.Ross Adm Officer of 4 Cdn Armd Bde Coy RCASC On 23 Dec 43, K-78867 Pte.Glover, C., arrived on a draft from No.1 C.A.S.C. R.U. He was taken on strength of this unit with effect 24 Dec 43. Pte Glover did not, to my knowledge, return to this unit aga in until 1 Feb 44 after being apprehended by the Military Police.

(W.G.Ross) Capt.

The accused declined to cross examine this witness.

SECOND WITNESS A-63386 Sgt Purdy,M.M., 4 Cdn Armd Bde Coy RCASC C.A., having been duly sworn states, -

I am Sgt.Purdy, M.M., 4 Cdn Armd Bde Coy R.C.A.S.C., an NCO of Wksp Pl. At approx 1600 hrs 23 Dec 43 a draft arrived from No 1. CASC R.U. Pte Glover was one of the men that arrived on that draft. Glover was posted to Wksp Pl and had reported to Hut No 27 for accommodation. I was Sr NCO living in Hut 27 and it was my duty to call the roll at Tatoo and Reveille. Pte Glover did not answer to his name at Tattoo, 2200 hrs 23 Dec 43 or at Reveille, 0600 hrs 24 Dec 43. I have not seen Pte Glover since approx 1900 hrs 23 Dec 43 until to-day (4 Feb 44) and to my knowledge has not answered to his name on any roll call since 23 Dec 43.

(M.M.Purdy) Sgt

The accused declined to cross examine this witness.

THIRD WITNESS A-62210 Cpl Falkins, D.W., 4 Cdn Armd Bde Coy RCASC C.A., having been duly sworn states, -

I am Cpl. Falkins, D.W. 4 Cdn Armd Bde Coy NCO in charge of Regt'l Police. On 1 Feb 44, I received orders from Coy H.Q. that I was to proceed to Crowborough Station and receive from the Military Police a soldier whom I now recognize to be Pte Glover. Pte Glover was handed over to me at approx 1425 hrs 1 Feb 44 by an NCO of the Cdn Pro Corps along with the following documents,- M.B.M.1, A.F.B. 252, Charge Sheet, Soldiers Service Book, Parts 1,11 and 111, Form CMPQ 1000.55, Expense Voucher Pro Forma Schedule "P", Certificate in accordance with P.C. 2797.

(D.W.Falkins) Cpl

The accused declined to cross examine this witness.

The documents referred to by the witness produced and read over to the accussed, marked Exhibit 2 and 3.

(C.J.Delaney) Capt
Officer taking Summary.

C-42046 Sgt C.A.E. Taylor, SIS, Cdn Provost Corps documents purporting to be signed statement of the evidence of C-42046 Sgt Taylor, C.A.E. SIS Cdn Provost Corps was read over to the ~~xxxxxxxx~~ accused, marked Exhibit [illegible] and attached hereto.

I certify that in my opinion owing to the exigencies of the Service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

(C.J.Delaney) Capt
Signature of Officer taking summary.

The accused does not require the attendance of this witness for the purpose of cross examination.

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence ~~xxx~~ you will give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED

I wish to give evidence upon oath.

The accused K-78867 Pte Curtis Clovor, having been duly sworn states:-

I was feeling run down, depressed, and suffering from severe pains in the legs and back due to an attack of Prostatitis from which I have suffered the last two years. I have been in Hospital three different occasions as a result of this ailment. I felt that for the benefit of my health both mentally and physically, I had to have a change of environment. Before leaving the R.C.A. I visited the M.O. there and told him of my complaints, I received some treatment. At the time I was put on draft my condition had not improved. I reported this fact to the M.O., and he told me I had nothing to worry about. While at R.C. I made application for sick leave on various occasions but was refused each time. When I arrived at 4 Cdn Armd Bde Coy, I felt that if I did not get away from the army for a short while, I would end up in Basingstoke or some other such institute. Four days after leaving the unit my condition was such that I was confined to bed for one week because I could not walk or move without a great deal of pain. I had been receiving treatment from the time I came out of Hospital until I came on draft to the 4 Cdn Armd Bde Coy R.C.A.S.C.

(C.Glovor) Pte.

I certify that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

Taken down by me in the presence and hearing of the accused in the Field, this 4th day of February 1944.

C.J.Delaney Capt
4 Cdn Armd Bde Coy RCASC

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Dec 43	Pte		A.A.15(I) WOAS AWL from 2200 hrs 23 Dec 43, to 0745 hrs 31 Jan 44 Absent 38 days 9 hrs 45 minutes	Documentary	6 Months Detention Placed under stop of pay A0-14-2 being cost of apprehension	F.G.C.M. 15 Feb 44	Lt/Col V.R.Fell President of Court.	

K-78867 Pte. Glover, C.
No. Name

Sqn., Battery, or Company | Corps | Date of enlistment 13-6-40 | G.C. Badges | Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2565)

Date of last entry in Company Conduct Sheet n/a | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Feb	Pte		A.A. Sec 15 (1) WOAS A.W.L. From 0900 hrs 25 Feb 42 until 13300 hrs 25 Feb 42 Absent 4 hours	Cpl. Empey	4 days pay	28 Feb 42	Major J.R.W.T. Bessonette	Forfeits 4 days pay FRI 149 (2)
Field	9 Dec 43	Pte		A.A. Sec 15 (1) WOAS A.W.L. from 2200 hrs 9 Dec 43 until 0800 hrs 10 Dec 43. (Absent 10 hrs.)	Documentary Sgt.Klassen Cpl. Gendron	2 days pay	11 Dec 43	Lt-Col W.C. Fletcher	Forfeits 1 days pay FRI 149 (1) (a) 2 days pay FRI (149) (2)

Certified true Copy from the Regimental books in my custody
5-2-44 [signature]
(W.G. ROSS) CAPT
Adjutant 4 C.A.B.Coy R.C.A.S.C.
Officer i/c Regimental Books

Ex "Y"
O.C. Fell Lt-Col
pres.

(P.T.O.)

Ex "X" VR. Fell [illegible] pres

M.F.B. 355
30M—17-41 (2272)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-78867	Private	Curtis Glover	4 Cdn Armd Bde Coy R.C.A.S.C.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or ~~[illegible]~~ Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~[illegible]~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	2 times
For		times		times
For		times		times
For		times		times

~~[illegible]~~ [illegible]

~~[illegible]~~ [illegible]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~[illegible]~~ A.F.A. 73 [illegible]

3. The accused is not under sentence at the present time.

~~[illegible]~~ [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 6 days in ~~[illegible]~~ military custody, making a total of 6 days in custody, of which nil days were spent in hospital. [illegible]

5. The present age of the accused according to his record of service is 37 years 7 Months [illegible]

6. The date of his ~~[illegible]~~ attestation specified in his record of service is ~~[illegible]~~ 13 June 1940 [illegible]

7. ~~[illegible]~~ [illegible]

8. ~~[illegible]~~ [illegible]

9. The accused is ~~[illegible]~~ entitled to ~~[illegible]~~ military decoration, or ~~[illegible]~~ military reward (or is in ~~[illegible]~~ State any air force decoration or reward. military Canadian Voluntary Service Medal [illegible]

10. ~~[illegible]~~ [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ~~Permanent Force~~ unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Army~~ Air Force Act, and of cases in which trial has been dispensed with of accused. Number.....Rank.....

Name.....of.....~~Regiment~~ Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

Certified true copy from the regimental books in my custody

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 Feb 44 day of (W.G. Ross) Capt

Adjt 4 Can Armd Bde Coy RCASC

Officer i/c Regimental Books

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

NN-69
SPR GLOVN L.R

NR-69

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Second day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

E R Allen Major

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

Brots

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*(I am unable to appoint :-~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

Brots

~~for the following reasons, namely :-)~~

*Only where Convening Officer is a Commanding Officer of is of Field Rank.

* Omit if not applicable.

E R Allen Major

24 Sept 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

(134)

(135)

President.

Rank.	Name.	Regiment.
Major	E R Allen	7 Recce Regt

Members.

Rank.	Name.	Regiment.
Lieut	G D Mills	6 Cdn Fd Coy, RCE
Lieut	J E Miller	9 Cdn Inf Bde Coy, RCASC

*Signed R H Keefler

(R H Keefler) Lt-Col

Commanding 3 Cdn Div

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D/15168 Spr Lewis Richard GLOYN 16 Cdn Fd Coy, RCE	Army Act Sec 40 (See charge sheet att)	Guilty	Guilty To undergo detention for period of 56 days 3/8/43 E R Allen Major	I confirm B R Keefler Lt Col M/Comd 3 Cdn Inf Div 6 Aug 43
D-106919 Pte FIELDING J.R RCASC attached to 16 Cdn Fd Coy RCE	Army act 18(4) (see charge sheet att)	Guilty	Guilty To undergo detention for period of ~~[illegible]~~ 1 year E R Allen Major 3 Aug 43	I confirm B R Keefler Lt Col M/Comd 3 Cdn Inf Div 6 Aug 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) B R Keefler (R H Keefler) Lt-Col — (Signed) E R Allen Major (E R Allen) Major

Commanding 3 Cdn Div — 7 Recce Regt

Convening Officer (e) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3 day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Judge advocate E R A
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 3 day of Aug 1943.

E R Allen Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

E R A

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) B R K

Signed this sixth day of August 1943.

B R Keefler
Confirming Officer. Lt Col

Promulgated and extracts taken in the case of D 15168 Spr. Gloyn, L.R. RCE.

(a) (Dated) 8 August 1943. (Signed)

Promulgated and extracts taken in the case of D 106919 Pte. Fielding, J.R. RCASC.

(Dated) 8 August 1943. (Signed) ~~[illegible]~~ Major. O.C. 16 FD. COY. R.C.E.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Wt. 47797/1937 35 M. 5/41 E.H.(3285/2) Gp. 698/3
Wt. 26078/1926 60 M. 6/41 E.H.(7164/2) Gp. 698/3

B2
E.R. Allen Major

CHARGE SHEET

The accused D-15168 Sapper Lewis Richard GLOYN, 16th Canadian Field Company, Royal Canadian Engineers, a soldier of the Canadian Army (Overseas) is charged with:

CHARGE
Army Act
40

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 25th day of June, 1943 so negligently handled a Sten Machine Carbine as to cause it to be discharged and thereby injured D-15173 Sapper Robert John TAYLOR, a soldier of the 16th Cdn Fd Coy, R.C.E.; in the abdomen which injuries caused Spr. Taylor's death.

In the Field
27 June, 1943

V.C.H. Hamilton
V.C. Hamilton, Major, R.C.E.
Officer Commanding
16th Cdn Fd Coy, R.C.E.

To be tried by Field General Court-Martial

In the Field.
Date 2 Aug 43

R.H. Keller
~~(R.F.L. Keller)~~, Lt Col
~~Major-General~~
A/Comd ~~C.C.C.~~ 3 Cdn Div.

MEDICAL OFFICER'S REPORT

I certify that No. D-15168 Spr. GLOYN L.R.
of 16th Cdn Fd Coy RCE in a fit state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station In the Field

Date 3rd August 43

M. F. B. 246

F.R. Allen Major

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is ~~brought~~ EKa before it, and the charge ~~to which he has pleaded "Guilty"~~ read to him again.]

The accused is found guilty of D-15168 Spr. Lewis Richard Cloyne the charge

†The summary (or abstract) of evidence is read, marked J signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :— No Sir

[*or* hands in a written statement, which is read, ~~marked~~ EKa, signed by the President, and attached to the proceedings.]

EKa

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer. Yes Sir.

Evidence as to character

The Accused being properly sworn STATES:- I had no idea that the gun was loaded and it was a surprise to me that the gun had Amm. in it. I was not issued Sten gun Amm. at any time. I have been a Soldier for three years and carry a Sten gun which was issued to me two weeks ago and have never fired it before. I knew the deceased ever since joining the army.

Character witness.

Capt. J.A. Chazie having been duly sworn STATES. I have known the Accused since early August 1940. He was a Soldier in my unit where I was 2 i/c Spr. Gloyn was with the unit since 1940 and was a good Soldier, efficient and did a good job at transport. He was of good character and had a good military record. He was fond of sports and had many friends; Spr. Taylor the deceased was one of his best friends. Being in transport it is most likely that he would have less time in the handling of weapons.

Z Field Regt

Statement in Mitigation of Punishment
in the case of - D15168 Spr Lewis Richard GLOYN

Spr Gloyn pleaded "guilty" to a charge of negligence. It is the duty of the Court to determine the degree of negligence on the part of Spr Gloyn before considering a penalty.

I would refer the Court to the AEFCA Pamphlet "WAR" No 47 issued Jun 26, 1943 and entitled "The Horses' Mouth". On page 3 of this pamphlet, the Adjutant of a Parachute Bn, amongst other things stated: "We had several casualties from men knocking a Sten gun against something and the gun firing 2 or 3 rounds". This officer considered this defect serious enough to comment upon it when interviewed. Apparently the Sten Machine Carbine is considerably more sensitive than other Army weapons and will fire under peculiar circumstances.

Capt J A Clazie who has known Spr Gloyn as a soldier for 3 years has told the Court of his good character. He has also pointed out that Sprs Gloyn and Taylor were always the very closest friends.

The Court will surely understand that soldiers do joke amongst one another and "play around" when off parades. It is usually in a friendly manner and in this case everyones attitude was quite friendly. Thoughtlessly, apparently, Spr Gloyn grabbed his Sten gun in the excitement. The Court will no doubt realize how very simply decisions are taken when a few soldiers are amusing themselves and are often regretted later.

In this case, it is felt that Spr Gloyn has already learned his lesson at very heavy cost. It is difficult to realize how a detention sentence would act as a corrective for him surely, the accident itself has done that. Neither would a sentence of detention in his case act as an example for others to the same extent as the fact that a soldier was fatally wounded. In short, would another exited soldier at a future time while engaged in friendly rivalry, say to himself, I must'nt handle my firearm because I might get a certain detention sentence; or would he say, I must'nt do it because I might injure my pal.

Following this reasoning, it would appear to be a waste of manpower to sentence this man heavily. He has always been a good soldier, in fact he wears a good conduct stripe.

Bearing the foregoing facts in mind, I would ask the Court to view this case as lexiently as possible.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

E.R.A.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut J. S. Yates is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes MFM 6 MFB 3 5 5

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings. X and Y

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes Sir

Cross-examined by the accused.

E.R.A.

[Questions:—Is he recent in the nature of the service of the accused or is departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment, or addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* Yes Sir

The Court is closed for the consideration of the sentence. Exhibit Z

F

Sentence.

The Court sentence the accused *Sentence.*

See page 2 AFA 3

SUMMARY OF EVIDENCE

In tha case od D-15168 Sapper Lewis Richard GLOYN, 16th Canadian Field Company, Royal Canadian Engineers., a soldier of the Canadian Army (Overseas).

The accused was informed of his rights.

The O.C., 16th Cdn Fd Coy, R.C.E., directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: D-15096 Spr. Gray E., a sapper of Headquarters Platoon, 16th Cdn Fd Coy, R.C.E. having been duly sworn states :

"About 1910 hrs, 25 June 43, I was preparing to have my hair cut behind No. 1 platoon hut. I saw Spr. Gloyn and Spr. Taylor run out of Headquarters Platoon hut. Spr. Gloyn had a Sten Machine Carbine in his hands. I never paid much attention to what they were doing. I heard a shot and saw Spr. Gloyn going towards Taylor. Taylor was asking for a doctor. They asked for a truck driver and I went over to the two of them. I noticed that Spr. Taylor was wounded in the stomach. The only thing I heard Taylor say was, "Hurry up and get a doctor", or words to that effect.

I have known both Gloyn and Taylor since I joined the army in July 1940. They have always been very good friends.

The accused declines to cross-examine the witness.

SECOND WITNESS for the prosecution: C-2920 Spr. Ammell, H.J., a sapper of No. 1 Platoon, 16th Cdn Fd Coy, R.C.E., having been duly sworn states:

"About 1910 hrs, 25 June, 1943, I was cutting Spr. Gray's hair behind No. 1 Platoon's hut. I saw Spr. Taylor and Spr. Gloyn running out of Headquarters Platoon hut. They were laughing and joking. Spr. Gloyn had a Sten Machine Carbine in his hand. They were fooling around. Spr. Gloyn swent towards Taylor. I noticed that there was no magazine on the Sten Gun. I saw Spr. Gloyn and Taylor standing close to one another, face to face. Spr. Taylor had his right hand on the barrel of the gun. I carried on with my work and then heard a shot. I looked up at them and I saw Spr Taylor double up and fall to the ground. Spr Gloyn bent over Taylor and then ran into H.Q.Platoon hut. He came out again very soon without his gun and closely followed by L/Cpl Connolly.

The accused declines to cross-examine the witness.

THIRD WITNESS for the prosecution: D-15073 L/Cpl Connolly,S. Medical Orderly of the 16th Fd Coy R.C.E. having been duly sworn states:-

"About 1900hrs 25 June 1943, I was in H.Q. Platoon hut. Spr Gloyn and Taylor were fooling in a friendly fashion in the hut. Taylor ran out the rear door of the hut with Gloyn following. I went to the door, remarking to 2 or 3 other chaps "This will be fun." I saw Taylor walking backwards and Gloyn forward. I heard what I thought was a shot and Taylor fell to the ground. I thought he was fooling and went back into the hut. Gloyn came in and told me Taylor was hurt. I went out to Taylor. I saw he was wounded in the abdomen. I put a shell dressing on him. I took him in a truck to the 22nd Fd Ambulance RCAMC. A Medical Officer treated him with morphine and Taylor was placed in an ambulance. We started on our way to No 1 General Hospital but Taylor died on his way there.

The accused declines to cross-examine the witness.

FOURTH WITNESS for the prosecution: D-15055 Spr Sauve,M. a Sapper of H.Q.Platoon 16th Fd Coy RCE having been duly sworn states:-

"About 1900hrs 25 June 1943, I was in H.Q.Platoon hut. I saw Taylor go out of the hut and Gloyn followed him. I went to the door and I saw Taylor standing behind No 1 Platoon hut. Gloyn had a Sten Machine Carbine in his hand pointed in the direction of Taylor. I heard a shot and I saw Taylor fall down and grab his stomach. I thought he was fooling. I ran over to Taylor and saw he had a bullet wound in his stomach."

M Capl Sauve

The accused declines to cross-examine the witness.

FIFTH WITNESS: for the prosecution: D-15027 A/Cpl Furmankiewicz,C. a member of the Q.M. Staff of 16th Fd Coy RCE having been duly sworn states:-

"Prior to the 25th June 1943, the only persons in the Unit who were issued with Sten Machine Carbine ammunition were,

Spr Miller,E. of H.Q.Platoon	256	rounds.
L/Sgt Coveduck,E. of No 1 Platoon	256	"
L/Sgt McLean,M. of No 2 Platoon	256	"
L/Sgt Colthorpe,J. of No 3 Platoon	256	"

There was a small reserve held in Q.M.Stores. I understand some of the ammunition issued to the men above had been expended in training."

C Furmankiewicz

The accused declines to cross-examine the witness.

The accused having been duly cautioned in accordance with R.P. 4 (e) says:

" I do not wish to make a statement."

Certified that Rules of Procedure 4(c)(d)(e) and (f) have been complied with. Taken by me in writing this 27th day of July 1943.

Signed C.B.Ross

C.B. Ross A/Capt. RCE
16th Fd Coy R.C.E. CA(C)

Certified that copy of this Summary of Evidence was handed to the accused this 30th day of July 1943.

W.H. Cummings Major
O.C. 16 Fd. Coy R.C.E.

No. D15168 Name GLOYN L.R. Sqn., Batty., or Company | Corps RCE | Date of enlistment 18 July 40 | G.C. Badges 6-6-43 | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 6-6-41 | No. and date of last drunk nil | Period not reckoning towards freedom from extra fine N/A | Sheet No. 3 | Signature O.C. Company, etc. | Character Exemplary

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Verified in accordance with CARO 2084		6 May 43	X	E H Atlee Major	
				Certified that this is a true and obsolute copy of original MFM 6 for the m/n					
				V.G. Hamilton, Major,					

Army Form B. 122

[P.T.O.

Y E.R. Allen Major

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-16168	SAPPER	GLOYN L.R.	16th Fd Coy. R.C.E.

1. The following is a fair and true summary of the entries in the ~~Service and Casual~~ Regimental ~~Conduct~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	nil times	nil times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct or, N/A

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A or.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act A.F.A. 73 and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. N/A or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil days in military custody, making a total of nil days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to ~~his own statement~~ by his own statement 6 June, 1911

6. The date of ~~his~~ attestation specified in ~~his~~ attestation paper 18 July, 1940

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~military~~ military, or ~~no military~~ (or is in possession of or entitled to). State any ~~military~~ military or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Unit Regiment

Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	N I L			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of July, 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

W.C. [illegible], Major, R.C.E.
O.C. 16th Cdn Fd Coy, RCE

A

Army Form A9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field-General Court-Martial held at 1 T.F

on the 3 day of Aug 19 43 by order of

Lieut-Col R.H. Keetler, A/Comd 3 Cdn Div

Commanding

dated the 3 day of Aug 19 43.

President.

Major E.R. Allen, 7 Recce Regt

Members.

Lieut. G. D. Mills, 6 Cdn Fd Coy, RCE.

Lieut. J.E. Miller, 9 Cdn Inf Bde Coy, RCASC

Capt. A.C. Hall, H.Q. 3 Cdn Div., Judge Advocate.

Trial of* D-15168 Spr Lewis Richard Gloyn

16 Cdn Fd Coy. R.C.E.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

, ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J.L. Yeats, 16 Cdn Fd Coy RCE.

~~Counsel~~‡ or defending officer† Captain C.B. Ross, 18 Cdn Fd Coy RCE

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q130. [illegible] 2140. K. & H., Ltd., [illegible] Form A9/23.

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~ E.K.a.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

E.K.a. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

E.K.a. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

E.K.a. *Answer.*

The accused having pleaded Guilty to E.K.a charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

VVV-29

Pte. Hobbitt. H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B88120 Pte George GOBBETT - CTS

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 9.)

R At present under sentence for ~~(1)~~ beginning on (date) (2)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Sixty(60) days

(Sgd) ..... Judge-Advocate, if any. 28 Aug/44 Date awarded. (Sgd) M M Armistead President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks upon conviction.~~ (1)

(1. AA 57A. Delete if not used.)

Date 31 Aug 44. (Sgd) J H. ROBERTS, Maj-Gen., Commanding Comd. Can. Alt. Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B88120 Pte Geo Gobbett RCASC/CTS	1/9/44	Frank Barber Cpl

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 VVV29

CPA&IR 370 (Revised AFA67) 40/P.W.B./1388 (40/10)

FIELD GENERAL COURT-MARTIAL 4/388

Convened by Order of Maj-Gen J.H. Roberts DSO MC Comd CRU dated 26 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B88120	Private	George	GOBBETT	CTS

PROCEEDINGS REVIEWED.

J.H. Roberts Maj-Gen
28 Aug 44

JCHC

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) England on (date(1)) 28 AUG 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for cards and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is (are) brought before the Court. At 1610 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

R A5. President to accused: ~~Do you object to~~ as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to C-96224 S/SGT G.M. DUNFIELD as shorthand writer? Ans NO - SIR

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO - SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

R A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.Col.	D.L. Redman VD	HQ CRU
Member	Capt	W.L. TURNBULL	2 CARU
Member	Lt	W.M. RANSBERRY	1 CARU
~~Judge-Advocate~~			
Prosecutor	CAPT	P.E. DOWLER	ICTS
Defending Offr	MAJ	E.C. PECKHAM	ICTS

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 2.)

R A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea .....

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in RB name and name of the accused making the plea.)

R A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

R A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 84, 85; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-86; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO - I W (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E2 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES ALSO MY D/O'S NOTE-ALL (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should inform accused or his witnesses to inform on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 332, 563-566, Overseas MO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.88120 Pte George GOBBETT, RCASC on str of Canadian Training School, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Sec 15 (1)
ARMY ACT

When on Active Service, absenting himself without leave

in that he

at Havannah Barracks, Bordon, Hants on 31 Jan 44 at 2359 hrs was absent without leave from his quarters and remained absent until apprehended in Worthing by Constable EA Hawer of the Civil Police at Worthing Sussex at 1430 hrs 4 Mar 44.
Total time absent 32 days 14 hrs and 30 mins.

(F Barber) Col RM Ranks
Commandant,
Canadian Training School

HAVANNAH BARRACKS,
BORDON, HANTS
23 AUG 44.

To be tried by Field General Court Martial.

Farnborough, Hants
26 Aug 44

(J.H. Roberts) Maj-Gen
Comd
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
B68120	Private		George	GOBBETT	CTS

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 26 Aug 44 endorsed hereto, ~~(or by an offr of my choice (see me))~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. a. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~b. I also appoint a Judge Advocate (he not the Offr mentioned hereunder).~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.Col.	D.L. Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO	2 CARU
Lt	To be detailed by CO	1 CARU

~~---- WAITING MEMBER ----~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~---- JUDGE-ADVOCATE ----~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 26 Aug 44

(Original personally. RP 105 fn 2.)

(J.H. Roberts)

Commanding Canadian Reinforcement Units

Maj-Gen (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A GRAMS (ID Nos. of AFA21 60/F de 8/1687 14601)

(See overleaf for oaths and notes for use on trial.)

CTS/113

MEDICAL OFFICER'S CERTIFICATE

I hereby declare that I have to-day examined:

No. B88120, Pte. Gobbett, George

R.C.A.S.C.

Regiment, attached/posted to Canadian Training School and certify that I found him Medically fit/~~unfit~~ to undergo trial by Court-Martial.

28 Aug., 1944
Bordon, Hants.

Dan Landa Capt.
, R.C.A.M.C., Medical Officer,
Canadian Training School.

MS (To be signed in duplicate)

F.G.C.M. IN THE CASE OF

B-68120 Pte GOBBETT, C., CTS

28 Aug 44

STATEMENT BY THE ACCUSED (IN MITIGATION) NOTE E-3

I enlisted in the Canadian Army 26 Aug 39. I arrived overseas expecting to see action 28th Dec 40. I was posted with a French Canadian outfit in which I was very unhappy as I do not even speak French. I tried several times for a transfer. I had no serious crimes previously until Oct 41 when I went absent in order to get out of the unit. After being released from detention I was posted to the Canadian Training School. I tried several times for transfer to an Army Service Corps Field Unit bound for Italy. I also tried to get back to my own unit, the Lincoln and Welland Regiment. I kept company with a girl in Rollands Castle for a term of two years. I applied for permission to marry her in Oct 43. I went to see her every chance I could. I was on pass 31 Jan 44 and she told me she wished to break off our friendship. With that and unable to be posted to a field unit I thought the Army held nothing for me and I went absent without leave this time. I fully intended to return when the Army went into France. However, I was picked up by the civil police. I produce for your inspection a letter from the Commanding Officer of the Lincoln and Welland Regiment, dated 9 Nov 43, in answer to my application for transfer advising me to put the papers through my Commanding Officer which I attempted to do. (Court reads letter and confirms.)

PLEA IN MITIGATION BY DEFENDING OFFICER NOTE E-3

Sir,

I believe we have heard a case which has happened too many times in the Canadian Army where we have a good, clean cut soldier like Pte Gobbett who came to this country filled with a desire to get to the field, and whose enthusiasm is evidenced by his effort to get into a unit in the 4th Division and also to get to a Service Corps Unit bound for Italy, finding his efforts meeting with no success and we find him to-day in trouble. But I would like to direct the Court's attention to his MFM 6, which at first glance seems to condemn him, but I feel if analysed carefully on the contrary seems to indicate that Pte Gobbett can be a good soldier. It shows his date of enlistment as 26 Aug 39 when you will find he was only eighteen years of age, and the first entry is in 1941 two years later, and the first serious entry is in October 1941, over two years after his enlistment, shows that he did soldier for two years. Then he has given a reason for his first serious crime. He was posted to the 2nd Div Petrol Coln which was a French Canadian ~~outfit. Then using his own words he was fed up. He had come out of detention expecting to go to a field unit~~ Unit and from then until Oct 42 he had no additional crime. Then using his own words he was fed up. He had come out from this detention expecting to go to a field unit but was posted to a training school which to a young lad anxious to be posted to a field unit is not a good spot. As a result he got into trouble, but he has told you that he met a young lady in October last year with whom he became very serious and from that time until now he got into no trouble, again having something to work for, and then she told him she wished to break off the friendship and he was in trouble. So it indicates that Gobbett can soldier and I feel that he intends to. I feel that he should be given a light sentence with the recommendation that he be posted to a field unit. He has had five years of soldering and is category "A". He is unmarried. He got to Grade V in public school, but had to quit to earn his living. He sold newspapers and drove

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a delivery truck and maintained himself until he enlisted at the age of eighteen. Generally he has been supporting himself since he was ten years of age. Failing a light sentence I would suggest to the Court that regardless of what sentence they may find it necessary to give to Gobbett they add that sentence be suspended at an early date so that he might get to France.

THE COURT IS CLOSED TO CONSIDER THE SENTENCE.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.88120 Pte GOBBETT, G RCASC on strength of Canadian Training School, a soldier of the Canadian Army, Overseas.

By direction of the commanding officer the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

Lt D Davies RCA/CTS acting adjt, CTS having been duly sworn, states:

" I am Lt D Davies acting adjt of Canadian Training School. I produce a certified true copy of the declaration of the Court of Inquiry from the files of CTS relating to the illegal absence of B.88120 Pte GOBBETT, G. APP "A" Ad

I also produce AFO 1618 purporting to be signed by Constable EA HAWES of the Worthing Civil Police relating to the arrest of B.88120 Pte GOBBETT, G APP "B" Ad

Lt (D Davies) RCA/CTS

The accused declines to question the witness.

SECOND WITNESS for the prosecution

F.9229 L/Cpl Pellow WR , RCASC posted to CTS having been duly sworn, states:

"I am F.9229 L/Cpl Pellow WR of Adm Wing. I have made an inventory of Pte GOBBETTS' kit since his return and find that he is now in possession of all kit shown on the Court of Inquiry of 24 Feb 44 as being deficient."

WR Pellow Lcpl

(F.9229 L/Cpl (WR Pellow) RCASC /CTS

The accused declines to question the witness.

The accused was cautioned as follows. "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

G Gobbett

B.88120 Pte (G GOBBETT) RCASC /CTS

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (e),(d),(c) (f),(g) have been complied with.

Capt(PE Dowler) Gen List /CTS
Offr detailed to take Summary of Evidence

HAVANNAH BARRACKS
BORDON, HANTS
24 AUG 44

EXH

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at Havannah Barracks Bordon, Hants on the 24th day of February 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.88120 Pte GOBBETT, G RCASC, posted to Adm Wing CTS

DECLARATION.

The Court declare, B.88120 Pte Gobbett G, RCASC, posted to Adm Wing, CTS illegally absented himself without leave at Havannah Barracks, Bordon, Hants at 2359 hrs on 31st Jan 1944; that he is still absent and that on 23 Feb 1944 he was deficient and is still deficient the following articles of clothing, equipment and regimental necessaries to the value of six pounds, thirteen shillings and seven pence (£6-13-7) The deficiencies in kit are listed below:

ARTICLE	QUANTITY	VOCAB PRICE			ESTIMATED VALUE		
Battle Dress-Blouse	1	1	3	6	0	17	11
Trousers prs	1	1	4	1½	0	18	0
Boots, ankle "	1	1	4	5	0	18	1
Drawers, cellular shorts "	1	0	1	11	0	1	6
Gloves, knitted drab	1	0	2	1	0	1	7
Greatcoats, drab, patt 39 "	1	2	10	7	1	17	6
Shirts, angola drab	2	0	18	2	0	13	6
Socks, worsted prs	3	0	5	0	0	3	9
Braces "	1	0	1	4	0	1	0
Brasses, cleaning	1	0	0	2	0	0	2
Brushes, shaving	1	0	1	8	0	1	3
Brushes, shoe polishing	1	0	1	3	0	1	0
Brushes, Tooth	1	0	0	6	0	0	5
Comb, hair	1	0	0	2	0	0	2
Razor, safety w/blade	1	0	0	3	0	0	3
Belts, waist W.E. patt 37 small	1	0	3	0	0	2	3
Haversack, W.E. patt 37	1	0	8	0	0	6	0
Capes, anti-gas, camouflage	1	0	12	4	0	9	3
		£8	18	5½	£6	13	7

Names of President and Members Capt PE Dowler, Gen List

Capt KG Robb, 2 Div Sp Bn (Tor Scot R)

Lt MH Skelton 2 Div Sp Bn (CHofO)

Signature of Commanding Officer Frank Barber Co

CERTIFIED TRUE COPY. (F Barber) Col R M Rang
Commandant Cdn Trg School

D. Davies

Signature of Officer having custody of the Original Record.
Lieut(D Davies) A/Adjt
Cdn Training School

The refund of expenses incurred by the Police applies *only* in the case of the Police authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

The following Statement of expenses *(if any)* incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____ Police in connection with the apprehension of _____ and are payable to _____

_____ [Superintendent or Officer i/c Police Station at

Date _____

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster _____ is hereby authorised to pay to _____ being the person recommended by the Committing Magistrate, a reward of _____ for the apprehension of _____

Date _____ _____ (O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE. Army Form O. 1818.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit.* The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

* (5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps. In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

* NOTE.—Special instructions apply in war for the disposal of absentees and deserters apprehended by the civil police ; e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military Unit or the O.C. Troops at the nearest military station. (A.C.I. 489/1940).

(10862) Wt. 50361-1655/9631/3. 4/500. 4/34. P.S.O. & Co., Ltd. G.943. Forms/O. 1818/34.

DESCRIPTIVE RETURN OF† B.88120 Pte. George GOBBETT who was arrested at Worthing (hour) 1430 on the 4th day of March 1944 and was committed to confinement at Worthing on the 4th day of March 1944 as a ~~Deserter~~ (or Absentee without leave) from the ~~Est. of the~~ R.C.A.S.C.

Regiment of

Age 23 yrs. Height Five feet Three inches

Complexion Sallow Hair Lt. brown Eyes Blue

Marks Scar l. eyebrow. In uniform or plain clothes Uniform

Probable date and place of attestation	
Probable date of desertion or beginning of absence and from what place	
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	
Particulars to the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given	At 2.30 p.m. on 4th March 1944, I saw Pte.GOBBETT in Broadwater Rd., Worthing. I stopped him am asked him for his Pay Book, which he produced. I said to him "You are an absentee" He said "Yes, I am going back to-night." I took him to Worthing Police Station, where he was detained.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he†

the before-mentioned Corps.

Signature
Residence
Post Town
of Committing Magistrate.

Date of Signature

Signature of Prisoner

E.Hawes. Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

‡ Care should be taken to insert Army No. and Rank.

† Insert "was apprehended" or "surrendered," as the case may be.

* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs" or "does not belong to," as the case may be

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 88120	Pte	GOBBETT, G.	RCASC/CTS

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be answered to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, punishments being given in the exact terms of entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Conduct Prej	Sec 40	5 times.
For Disobedience	Sec 9	1 times.
For AWL	Sec 15(1)	2 times.
For		times.

Date of first entry in Field Conduct Sheet 24 May 41

Date of last entry in Field Conduct Sheet 4 Mar 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*~~The accused has no previous convictions under sections~~ ~~of the Army Act~~

~~and has not been awarded any good conduct pay forfeited by sentence of court martial.~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 16 days in military custody, i.e., nil days in open arrest, 16 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 23 years

6. The date of his ~~last~~ attestation 26 Aug 39

7. The service which the accused is allowed to reckon is 5 years

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

~~The accused is not in possession of any good conduct pay forfeited by sentence of court martial.~~

~~The accused is in possession of good conduct pay to the amount of £ per annum.~~

~~The accused has not been awarded any good conduct pay.~~

~~The accused has been awarded good conduct pay to the amount of £ per annum.~~

~~The accused has not been awarded any good conduct pay forfeited by sentence of court martial.~~

~~The accused has been awarded good conduct pay forfeited by sentence of court martial to the amount of £ per annum.~~

EX B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[33114] Wt.6670/688 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
[39459] Wt.29236/1873 80,000 3/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	Field 9-1-42	A.W.L.	90 days F.P. 90 days pay	18 days
West Sussex Quarter Session	Worthing 13 Apr 44	Housebreaking	6 Months H.L.	2 Months

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 28th day of August 1944

Hebb, Maj

(J.A. Hebb) Major West NSR
A/OC Adm Wing C T S

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Windlesham House	18-10-42	Pte		(1) Act to the Prejudice - in that he did use a WD Vehicle for private purposes without proper authority. (2) AWL from 2230 hrs until 0024 hrs on 19-10-42(Absent 1 hr 54 mins) AA Sec 15(1)	Cpl Head Pte Peloquin Sgt Brown	28 days Detention	22-10-42	Lt Col Fletcher	
Windlesham House	23-1-43	Pte		AWL from 1200 hrs 23-1-43 until 2115 hrs 24-1-43(1 days9 hrs 15 m)	Lt TR Dailey Pte GaetanoC	7 days FP 7 daysLoss Pay	25-1-43	Lt Col Fletcher	Forf 2 days pay
Windlesham House	21-3-43	Pte		WCAS disobeyed ORO 2060 in that he did drive a WD veh at an excessive rate of speed contrary to the A.A.	L/C Wiberg C L/C Knott A 4 Cdn Pro vo Coy	Lossof 2 days pay (FR&I 149 2)	21-3-43	Lt Col R. Rowley	

No. B88120 Name GOBBETT, G | Sqn, Battery or Company | Corps RCASC | Date of enlistment 26 Aug 39 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/156 (2438)

Date of last entry in Company Conduct Sheet: Nil | No and date of last drunk: Nil | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc: DA MacKay Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous Sheet destroyed 26 Feb 40 on completing 6 Mos Service.					DAM
Field	24-5-41	Pte		AA Sec 40		Forf 3 days Pay	26-5-41		JHD
Field	6-7-41	Pte		AA Sec 9		14 days CB & Forf 21 dys Pay	7-7-41		JHD
Field	10-11-41	Pte		AA Sec 15(1) AWL 1045 hrs 1011-41 to 11-12-41 (34 days)	Ex BC MY	90 days FP & 90 days pay	9-1-42	FGCM	Forf 34 days pay (AWL) JHD Forf 26 days pay (Custody)
							8-4-42	Earned 18 days Remission	

(PTO)

MFM 6
(AFB 122)
40/P&S/136 (3438)

No B88120 Name GOBBETT, G. Sqn. Battery or Company CTS Corps RCASC Date of enlistment 26 Aug 39 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc D Fletcher Lt Col Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Windlesham House	4-4-43	Pte		AWL from 2230 hrs 4 Apr 43 until 2300 4 Apr 43 (30 mins) AA SEC 15(1)	Lt Daily	7 days CB	29-4-43	Lt Col R. Rowley	
Field	19-10 43			Conduct to the prej etc improperly used a WD Veh No CZ4213327 and petrol for private purposes	Cpl Thrower Pte Auberton Tpr Gallant	28 days FP Forf 28 days pay under FR&I 149(1)(c)	20-10-43	Lt Col Ritchie	
Field	4-4-44	Pte		2 charges of housebreaking		6 mos HL on each chge (Concurrent)	13-4-44	West Sussex Quarter Sessions	Forf 39 days pay(Custody)

CERTIFIED TRUE COPY OF ORIGINAL IN MY POSSESSION J.A. Hebb, Maj

(J.A. Hebb) Major West NSR
A OC Adm Wing C T S

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

LIST OF W...

Lieut D. Davies
L/Cpl Fellow, W.R.

P-9229

Exhibit "A"

LIST OF EXHIBITS

Certified true copy of the Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Exhibit "B"

A.F.O. 1618 purported to be signed by Constable E.A. Hawes of Worthing Sussex Civil Police Force.

LIST OF WITNESS

	Lieut	D. Davies	RCA/CTS
F-9229	L/Cpl	Fellow, W.R.	RCASC/CTS

LIST OF EXHIBITS

Certified true copy of the Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.	Exhibit "A"
A.F.C. 1618 purported to be signed by Constable E.A. Hawes of Worthing Sussex Civil Police Force.	Exhibit "B"

Commandant,
Canadian Training School.

With reference to my pending trial by Field General Court-Martial.

(b) I wish that an officer be assigned to act as defending officer.

, If - Major E.C. Peckham Linc & Welld R/CTS is available, I wish that he may be assigned for this purpose)

23 August 1944
Borden, Hants.

B-88120 Pte G.Gobbett, RCASC/CTS

(to be signed in duplicate)

LIST OF WITNESS

	Lieut D. Davies	RCA/CTS
F-9229	L/Cpl Pellow, W.R.	RCASC/CTS

LIST OF EXHIBITS

Certified true copy of the Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.	Exhibit "A"
A.F.C. 1618 purported to be signed by Constable E.A. Hawes of Worthing Sussex Civil Police Force.	Exhibit "B"

To:
Commandant,
Canadian Training School.

With reference to my pending trial by Field General Court-Martial.

xxxx

4E21.
Pte. GODARD. J.A

4E21.
PTE. GODARD. J.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 54193 Pte John Amdee Goddard S D & G Highrs

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p. 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.W.L.	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 86, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

~~All~~ payment under sentence for ~~Absent Without Leave~~ beginning on (date) [illegible] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 45(A). Information should be found on MF B355 or AF B296)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

30 Days Detention with Forfeiture.

(Sgd) ..... Judge-Advocate, if any. 2nd Oct 44 Date awarded. (Sgd) A W Jeffreys Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) Jell Rockingham Brig

Date 21 Oct 44 Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C 54193 Pte Goddard J A	25 Oct 44	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 20 NOV 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160, 4E-21

FIELD GENERAL COURT-MARTIAL (CFA86 (In lieu of AF B2) KD P & R Book 13604)

Convened by Order of Lt-Col D F Forbes a/ Comd 9 Inf Bde dated 1 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, Jrns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C/54193	Pte	John Amedee	GODARD	S D & G Highrs

PROCEEDINGS REVIEWED

[illegible] Capt 21 Nov 44

REVIEWING OFFICER, PROCEEDINGS OF TRIAL.

PROCEEDINGS RECEIVED Date 16 Nov 44 D.A.A.G. Odn. Sec. G.H.Q. 21 Army Gp

Held in the Fd in (country) France on (date(s)) 2nd October 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Jnrs ROs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1625 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2) [illegible]

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A W Jeffreys	M.C. M.S. Highrs
Member	Lieut	R [illegible] MacNeil	M.C. M.S. Highrs
Member	Lieut	O.R. Pierce	M.C. M.S. Highrs
Judge-Advocate			
Prosecutor	Capt	S.P. La Fontaine	S.D. & G. Highrs
Defending Offr	Lieut	G.D. Jodoin	S.D. & G. Highrs

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See Dir p 33.)

A8. The accused C/54193 Pte Godard, J A before arraignment makes(s) (no) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form [illegible]

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Part I page 99

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (~~not~~) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on 1st charge(s). ~~The accused is (are) so informed, and he (they)~~ change(s) his (their) plea(s) on charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. ~~The Summary of Evidence is marked Ex I, initialled and read aloud by the President.~~(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules ng to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on round that you have not had sufficient opportunity to prepare your defence? Ans No. (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) [redacted] opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ish a prima facie case against the accused on the 1st charge(s).(2) The Court ed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission llowed on the 1st charge(s), and allowed on the charge(s), ~~and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on (see charge(s).~~(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) ay, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) ay call witnesses in your defence and as to character, whether you give evidence or make a statement or do

resident to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Do you intend to call witnesses on your behalf? Yes. Are they witnesses as to character only? Ans No.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) Court on the 1st charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using d Form E below.

ECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Yes.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for rmation, and then to the Court for admission in evidence. The Court is satisfied that these documents refer e accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport fer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and ed Ex 2 and Ex 19 respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in gation of punishment?(1) Ans ~~No.~~ Yes.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the eedings in open court are accordingly terminated.(2)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which ated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP 70(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purposes, is to be awarded to cover all charges or all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas Pol 309, 2323, 2698, p 60, 737-739. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE
A.A 15(1)

The accused, number C-54193 Private John Amedee Godard, Stormont, Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with, while on active service,

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1530 hrs 23 Sep 44 until 1000 hrs 25 Sep 44. (Absent 1 day, 18 hrs and 30 minutes).

Field
30 Sep 44.

(R. Rowley) Lt.-Col.
Commanding,
S D & G Highlanders.

To be tried by FIELD GENERAL COURT-MARTIAL.

In the Field,
1 Oct 44.

(D.F. Forbes) Lt-Col
A/Comd 9 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V parms 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-54193	Pte	---------	John, Amedee,	GODDARD	SD&G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Oct 44 endorsed by me, (~~or by any other of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to be the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	A.W. JEFFERSON (Must be named. RP 106.)	NNS Highrs (Unit.)

MEMBERS.

Lieut ~~Capt~~	D.R Pearce ~~G.R.K. HANCOCK~~	Mdl N S Highrs ~~[illegible]~~
Lieut (Rank.)	R.M. MACNEIL (Named or detailed. RP 106.)	NNS Highrs (Unit.)

WAITING MEMBER.

~~Lieut~~ (Rank.)	~~D.R. PEARCE~~ (Named or detailed, if any. RP 106.)	~~NNS Highrs~~ (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (Country.) — D Forbes (Signed personally. RP 105 fn 2.) — Lt - Col (Rank.)

Date 1 Oct 44 — (D.F. Forbes) A/ Commanding 9 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 96 40/P & S/1697 (6145)

(See overleaf for oaths and notes for use on trial.)

A W Jefferson Major

Oct 2. 1944

(2)

Witness:
Pt. Zimmer
F.P.
C53093.

Defense Counsel: "How long have you been in "A Eschelon"?

Witness: "Ever since we came over."

Def. Con. "Is it the general practice when in "A. Eschelon" that all drivers are warned of a move ~~at~~ at least 2 hours before the move?"

Witness "Yes, Sir."

Def. Cons. "When the drivers are in "A Eschelon" with no orders to move are they considered confined to the area at all times?"

"No, Sir."

"Will you in your own words make a statement as regards your relations with Goddard on the 23 Sept 1944?"

"~~I was~~ "When Johnny Goddard came into "A Eschelon" camp it was 15 30 hrs. The coy. truck had left without getting any orders ~~that~~ afternoon.

AWJ

Oct. 2 1944
F. G. C. M. 9th Can. Inf. Bde.

P to Zimmer, Witness's Statement, Cont'd

"He stayed in A Eschelon that night. I gave him a couple of blankets. Next morning he returned them and said he was going to report back to his coy."

Cross examination.

Prosecution: "Was it ~~[illegible]~~ a rule, that you would get two hours notice to move at all times?"

Witness: "Yes, sir."

E. Zimmer

[illegible]

Ex(3)

Oct. 2 1944

F. G. C. M. . 9th Can Inf Bde

Witness
Sgt. Begg S.H (C.Q)
C53614

"Roughly about the time 1400 hrs. I received orders to have "B. coy" 15 cwt taken to the coy area. The convoy formed up. My driver Pte. Goddard was missing. I drove the vehicle myself. On arrival at "D. coy" I met the adjutant and he told me to report to "B. coy". I did not see Pte. Goddard until he came to this area."

Question: By Prosecution:

"As C.Q. of "D coy" did you always have plenty of forewarning of servicing the fighting troops? Or were you supposed to be at hand for this purpose?"

Witness: "Yes Sir. We were always supposed to be available at short notice."

Question. "Did Pte. Goddard ask you as his immediate superior for permission to leave the "A. Eschelon" area?"

Witness: No Sir.

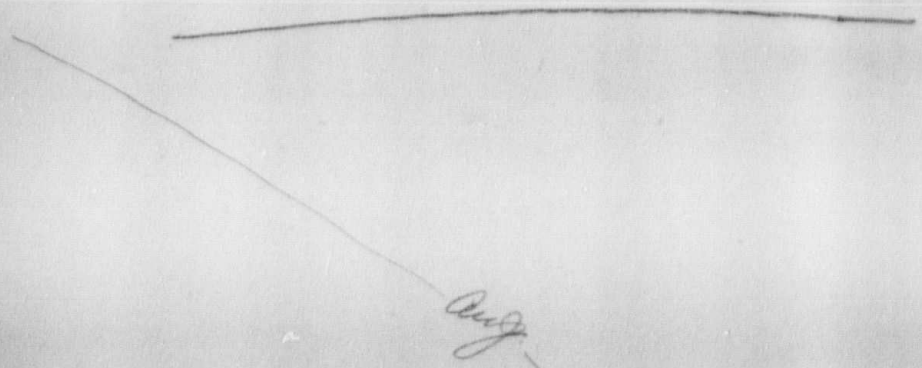
OCD. 1944
F.G.C.M. 9th Cav. Def. Bd. -
Cross-Examination of Witness.

Counsel for Defense: Q: "Sgt Begg, while you were in "A Escalon" were you under the command of an officer?"

Witness A: "Yes, sir"

Counsel Q: "Did you beg the thing?"

Witness A: "No sir"



Ex(4)

Oct. 2. 1944

F. G. C. M. 9th. Can Inf. Bde.

Witness C. Q. M. Grant.

Prosecution. Question.

C. Q. M. Grant will you tell the court all the evidence you have bearing on this case?"

Answer.

"On the 23 Sept. 1944 I was informed Eschelon vehicles would report to coy lines. When the vehicle Pte Goddard was driving reported said driver was missing. Pte Goddard reported to me 1000 hrs 25th sept. 1944."

[signature]

Ex (5)

Oct 2, 1944
F. G. C. M. 9th Cavalry Bde

Witness
Cpl. Losey T.B.
C54319

Defense Counsel: "Will you tell the court your relations with Pte. Goddard on the 23 Sept?"

Witness: "On 23rd of Sept. I was at "A Eschelon" at approximately 2.30 or 3 o'clock; and pte. Goddard asked me for a ride back to the Battalion on the back of a motorcycle. I told him he had no crash helmet and I wasn't allowed to take him without a crash helmet; and I was going to "B Eschelon" anyway."

Defense Counsel: "At Three o'clock when you were at A Eschelon talking to Goddard you were aware of the fact that the coy. trucks including Goddard's had already left A Eschelon?"

Witness: "I couldn't say that, sir."

[signature] T.B. Losey

Oct. 2. 1944

F. G. C. M. 9th Cam. Inf. Bde

Cross Examination of Cpl Losey. T.B.

Counsel for Defense. Question: "Did you lay this charge?"

Answer. "No Sir: I reported it to Major Stothart when Sgt. Beggs reported it to me."

Aug

Ex (6)

Statement by Accused.

Accused.
C54193
Pte Goddard
J.A

"About 1300 hrs on 23rd I went out of camp for approximately two hours. I wasn't told that I couldn't go out, or even told that we were leaving. I went down the road about 500 yds. on the right and met a friend from the Cameron Highlanders. I was with him for two hours. When I came back to camp I met Pte Zimmer. He told me that my vehicle was gone and L/Cpl. Losey came along with a motorcycle. I asked him to take me to Battalion. He said he couldn't because I didn't have a crash helmet. After I asked Pte. Zimmer for a few blankets for overnight. I returned them next morning and told Pte Zimmer I was going to Battalion which was at about 8.30. I walked in Boulogne for about 2 or 3 hrs but couldn't find my Battalion or coy. I met the Captain from Bde H.Q. he told me where the Battalion was. I walked 3 miles then I got a ride with B. coy truck which brought me to my coy. area. I reported to C.Q. Grant at 10 o'clock."

[signature]

Oct 2 1944
F.G.C.M 9th Can Inf Bde

Prosecution "Pte. Goddard, at approx. 08 30 hrs on 23rd you left A'schelon area. Is that correct.?"

accused "Yes sir."

Prosecution "From your own statement you left Boulogne at approximately 1130 hrs, at what approximate time did you get a ride to the unit on B. Coy's Lorry?"

~~"I stayed in Boulogne on the night of the 24th and~~ [illegible]

Accused. "I got a ride to B Coy at 9. oclock on the 25th"

[illegible]

Pct 2

Defense Counsel "How long did it take you, Pte Cobhart, to go from "A Eschelon", from 8.30, to the point in Boulogne where you were looking for the unit?"

Accused "It was about 12.30 when I got into Boulogne"

Def Counsel "How long have you been in A Eschelon?"

Accused "About two weeks"

Q "Did you not come over with "A Eschelon"?"

A "No Sir"

Q. "Since you have been in "A Eschelon" did your trucks ever pull out before warning the drivers previously?"

A. "We always had two hours notice"

Q "While you were in A. Eschelon were you ever told you were CB to the Eschelon area.

A. "No Sir"

Auf

Ex (7)

Statement by Prosecution —

"Sir, acc. to the evidence which you have before you Pte. Goddard can not account for his absence from approx. 1130 hrs of 24th to approx 1000 hrs of 25th., thereby lessening the efficiency of "A Eschelon" whose sole function in this war is a servicing of "F. Eschelon". I have never known when any ~~transport~~ or any body of troops could count on 2 hrs. notice to move. Pte. Goddard in my opinion was definitely remiss in not checking as to a move or not obtaining permission to leave the area whether or not Pte Goddard did spend the night of the 23rd in A Eschelon area the fact remains he was absent from his duty and did not report in to a person of authority in A Eschelon. Pte Goddard did see L/Cpl. Losey acc. to the evidence but before the time from which the alleged absence began"

[signature]

Ex(9) 9 Plea for Mitigation in the case of Godard J., employed as truck driver of A. Ech. vehicle for D coy S. D. & G. Wldrs.

1. As this man was neither put on notice to move, nor warned in any way to stay in the Ech. area, and as it is not the practice of A. Ech. Comm'dr. to C. B. the drivers when not warned for duty, it is not unnatural or a violence of any order that the accused was not in the Ech. area at the exact time the accused's truck moved off.

2. However it is the known practice of the Ech. Comm'dr to issue a warning order (such as a 2 hr notice to move) to the drivers before any move. Godard realizing this returned to the area within 2 hrs. to find his truck had departed some five or ten minutes previously.

3. Godard when learning his truck had gone, done the right thing by staying in the Ech. area in the hope of getting a ride back to the unit. And did show effort to get back to the unit by taking it upon himself to walk back. It would be a very difficult task when finding our unit had left the Boulogne area to find its whereabouts. — [illegible]

(mitigation of Sentence Continued)

Owing to the congestion on the roads and rush of supplies that moved into this area after the 9th Brig. moved forward.

iv. The M. F. M. & C of this man shows that since coming to France this man has had no entries.

Last Entry over 2 yrs. ago. Although he has been in this unit since mobilization.

v. In the absence of the accused's Coy. Comdr. the 2 i/c of D coy has assured me that Godard has given him no cause for complaint up to this date and to his knowledge has been a co-operative and willing worker in the Coy.

vi. Also if permitted would like to assure the Court that I have known the accused personally since the mobilization of this unit and having soldiered with him as an N.C.O., have the highest opinion of Godard's character and ability as a soldier. Am sure that knowing Maj. Stoddart, if he were available would be willing to appear in the interests of Godard.

[signature] Major

[signature] Capt

EX(10)

MFM 6
(AFB 122)
[illegible]/136 (3438)

No C54173 Name GODARD, J.A. Sqn. Battery or Company D Corps C.I.C. Date of enlistment 27.6.40 GC Badges N.L. Service or Proficiency Pay

Company Conduct Sheet Date of last entry in No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 7 Signature OC Company, etc H.G. Mason Maj. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
DEBERT NS	23.2.41	PTE		AWL 0100 hrs 23.2.41 To 2145 hrs 23.2.41	M/Sgt Gallop	1 Day Pay - 7 days CB	24.2.41	H.G. Mason Maj	H.G.M.
DEBERT NS	11.4.41	PTE		AWL 0100 hrs 11 Apr 41 To 23.4.41 (307 hrs)	M/Sgt Cameron	15 days forfeiture 13 days auto forf	24.4.41	C.O.	G.F. Capt & Adjt.
FIELD	5 Apr 42	PTE		AWL AA Sec 15(1) (2 hrs - 30 mins)	L/C Maynville	Fine - 3 days pay	8 Apr 42	[illegible]	[illegible]
FIELD	11.7.42	PTE		AWL From 2357 hrs 11.7.42 to 0700 hrs 12.7.42 AA Sec 15(1) (7 hrs)	M/Sgt Sgt. Minton	3 days pay 5 days CB	13.7.42	Maj. H.G. Mason	[illegible]
FIELD	29 May 42	PTE		AWL From 2357 hrs 29 May 42 to 2200 hrs 30 May 42 (absent 22 hrs 1 min) AA Sec 15(1)	P.E. Kimball	Fine 3 days pay	[illegible] 42	Maj. H.G. Mason	[illegible]

Certified to be a true copy taken from Regtl documents in my custody

(S P LaFontaine) Capt & Adjt
S D & G Highlanders.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (*or as the case may be*).

(*INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of Oct 44

(Officer i/c Regtl Documents)

25. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ____ years, ____

In the rank of ____ years ____

In the rank of ____ years, ____

(INSTRUCTION.—*If any matter in any of the above five columns cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph completed accordingly.*)

Ex(8)

ARMY FORM B 290.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C54193	Pte	Godard J.A.	S D & G Highlanders

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement and not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, premium being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	AA Sec 15(1)	Nil times	5	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

~~Number of entries of gallantry or distinguished conduct.~~

~~or.~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ N/A beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and ..... days in military custody, making a total of ..... days, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 24 years

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 27 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward).)~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of ..... N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

(*25800) Wt.34898/1730 20,000 10/43 A.& E.W.Ltd. Gp.698
(26908) Wt.55924/1499 12,000 3/44 " "

Au Jeffers Major

Summary of Evidence in the case of C54193 Pte Godard J.A. Stormer, Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas.
By direction of the Commanding Officer the Summary of Evidence is taken on Oath.

1st Witness: I am C53095 CGMS Grant, D.C. S.D.&G. Highlanders attached to D Coy. On the 23 Sep 44 my 'A' Echelon truck was to report to me at Boulogne, when said vehicle reported Pte Godard the driver was absent. He reported to me at 1000 hrs on 25 Sep 44.

D.C. Grant

The accused declined to question the witness

2nd Witness: I am C53614 Sgt Begg, S.H. S.D.&G. Highlanders attached to 'B' Coy. On the 23 Sep 44 I was acting CGMS of 'D' Coy. At about 1400 hrs I was ordered to move D Coy vehicles to the Coy area. We were to travel in Convoy on the orders of Capt Willis O.C. 'A' Ech. At between 1430 and 1530 hrs when we were ready to leave the driver of the Coy 15 cwt was absent. The accused had not been previously warned of the move. I looked for the accused outside the Ech area but could not find him. Thinking I would meet him on the road I drove the vehicle myself but did not meet the accused. On arrival at D Coy I was met by the Adjt and ordered to report to B Coy, so did not report the accused absence.

S.H. Begg Sgt.

The accused declined to question the witness.

Accd

The accused having been duly cautioned in accordance with Rule of Procedure 4(E) reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this ~~30~~ 30th day of Sept. 1944.

[signature] Capt

[signature] Maj.

Aug.

LIST OF WITNESSES FOR THE PROSECUTION in the case of C64193 Pte Godard J.A., S D & G Highlanders.

C63095 C.Q.M.S. Grant D.C.

C63614 Sgt Begg S.H.

LIST OF WITNESSES FOR THE DEFENSE in the case of C64193 Pte Godard J.A., S D & G Highlanders.

NIL

STATEMENT BY THE ACCUSED, No. C64193 Pte Godard J.A., S D & G Highlanders.

I do/~~not~~ desire to have an officer appointed to defend me at my trial by Court-Martial.

J.A. Godard

(J.A. Godard) Pte.

Major

5 L-58
Pt. Godard - Ft.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-54193 Pte JOHN AMEDEE GODARD.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40	guilty	guilty	
2nd	AA 40	not guilty	not guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~.....~~ beginning on (date) ~~.....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of six months ~~~~ and to be placed under stoppages of pay ~~~~ to the sum of $ 25-0-0 in respect of damages to CF 48 3445.

(Sgd) ..... Judge-Advocate, if any.

28 Aug 45 Date awarded.

(Sgd) [illegible] Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) W. M. Gemmell Lt-Cole

Date 28 Aug 45

(X M Gemmell) Lt-Col
Commanding 9 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

C 54193 Pte Godard. John Amedee. 29 Aug 45. W M Broadfoot Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 58-58

RECEIVED 1 SEP 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

CFA96 (1p (ins of AFA3) 41-D.H.Q. 1608 (2004))

Convened by order of Lt Col W M Gemmell Comd 9 C I B dated 24 Aug 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
C-54193	Pte		JOHN AMEDEE	GODARD

PROCEEDINGS REVIEWED 10 Sept 45 [illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 25 Aug 45

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 39/19

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A85, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the (1) (2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Rene Van Nuth as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Klugman	E F	HLI of C
Member	Capt	Mont	A M	NNS H&MS
Member	Lt	Glover	K	HLI of C
Judge-Advocate	—	—	—	—
Prosecutor	Lt.	Leslie	S J	SDG H&MS
Defending Offr	Lt	Gamble	W F	SDG H&MS

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See A9, p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Vol 62 p 65.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded (per Notes.)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the Second charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : A trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on grounds of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF #95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(1. MFB 355 or AFB 296. 2. MFB 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately use RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 48-50, 69, 118, 119(A), KR Con 808, 838, 563-566. Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 66(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 4 Sep 44		Pte		An offence under sec 40 AA drinking FGCM - AWL from 1530 hrs 23 Sep to 1000 hrs 25 Sep 44 (absent 1 day 18 hrs 30 mins) Found guilty and to undergo detn for 30 dys. Findings conf by 4Brig 9 CIB on 21 Oct 44 Forf 2 days pay FR&I 149(1)(a) Concurrent with award of 28 dys pay on 4 Sep 44(vide Pt II Order 54/44 (Total 30 dys pay) Certified to be true copy of original document held in my custody. D. C. Stewart. Capt. (D C Stewart) Capt & Adjt Offr i/c Regt'l Documents	documentary	28 dys forf of pay	21 Oct 44	FGCM	
Field 23 Sep 44		Pte							

Ex D

MFM 6
(AFB 122)
10/PAS/136 (3438)

No C54193 Name Godard J.A. Sqn, Battery, or Company Corps CIC Date of enlistment 27 Jun 40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Herbert G Mason Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS	23 Feb 41	Pte		AA sec 15(1) AWL from 0100 hrs 23 Feb to 2145 hrs 23 Feb 41 (20 hrs 45 mins)	A/OSgt Gallop	7 dys CB	24 Feb 41	HG Mason Maj	forf 1 day's pay
Debert NS	11 Apr 41	"		AA sec 15(1) AWL from 0100 hrs 11 Apr to 2000 hrs 23 Apr 41 (307 hrs)	A/O/Sgt Cameron	forf 15 dys pay 15 dys CB	24 Apr 41	CO	Total forf 28 dys pay
Field	5 Apr 42	"		AA sec 15(1) AWL 2 hrs 30 mins	Cpl Mayville	forf 3 dys pay	8 Apr 42	Lt-Col Rutherford	
Field	11 Jul 42	"		AA sec 15(1) AWL from 2359 hrs 11 Jul to 0900 hrs 12 Jul 42 (9 hrs)	A/O/Sgt Hinton	forf 3 dys pay and 5 dys CB	13 Jul 42	Maj HG Mason	total forf 4 dys pay
Field	29 Aug 42	"		AA sec 15(1) AWL from 2359 hrs 29 Aug to 2200 hrs 30 Aug 45 (22 hrs 1 min)	Pte Quibell	forf 3 dys pay	2 Sep 42	Maj HG Mason	Total forf 4 dys pay

(PTO)

AFG 3518 (Revised 1942)
40 Pa.s 400(4033)

TRANSPORT WORK TICKET

Page

No. 86

MAKE OF VEHICLE: Willys | CLASS: 3 Cwt | UNIT: S.D.G. Highlanders | SECTION: B Coy. | DRIVER'S NAME: McDonald | WD No. 14 33 448 | MONTH & YEAR: July 8

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	CHEQUE PAYER (16)	CHEQUE PAYER (17)	CHEQUE PAYER (18)
4	A	Unit	Specs	Camp	[illegible]		[illegible]	Cancelled						1630				
5	B	Unit	Personnel	Camp	Fish Bde		[illegible]							1000	1100			
5	C	"	"	"	Lust		[illegible]							1445	1700			
5	D	Unit	"	Camp	Aplestown		[illegible]							1900	2310			
6	E	Unit	"	Camp	North Nova Cgt		[illegible]							0900	[illegible]			
[illegible]	F	Unit		Camp	Uddell		[illegible] Watson							1400	[illegible]			
6	G	Unit	Loading	Camp	D Company		[illegible]							1630				
	H																	
	J																	
	K																	
	L																	
	M																	

EXHIBIT A

[illegible] Maj

Ex 'C'

ARMY FORM B.296 (War).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
0541F5	Pte	Godard J.A.	S D & G Highlanders

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1) 5 times.

For AA Sec 40 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 23 Feb 41

Date of last entry in Field Conduct Sheet 23 Sep 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been awaiting trial on the present charges for ~~days in civil custody, and for~~ days in military custody, i.e., ... days in open arrest, 23 days in close arrest; ~~of which days were spent in hospital.~~

*Strike out if not applicable.

5. The present age of the accused is 25 years

6. The date of his attestation is 27 Jun 40 ~~calling up for military service~~

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21833) Wt.24930-3404 24,000 7/44 A.&E.W.Ltd. Gp.498 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 21 Oct 44	AWL from 1530 hrs 23 Sep 44 till 1000 hrs 25 Sep 44 (Absent 1 day 18 hrs 30 mins) AA Sec 15 (1)	To undergo detn for 30 days	Nil

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of August 1945

D.C. Stewart Capt & Adjt.

STORMONT, DUNDAS & GLENGARRY HIGHLANDERS
Daily Part I Orders
by
Lt-Col N.M. Gemmell
Officer Commanding

Last Part I Order
No.24 d/11 Jun 45

No.24
Field
14 Jun 45

1. DUTY COY

Saturday	16 Jun 45	S Coy
Sunday	17 Jun 45	A Coy
Monday	18 Jun 45	A Coy
Tuesday	19 Jun 45	B Coy
Wednesday	20 Jun 45	B Coy

2. VOLUNTEERS FOR CFEF & COF
Volunteers for a/m may still volunteer by sending applications to BOR.

3. RE - COY 5-CWTS
Coy Comds and Drivers ONLY may drive m/n 5-cwts.

4. RE - CARO O/S
For information, Officers will study CARO O/S re (UNRRA). Orders will be made available in Officers' Mess.

5. WORK TICKETS
Starting 0900 hrs 15 Jun 45, vehs will not leave Camp Area without work tickets. Authorization for same will be by CO,Adjt,TO and Duty Offr of the day.

6. ACCN STORES
Chairs and tables will not be taken from Sally Anne.

7. TREES
No trees will be cut down in the area.

8. CFEF DRAFTS
Pers presently unavailable for CFEF draft due to AWL, UK leave, sickness, etc will be posted to later drafts. It is requested that pers who have volunteered for the Far East, do not proceed on leave till after 25 Jun 45.

H V Bateman.
(H V Bateman)Lt & A/Adjt
for Officer Commanding
S D & G Highrs CAO

HVB/rl

NOTICE

On or about 4 Jun 45 Pistol No 3T6693 belonging to Lt SP Aikman was lost. Anyone finding same, will you please return same to Adjt.

This is Exhibit A referred to in the summary of evidence in the case of C.54193 Pte Godard.
J. Kelly Capt.
Officer detailed to take the summary.

COPIES mark first statement

S C54198 Pte J. A. Godard. making
a volentarily statment. I was driving
W.D. ~~Vehl~~ GM1233445 on the evening
of 6 July 45 I was driving along a
street in Hilversum and turning
left to go down another street
some thing went rong with my
steering and couldnt make the
corner so I run up the curb and
colleded with the corner of a house
after every thing hapend there
wasent any body around ~~so~~ I
desided to go for the M.P.. I was
gone for about two hrs and when
I came bake the guys was gone

This is Exhibit "B" referred
to in summary of Evidence
in the case of C54198 Pte
Godard J.A.
Jeffrey Capt.

Godard J.A.

EXHIBIT "B"

1ST STATEMENT

I, 054195 Pte J.A. Godard, making a voluntary statement. I was driving W.D. veh GM 123344b on the evening of 6 July 45. I was driving along a street in Hilversum and turning left to go down another street something went wrong with my steering and I couldnt make the corner so I ran up the curb and collided with the corner of a house. After everything happened there wasnt anybody around so I decided to go for the M.P. I was gone for about two hours and when I came back the jeep was gone.

Godard J.A.

This is Exhibit "B" referred to in Summary of Evidence in the case of 054195 Pte Godard J.A.

(J.C. Airby) Capt

LIST OF EXHIBITS in the case of 054193 Pte Godard J.A.,
Stormont Dundas & Glengarry Highlanders

Exhibit "A"	Unit Part I Order No: 24 dated 14 Jun 45
Exhibit "B"	1st Statement by the Accused.

STATEMENT OF THE ACCUSED, Cadet Pte Godard J.A., Stormont Dundas and Glengarry Highlanders.

I do not wish to have an officer appointed to defend me at my trial by Field General Court Martial.

Godard J.A.

(J.A. Godard)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 54193	Pte		John Amedee	GODARD	SD & G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Aug 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Maj	E F Klugman	HLI of C

(Must be named. RP 106.)

MEMBERS.

Rank.	Name	Unit.
Capt	A M MONT	Nth NS Highrs
Lt	L Elmes	HLI of C

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name	Unit.
Capt	L L Smith	HQ 3 Cdn Inf Bde

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

Rank.	Name	Unit.

(Must be named, if any. RP 106.)

On Active Service in the Fd

in HOLLAND (Country.)

N M Gemmell (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

(N M Gemmell) Lt-Col

Date 24 Aug 45

Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A GFA 95 (In lieu of AFA 3) 40/P & S/1897 (8143)

1.

E H Kugnon Maj

CHARGE SHEET

The accused, No. C-34193 Private John Amedee GODARD, of the Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with

when on Active Service

First Charge
AA Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field in Holland, on the 6th day of July, 1945, used without lawful authority public property, being 5-cwt No. CM-4233445, occasioning damage to the said vehicle to the extent of £49-16-0.

when on Active Service

Second Charge
AA Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field in Holland, on the 6th day of July, 1945, drove 5-cwt No. CM-4233445 in a negligent manner, causing damage to said vehicle in the amount £ of £49-16-0.

J. H. Braden Maj

In the Field, Holland,
20 August 1945.

(J. H. Braden) Major,
A/Officer Commanding,
S D & G Highlanders (CDA).

To be tried by Field General Court-Martial.

N. M. Gemmell Lt-Col

(N M Gemmell) Lt-Col
Comd 9 Cdn Inf Bde

In the Field
24 Aug 45

Field General Court Martial (1)

25 Aug 45

Accused - C54193 PTE John A. GODARD. 9 C.I.B. HQ.
SD&G Highrs. ZIEST.

Pleads - 1st charge - GUILTY.
2 ND charge - NOT GUILTY.

Prosecutor - 2 ND charge.

1 Witness. Lt T.J. MacDonald
being duly sworn states:- S.D&G Highrs.

Statement - Before the 6 July 45 (about a week before) one of the unit drivers asked me if he could have a vehicle to go and pick up a 5 cwt jeep that was hidden in the woods not far from our camp at Elspeet. He said the jeep had no markings on it, I granted him permision and the 5 cwt jeep was taken to the unit car park, I examined the jeep and found that it had no WD nos, had patches of what appeared to be German camouflage paint. ~~I presumed it had been captured by the Germans and abandoned by them there~~ I had it checked over for mechanical faults if any, cleaned up and then it was painted. I drove it from the unit lines to the offrs mess and back & found it to be, mechanically fit to drive. We were going to move to Ziest therefore it had to have a WD number to move in a convoy, I put WD No CM 4233445 on the hood of said veh.

The number ~~NO~~ was put on temporarily, this same number was the W.D.NO of the my 5 cwt. jeep I had turned into 9 C.I.S workshops a month before. There was no trace of this jeep in 9 - 7 or 8th Wd shops. (turned in month before) to-date there is still no trace of it. That is the reason I put the W.D.NO on the jeep that was found.

On the morning of 7 July 45 I was informed that the 5 cwt CM 4237445 had been in an accident the night before. I asked the M.T. Cpl when the jeep went out of the unit lines, he said it went out on the afternoon of the 6 July 45, that Pte. GODARD from D Coy had asked to have a work ticket signed for the jeep to take it to D Coy lines to load Cpt. Stevens equipment so it would be ready to move in the morning. The Cpl told me he made out the work ticket to go to D Coy lines & had it signed by the duty officer of the day.

Questions - Prosecutor - what were your Duties in S.D.G.?

A - I was unit T.O.

Q - How long have you been T.O.

A - Since 15 April 45 with unit, T.O. for a unit in Cda for a year. T.O. in Eng for 2 months.

Q - Had the said jeep been driven (to your knowledge from the time you checked it, to the afternoon of 6 July 45.

A - Not outside the unit lines, perhaps within the M.T. compound.

Cross examination of 1st witness 3

3

Defending Offr. XX

Q. Do you know how long before May 6 July you drove the vehicle.

A - a Day or two before.

~~D.O. Introduced - work ticket~~ (work ticket).

Q - can you identify this document.

A - yes. - I identify it as a work ticket made out for veh. ~~4 m~~ C M. 4233445

~~Q - Do you agree that this is the work.~~

~~Q - can~~

Pres. Q - How do you account for the error in the number on the W.T.

A - could be an error in making out the ticket, or on my examination of the ticket. there seems to be a space between the 4 & the first 3, I was concerned with the last 3 figures of the W.O. NO. which is what we use for identifying 5 cwt jeeps. R.P. 830 complies with.

P. O. - 2nd Witness. A 62 863 Cpt Griffith-Cochrane RC

S D & G Highrs.

being duly sworn is examined by Prosecutor -

Q. by P.O. What is your posn in unit.

A I assist the T.O.

Q How long have you been at it.

A Apprx 2 months.

~~Statement by witness.~~ - We had a report from the Provost Coy in Hilversum that they were holding a veh of ours. The T.O. Lt MacDonald sent myself & a mech to pick the veh up. I reported to the provost

at Hilversum and found the veh there. The front right end of the veh was damaged and need some repairs before it could be moved, we repaired the veh enough to allow it to be moved & brought it back to camp.

Q. P.O. (A) What make of veh did you find.

(A) A 5 cwt Willys

(Q) Can you tell the court the No.

(A) C M 4233445.

(Q) Did you have anything to do with the veh after you brought it back to the unit lines.

A) Yes.

Explain - the day after the veh was returned to the unit it was loaded on a 60 cwt and taken to 5 Cdn Tps W.k Shops where I turned it over to the W.k shops' personnel.

XX D.O. - Q) What work did you have to do on the veh before it could be returned to camp.

A) We had to remove the front drive shaft.

RP. 836 Complied with.

3 Witness. Cpt. A.H.L. Stevens S.D.G. Highs. O.C. "D" Coy being duly sworn is exam.

by. P.O. Q.) Can you identify the accused.

A) Yes - Pte GODARD, formerly my jeep driver.

Statement - In the afternoon of 6 July I told Pte GODARD to pick up my kit at 0730 hrs next morning at the offrs mess with the jeep.

The next morning the accused & the jeep failed to show up for me and I proceeded to my coy area in a 15 cwt that happened to be there. When I arrived at the coy area, I had several things to do immediately and then noticing that Pte GODARD, I asked him why he had not picked me up that morning. He said he had had an accident with the jeep. I asked him where the jeep was now & he said "in Hilversum" and that the provost had it. I asked him who had given him permission to go to Hilversum.

Q) P.O. Did you ask him anything else.

A) I asked him who was with him when the jeep was damaged & how much it was damaged. He said the jeep was quite badly damaged & that Pte Grisdale was with him.

P.O. Q) Did either you or the accused mention liquor.

A) Yes. the accused admitted to me that he had had a few drinks around supper time on the 6th.

P.O. Q) Do you know where he got the liquor.

A) Not definitely - I asked him that & he said he had secured same from civilians several miles down the road.

Cross examination.

D.O. Q) Did the accused mention any specific time that he had been drinking.

A) NO.

D.O. Q) At what time did he say he left with the jeep for Hilversum.

A) He did not say a definite time.

RPS 3B complied with.

Court adjourned for 10 Planned.

6

[illegible] Maj

4th witness C 53326 Pte GRISDALE J.J.

D. Coy S.D.G. Highrs being due

(Q) What were you doing on PM. of 6 July.

Statement - At 1800 hrs I met Pte GODARD & he asked me to go for a ride in a jeep I agreed to go. We ended up in Hilversum. We were driving down the road & came to a left turn, we made the turn & he said this is a far as the wheel will turn. We went through a small hedge & hit the side of a house. We got out of the jeep & went looking for the provosts. I met the accused about an hour later. He told me he had been back to the scene of the accident and the jeep had been taken away. We decided to come back to camp.

P. O. (Q) What was the usual supper hour at Elspeet.

A) 1700 hrs.

Q) At what time did you first meet the accused on the 6 July.

A) At about 1/4 past 4.

Q) How long were you with him at that time

A) From 3 to 5 min.

Q) At 1615 hrs ~~did the~~ was accused walking or driving a veh, or in the vacinity of a vehicle,

A) He was in a veh.

Q) What veh was he in.

A) The jeep that was in the accident.

7

Q) when did you next see the accused.

A) 1800 hrs.

Q) Were you at supper at the Coy lines on 6 July.

A) Yes.

Q) Did you see the accused at supper on 6 July.

A) Yes.

Q) Supper was at what time?

A) 5 oclock.

Q) Did the accused show any signs after 1615 of having been drinking.

A) No.

~~Q) Did you have anything~~

Q) at what time did the accident occur

A) around 9 or 10 oclock.

Q) Are you a driver.

A) Yes.

Q) Did you notice that the steering wheel was or was not working properly when the accused said he could not turn it.

A) Yes. - it was not working properly.

Q) Explain.

A) When he said it wont turn any farther, I noticed it was only part way turned.

Q) Was he turning the wheel right or left.

A) Left.

Q) ~~What street was the accused trying~~

Q) ~~Could you, by a diagram, show how the turn was made & how the accident happened.~~

A) ~~No sketch.~~

Q) When the accused made the turn was it at a rd june or an x rd.

A) Rd junction.

Q) Were there any other streets involved

A) NO.

Q) ~~Were there any eye witnesses~~ G H Kugman maj

XX D.O. (Q) How long have you been a driver

A) About 3 years.

(Q) Are you a Dr Mech.

A) NO

Q) Are your familiar with daily maintenance on a W D veh.

A) Yes.

Q) ~~Was the steering defective~~

Q) Did the accused make an effort to stop the veh. when it would not turn

A) Yes.

Pres. Q) What speed were you traveling when the accident occured.

A) About 20 M.P.H.

Q) Where were you headed

A) Back to camp

Q) Any other passengers in the jeep.

A) No.

P.O. Q) You say the house was on the right hand side of the street you were turning into?

A) Yes.

5th Witness. Capt R.E. HALLAM 5 Cdn Armoured. Tps Being duly sworn is examined by Pros:- Wksp.

P.O. Q) Did the SDG Highs bring you a veh on 11 July 45

A) Yes CM 4233445 Wyllis 5 cwt jeep

Q) What was the condition of veh.

A) The spring hangers were broken, the R.F. wheel was back against the frame. The whole fron of the veh was pushed back enough to break the motor suspension.

Q) Did you assess the damage on said veh

A) Yes.

Q) What was the assesment.

A) $49 - 16 - 0.

9

Q) What does that take into consideration.

A) Price of parts - ~~time 7 S 6 P.H.~~ 3 S per hour for time. [illegible]

Q) Can you give approx cost of labour & ~~equipment~~ material.

A) Material £3 1 - 2 - 0.
Labour. £. 18 - 14 - 0

XX

D.O. Q) Have you made previous statement as to when this veh. arrived from S.D.G.

A) Yes.

Q) Did you take the W D number.

A) Yes.

Q) Can you give approx speed.

A) It could have been damaged to the extent by travelling only 10-15.

6 Witness - Karel August Hendriks

80 Boschdrift, Hilversum.
Very duly sworn is examined as pros:-

Interpreter - Rene Van Neck.

P.O. (Q) What were you doing on evening of 6 July.

A) I was sitting in the garden in front of my house.

~~Q)~~ I saw a jeep coming around the corner making a queer turn, coming from Leliestraat into Boschdrift.

~~Statement:~~

Q) How fast was it travelling.

A) Quite fast - the driver braked the veh.

Q) What happened when the driver put on the brakes

A) It went through the hedge and bumped into the house at 63 Boschdrift.

Q) On which side of the street is said house

A) On the right in re. to the path of the jeep.

Q) Could you identify the driver or passenger

A) NO.

Q) How do you know the driver put on the breaks.

A) I heard the noise of the tires.

Q) Did you hear the screeted of breaks

A) Yes.

Court adjourned for lunch.

Q) ~~Which side of Boschrift Street is the house in re to direction of the jeep.~~

Q) Is there a continuation of Leliestraat across Boschrift.

A) Yes.

XX

D. O. Q) ~~How near were you at the time of the accident~~

A) ~~In the garden before my house.~~

Q) How far is your house from the scene of the accident.

A) Approx 15 M.

Q) Is there a hedge around your house.

A) Only a fence with flowers.

Q) How high & how thick.

A) Not 1 metre high and about 25 cM. thick

Q) Were you sitting or standing

A) Sitting.

Q) From where you were sitting could you see the road at the corner where the accident occured

A) Yes.

Q) Where was the jeep when you first saw the jeep on it.

A) About 30 metres from the corner where the accident occurred.

Q) Explain the path of the jeep from the time you first saw it untill it stopped.

A) Made some bends. E. Kleyman Maj

Q) Do you require glasses for reading.

A) Only if the print is very small.

Q) How long have you worne glasses.

A) Occasionally - during the last seven years and only for reading small print.

Q) How many people were in in the jeep when you saw it

A) Two.

Q) Was anyone injured.

A) The man beside the driver hit his head against the glass of the jeep.

Q) How do you know this man was injured.

A) He was bleeding - I saw him putting his hand against his head.

Q) How near were you to him when you observed this

A) About 3 metres.

Re-exam

P.O. Q) is your house on the same level as the street.

A) Yes. RPE 36 Complied with.
The Prosecution is Closed.

Defense submits that no case of negligence has been established.
see D4.

Not Guilty of Negligence.
See D4 + Part I Schedule.

Submission by Defending Officer [illegible]

I hereby submit to the court that no case of negligence has been established against the accused because -

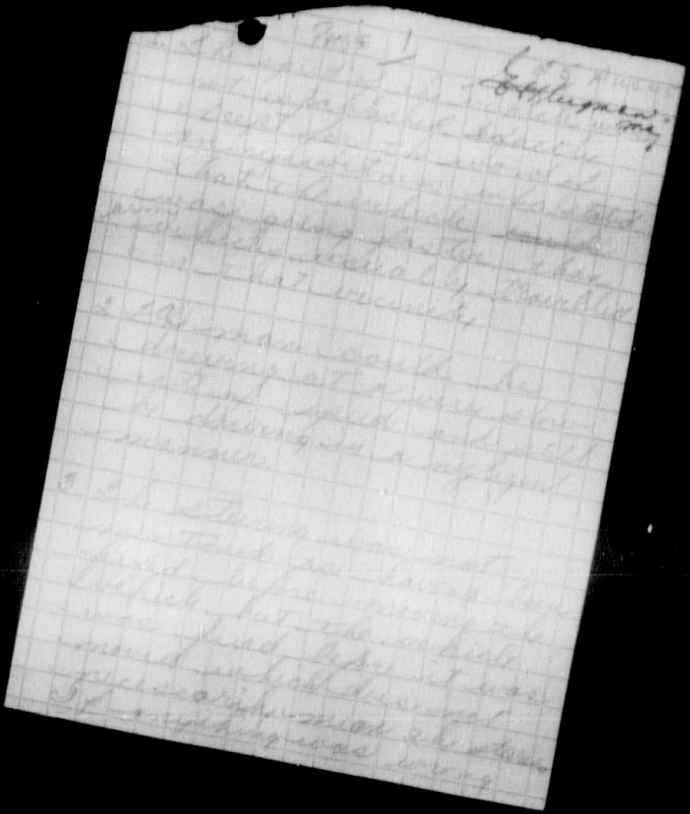
1. no definite speed of the vehicle has been established, Expert opinion has stated that the damage suffered by the vehicle could have been caused while travelling at a speed as low as ten m.p.h.

Again, a driver of three years experience ~~has~~ who was riding in the vehicle at the time of the accident estimates the speed to be at 30 m.p.h.

2. Witness has stated that when rounding the corner which was the scene of the accident the accused said to the said witness that he could not turn the steering wheel any further and that it was stuck, and he then applied the brakes.

3. Witness has stated that it was necessary to carry out repairs to the vehicle before it was possible to drive it from ~~the~~ Kilwanna to the camp which is partial evidence that there was a defect in the steering.

4. I do not believe that the civilian witness Karel August Hendriks was very sure of many of the things asked him. It appeared difficult at one point for even the Interpreter to understand him.



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Plea in Mitigation

Lt Lugman Maj

Gentlemen of the Court -

Now that this court has found the accused, guilty ~~of~~ on of the charges laid on him, I would like to state that the accused has been a soldier in the Cdn. army for five years and three months having served with the S.D.&G. Hrs since they were mobilized.

Also that he has been ~~driving~~ operating U.S. vehicles for a period of about four years ~~without and~~ without previously occasioning any damage to such vehicles.

Further to this the accused landed on the continent on D+21 and served with ~~his~~ S.D.&G. Highlanders throughout the European campaign. To date he has also spent a period of 5 [illegible] down arrest.

I would now ask you gentlemen to please consider this record of service when computing ~~this~~ sentence which he is about to have passed on him as a result of the ~~[illegible]~~ hearing and final decision of this court.

Ex B

SUMMARY OF EVIDENCE in the case of C0419 Private Godard W.A. of the Stormont Dundas & Glengarry Highlanders (SDGA), a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st witness for the Prosecution

Lt. T.J. Macdonald of the Stormont Dundas and Glengarry Highlanders (SDGA), having been duly sworn, states;

"I am T.J. Macdonald of the Stormont Dundas and Glengarry Highlanders (SDGA) and I am the Transport Officer of that Unit. On 6 July 1940 at Elspeet, Holland, all vehicles of the Unit, including 3 cwt No. M4825648 were under my control as Transport Officer. Vehicles not on duty were kept in the Unit car park in the camp area and only an Official Work Ticket duly signed by the Commanding Officer, the Adjutant, the Duty Officer of the day and myself could authorize a driver to take a vehicle out of the car park and past the sentry at the main gate of the camp. The driver of any vehicle so authorized has the right to proceed to the destination stated on the work ticket and no other. As soon as the driver of a vehicle has completed his authorized trip the vehicle must be returned to the unit car park and the work ticket of that vehicle is turned into the Transport Office. The work tickets of all vehicles not on duty are kept in the Transport Office under my control. I did not myself sign any work ticket authorizing 3 cwt No. M4825648 to proceed to Hilversum, Holland, on the 6th July 1940. Since that date I have not been able to locate the work ticket belonging to that 3 cwt and it was never to my knowledge turned into the Transport Office. Every vehicle of the unit has its allocated driver and C0419 Pte Godard W.A. on the 6th July 1940 was the authorized driver of the said 3 cwt.

On or about the 14th June 1940 a duplicate original of Unit Part I Order No. 24 dated 14 June 1940 arrived in my office. (said Order attached to this Summary and marked exhibit "A"); and I saw it posted in the Transport lines. Paragraph 5 of the said Order reads as follows;

"5. WORK TICKETS. Starting 0800 hrs 15 June 40, vehicles will not leave camp area without work ticket. Authorization for same will be by O.C., Adjutant, T.O. and Duty Officer of the Day".

The accused was aware of this provision in Part I Orders because he had been driving since that date of the Order and I myself had signed work tickets for him. Paragraph 3 of the same Order reads as follows;

"AS CAT B CWTS. Coy Commanders and drivers only may drive M/T 3 cwts".

The accused declines to cross-examine this witness.

This witness, Lt T.J. MacDonald is recalled, and being still under oath, states;

"On or about the 4th of July, 1940, I myself drove vehicle 3cwt No. M4825648 and I found it in the running order. As far as I know said vehicle has not been taken out on any trips before 6th July 1940, since I had driven it. I saw said vehicle on the 6th July 1940 before the alleged accident and there was no damage to it whatsoever.

The accused declines to cross examine this witness.

2nd Witness for the Prosecution

K62863 Corporal Griffith-Cochrane R.C. of the Stormont Dundas and Glengarry Highlanders (CDA), having been duly sworn, states;

"I am K62863 Corporal Griffith-Cochrane R.C. of the Stormont Dundas and Glengarry Highlanders (CDA) and I am assistant to the Transport Corporal and work in the Transport Office. On 6th July 1945 at about 1630 hrs at Elspeet, Holland, the accused came to the Transport Office and asked me for a work ticket to go to D Coy lines for the purpose of loading his 5 cwt with officers' kit in preparation for the battalion move next morning. Accordingly I made out an official work ticket authorizing the accused to take 5 cwt No. CM4233445 out of the car park to D Coy lines, about 1/4 of a mile away. In the absence of the Transport Officer I told him to go to the Battalion Orderly Room and have the work ticket signed by the Adjutant or the Duty Officer. On the 8 July 1945 I, under the instructions of the Transport Officer, proceeded to the Provost Headquarters at Hilversum where I found 5 cwt No CM4233445 under guard. The right front wheel and the assembly of that vehicle had been damaged. I made a search of the vehicle for the work ticket and could not find it. I also searched the Transport Office that day for the work ticket but I could not find it. Since the time I made out the work ticket for that 5 cwt I have not seen the ticket."

The accused declines to cross-examine this witness.

The Second Witness for the Prosecution, K62863 Corporal Griffith-Cochrane, R.C., is recalled and being still under oath, states;

"On or about the 9th day of July 1945 I proceeded to the Provost Coy at Hilversum, Holland, and the jeep, No CM4233445 was driven at 10 miles per hour from Hilversum to the S D & G Highlanders transport lines at Zeist while I followed behind in a 15-cwt. On the next day the said jeep was loaded in a 60-cwt and I accompanied the said jeep to 5 Cdn Troops Workshop which at that time was situated 3 kilometers this side of Ede and I turned the jeep over to workshop personnel."

The accused declines to cross-examine this witness.

3rd Witness for the Prosecution

Capt A.H.L. Stephen of the Stormont Dundas and Glengarry Highlanders (CDA), having been duly sworn, states;

"I am Capt A.H.L. Stephen of the Stormont Dundas and Glengarry Highlanders (CDA) and I am Officer Commanding of D Coy. C54193 Pte Godard J.A., the accused, is on the strength of that coy.

At approximately 1530 hrs on 6th July 1945 at Elspeet, I told the accused to pick me and my kit up with the jeep at 0730 hrs the following morning at the Officers Mess, which was about 1 1/2 miles from the camp area. The next morning he did not show up. I rode from the Officers Mess to D Coy area in a 15-cwt with me equipment. When I arrived at my coy area I noticed the accused there and, not seeing the jeep around, I asked him why he had not picked me up. He told me that he had had an accident with the jeep the night before in Hilversum. I asked him by whose authority he had gone to Hilversum with the jeep. He replied that he had not returned the jeep to the transport lines before supper and that after supper he and C53326 Pte Grisdale J.J. who is also on the strength of D Coy, had had a few drinks and decided to go with the jeep to Hilversum. I asked him where he had got the liquor and he replied that he had received it from some civilians a couple of miles down the road. I asked him where the jeep was now and he replied that the Provost had it in Hilversum. I asked him if it was badly damaged and he replied that it could not be driven. I asked him how the accident had happened and he replied that he had lost control of the vehicle as he was making a turn. I asked him if there was any damage to civilian property and he

answered that he had smashed into the side of a house. I asked him if the house was badly damaged and he replied that he thought it was badly damaged.

On or about the 14th June 1940, duplicate original of Part I Order No. 24 dated the 14 June 1940 (attached to this Summary and marked Exhibit "A") was received by D Coy Orderly Room and I saw it posted in the Coy lines."

The accused declines to cross-examine this witness.

4th witness for the Prosecution

C53020 Private Grisdale J.J. of the Stormont Dundas and Glengarry Highlanders (CDA), having been duly sworn, states;

"I am C53020 Pte Grisdale J.J. At 1600 hrs on the 6th July 1940 I met Pte Godard, the accused, and he asked me to come for a ride in a Jeep and I agreed. We left Alspect and proceeded to Alfversum. We were travelling in an easterly direction on a street in Alfversum and we made a left turn. When we made the left turn the accused said that his wheel would not turn any further. The 3-cwt went over the sidewalk, through a small hedge and hit the side of a house. We got out of the vehicle and went to look for the Provost. The accused went in one direction and I went in another. Approximately one hour later I met the accused and neither of us had found a Provost and the accused told me that the 3-cwt was not at the scene of the accident, therefore we decided to go back to camp."

Q 1. When the accused asked you to go for a ride with him did he say where you two were going to go?
A 1. No, sir, he just said to go for a ride.
Q 2. When did he decide to go to Alfversum?
A 2. We just ended up there.
Q 3. At that time did you see the work ticket for the jeep?
A 3. Yes, sir, I saw it in his hand when we started out at approximately 1600 hrs.
Q 4. Did you see the signed authority on the work ticket authorizing the jeep to go to Alfversum?
A 4. No.
Q 5. Did you know at the time whether the jeep had authority to go to Alfversum?
A 5. No, I didn't know.
Q 6. Did you at any time during that evening know whether or not the jeep had authority to go to Alfversum?
A 6. No, I did not know.
Q 7. At what time did this accident happen?
A 7. At about 2100 or 2200 hrs.
Q 8. How long had you both been in Alfversum before the accident happened?
A 8. About half an hour, I guess.
Q 9. Did you have anything to drink before the accident?
A 9. No, sir.
Q 10. Did the accused have anything to drink before the accident?
A 10. No, not that I know of.
Q 11. Did either you or the accused have anything to drink after the accident?
A 11. No, sir.
Q 12. When you both went to look for the Provost after the accident where did you leave the jeep?
A 12. About 25 yards up the road from the scene of the accident.
Q 13. How fast was the jeep travelling at the moment the accident happened?
A 13. I would say about 20 to 25 miles per hour.

The accused declines to cross-examine the witness.

Martinus Petrus Hendricus Von Engelen, of the City of Hilversum, Interpreter, is duly sworn in as Interpreter.

6th Witness for the Prosecution

Karel August Hendriks, of 80 Boschdrift, in the City of Hilversum, retired Bookbinder, having been duly sworn, states;

"On Friday evening on the 6th day of July 1945, at approximately 2000 hrs I was sitting in front of my residence at 80 Boschdrift in Hilversum when I saw a jeep coming out of Leliestraat into Boschdrift at a fast rate of speed. The jeep made a left hand turn into Boschdrift, crossed the road and ran against the curb in front of the house known as 61 Boschdrift. It seemed as if the driver were trying to bring the jeep on to the Boschdrift, but the jeep ran through the hedge and against the wall of the house known as 65 Boschdrift and is situated on the north east corner of the Boschdrift and Anemonestraat. A crowd gathered immediately. The soldier sitting next to the driver received a head wound for I saw blood on his face. The driver as far as I could see remained behind the wheel all the time. The crowd pulled the jeep out of the yard into the Anemonestraat and the jeep drove away under its own power eastward up Anemonestraat, then I lost sight of the jeep. I would not be able to recognize the driver of the jeep if I should see him again. I was under the impression that both soldiers in the jeep were under the influence of liquor. I cannot explain this impression, but the madcap driving of the jeep was as if the driver was under the influence of liquor. From the time the accident happened to the time the jeep drove away with both soldiers could have been about 5 minutes. I would not be able to recognize the soldier who was with the driver again.

Cross-examined by the accused;

Q 1. Were you sitting in front of your house throughout all this time?
A 1. When the accident happened I was sitting in front of my house. As soon as the accident happened I crossed the road to the jeep. When I saw the soldier with blood on his face I returned to my house and stayed in front of it all the time.
Q 2. Did you hear the squeel of tires and did you see any tire skids on the road?
A 2. No.
Q 3. Did you hear the squeeling of brakes?
A 3. Yes.
Q 4. How close were you from the man with blood on his face?
A 4. About 2 metres.

6th Witness for the Prosecution

AB2225 L/Cpl Peterson J.F., No. 3 Cdn Provost Coy, Cdn Pro Corps, having been duly sworn, states;

"On the 14th of July 1945 I proceeded to 5 D & G Highlanders at Zeist, Holland. At approximately 1030 hrs on that day I interviewed the accused, whom I now recognize, there. I told the accused that I was a member of the Cdn Provost Corps and that I was investigating the circumstances surrounding damage to civil property, namely to a house numbered 65 Boschdrift in the city of Hilversum. I then told the accused that this damage was allegedly caused by military personnel riding in a M.P. vehicle 8 cwt No. [illegible] on 6 July 1945. I then asked the accused whether he wanted to say anything about the matter. I duly cautioned him by saying that he need not make any statement, but that if he did say anything or make any statement same might be used in evidence. The accused stated he would like to make a statement, whereupon paper and pencil were supplied and the accused wrote out the following statement in my presence. Said statement is attached to this Summary and marked exhibit "P".

The accused declines to cross-examine this witness.

7th Witness for the Prosecution

Capt R.E. Hallam of 5 Cdn Armoured Troops Workshop, having been duly sworn, states;

"On 10 July 1945, 5 cwt No. CM4233445 arrived in 5 Cdn Armoured Troops Workshop. On 11 July 1945 I inspected said vehicle and found that the vehicle had been damaged in such a manner as to distort the frame on the right front, to crush the right fender, break the motor mounts and fracture the transfer case housing. I estimated the damage and the cost of labour at 49 pounds, sixteen shillings."

Q 1. In your opinion how fast would the jeep have to go to cause this damage when it hit a solid object?

A 1. In my opinion the jeep could have been damaged to this extent when travelling 10 to 15 miles per hour.

The accused declines to cross-examine this witness.

The accused is cautioned as follows; "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or to give evidence on oath and reserves his defense.

I certify that this summary of evidence consisting of the foregoing 5 pages was taken down in writing by me in the presence and hearing of the accused and that Rules of Procedure 4(C), (D), (E) & (F) have been complied with.

J.C. Airby Capt

In the Field, Holland,
18 August 1945.

(J.C. Airby) Capt
Officer detailed to take the summary.

Summary of Evidence

Summary of Evidence in the case of C 54193 Private Hodard, J. A. of the Stormont, Dundas & Glengarry Highlanders (CDA) a soldier of the Canadian Army Overseas

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st Witness for the Prosecution

Lieut T. J. MacDonald, of the Stormont Dundas & Glengarry Highlanders (CDA), Canadian Army Overseas having been duly sworn, states:

"I am T. J. MacDonald of the Stormont, Dundas & Glengarry Highlanders (CDA) and I am the Transport Officer of that unit. On 6 July 1945 at Elspeet, Holland, all vehicles of the unit, including 5 cwt No. CM. 4233945 were under my control as Transport Officer. Vehicles not on duty were kept in the unit car park in the camp area and only an official work ticket duly signed by the Commanding Officer, the Adjutant, the duty officer of the day and myself could authorize a driver to take a vehicle out of the car park and past the sentry at the main gate of the camp. The driver of any vehicle so authorized had the right to proceed to the destination stated on the work ticket and no other. As soon as the driver of a vehicle has completed his authorized trip the vehicle must be returned to the unit car park and the work ticket of that vehicle turned into the Transport Office. The work tickets of all vehicles not on duty are kept in the Transport Office under my control. I did not myself sign any work ticket authorizing 5 cwt No. CM 4233945 to proceed to Hilversum, Holland, on the 6th July 1945. Since that date I have not been able to locate the work ticket belonging to that 5 cwt and it was never to my knowledge turned into the

First Witness for the Prosecution (cont)

Transport Office. Every vehicle of the unit has its allocated driver and C.54193 Pte Godard, J.A. on the 6th July, 1945 was the authorized driver of the said 5 cwt.

On or about the 14th June, 1945 a duplicate original of unit Part I Order No. 24 dated 14 June, 1945 arrived in my office (Said Order attached to this summary and marked Exhibit "A") and I saw it posted in the Transport lines. Paragraph 5 of the said order reads as follows:

"5. WORK TICKETS. Starting 0900 hrs 15 Jun 45 vehicles will not leave Camp Area without work tickets. Authorization for same will be by CO, Adjutant, T.O. and Duty Officer of the day"

The accused was aware of this provision in Part I Orders because he had been driving since that date of the order and I myself had signed work tickets for him.

Paragraph 3 of the same order reads as follows "Re. Coy 5 cwts. Coy Commanders and Drivers only may drive m/n 5 cwts."

The accused declines to cross-examine this witness

T J MacDonald Lt.
LIEUT. T. J. MACDONALD

This witness, Lieut. T. J. MacDonald is recalled, & being still under oath, states:

On or about the 4th of July, 1945, I myself drove vehicle 5 cwt No. CM. 4233445 and I found it in fit running order. As far as I know said vehicle had not been taken out on any trips before 6th July, 1945, was I had driven it. I saw said vehicle on the 6th July 1945 before the alleged accident. There was no damage to it whatever.

The accused declines to cross-examine this witness

T J MacDonald Lt.
LIEUT. T. J. MACDONALD

2nd Witness for the Prosecution

K.62863 Corporal Griffith-Couchrane, R.C., of the Stormont Dundas & Glengarry Highlanders (CDA) Canadian Army Overseas, having been duly sworn, states:

I am K62863 Corporal Griffith-Couchrane, R.C. of the Stormont, Dundas & Glengarry Highlanders (CDA) and I am assistant to the Transport Corporal and I work in the Transport Office. On 6th July, 1945, at about 1630 hrs at Elspeet, Holland, [redacted] the accused came to the Transport office and asked me for a work ticket to go to D Coy lines for the purpose of loading his 5 cwt with officers' kit in preparation for the battalion move next morning. Accordingly, I made out an official work ticket authorizing [redacted] the accused to take 5 cwt No. CM.4233445 out of the car park to D Coy lines, about ¼ of a mile away. In the absence of the Transport Officer I told him to go to the Battalion Orderly Room and have the work ticket signed by the Adjutant or the Duty Officer. On the 8 July 1945 I, under the instructions of the Transport Officer proceeded to the Provost Headquarters at Hilversum where I found 5 cwt No. CM42 33445 under guard. The right front wheel and the assembly of that vehicle had been damaged. I made a search of the vehicle for the work ticket and I could not find it. I also searched the Transport Office that day for the work ticket but I could not find it. Since the time I made out the work ticket for that 5 cwt I have not seen the ticket.

The accused declines to cross examine this witness

K Griffith Couchrane C/J
K62863 Cpl GRIFFITH-COUCHRANE R.C.

The second witness for the prosecution, K. 62863 Corporal Griffith Cowchran, R.C., is recalled, & being shet under oath, states:

On or about the 9th day of July, 1945, I proceeded to the Provost Coy at Hilversum Holland, and the jeep No. CM 1233445 was driven at 10 miles per hour from Hilversum to the S.D.&G. Highlanders transport lines at Zeist while I followed behind in a 15 cwt. On the next day the said jeep was loaded in a 60 cwt and I accompanied the said jeep to 5 Canadian Troops Workshops which at that time was situated 3 kilometers this side of Ede and I turned the said jeep over to workshop personnel.

The accused declines to cross-examine this witness

R. Griffith Cowchran
K62863 Corporal Griffith Cowchran R.C.

Jurisdiction on the Prosecution

Capt. A.H.L. Stephen, of the Stormont, Dundas & Glengarry Highlanders, (CDA), Canadian Army Overseas having been duly sworn, states:

I am Capt A.H.L. Stephen, of the Stormont, Dundas & Glengarry Highlanders, (CDA), and I am Officer Commanding of D Coy. C 54173 Pte Lodard, J.A., the accused, is on the strength of that Coy.

At approximately 1530 hours on 6th July 1945 at Ekspect, I told the accused to pick me and my kit up with the jeep at 0730 hrs the following morning at the Officers' Mess, which was about 1½ miles from the camp area. The next morning he did not show up. I rode from the Officers' Mess to D Coy area in a 15 cwt with my equipment. When I arrived at my coy area I noticed the accused there and, not seeing the jeep around, I asked him why he had not picked me up. He told me that he had had an accident with the jeep the night before in Hilversum. I asked him by whose authority he had gone to Hilversum with the jeep. He replied that he had not returned the jeep to the transport lines before supper and that after supper he and C 53396 Pte Dundale J.J., who is also on the strength of D Coy, had had a few drinks & decided to go with the jeep to Hilversum. I asked him where he had got the liquor. He replied that he had received it from some civilians a couple of miles down the road. I asked him where the jeep was now & he replied that the Provost had it in Hilversum. I asked him if it was badly damaged & he replied that it could not be driven. I asked him how the accident had happened & he replied that he had lost control of the vehicle as he was making a turn. I asked him if there was any damage to civilian property & he answered that he had smashed into the

Third witness for the Prosecution (cont)

side of a house. I asked him if the house was badly damaged & he replied that he thought it was badly damaged.

On or about the 14th June, 1945, duplicate original of Part I Order No 24 dated the 14 June 1945 (attached to the Summary & marked Exhibit "A") was received by D Coy Orderly Room & I saw it posted in the Coy lines.

The accused declines to cross-examine this witness

CAPT. A H L. STEPHEN

(7)

Fourth Witness for the Prosecution

C. 53326 Private Grisdale, J. J. of the Stormont, Dundas & Glengarry Highlanders, (CDA), Canadian Army Overseas, having been duly sworn, states:

"I am C 53326 Pte Grisdale, J. J. At 1800 hrs on the 6th July, 1945, I met Pte Lodard, the accused, and he asked me to come for a ride in a jeep, and I agreed. We left Elspeet and proceeded to Hilversum. We were travelling in an easterly direction on a street in Hilversum and we made a left turn. When we made the left turn the accused said that his wheel would not turn any further. He didn't want over the sidewalk, through a small hedge and hit the side of a house. We got out of the vehicle and went to look for the Provost. The accused went in one direction and I went in another. Approximately one hour later I met the accused and neither of us had found a Provost and the accused told me that the jeep was not at the scene of the accident, therefore we decided to go back to camp.

Q1. When the accused asked you to go for a ride with him did he say where you two were going to go?

A1. No, sir, he just said to go for a ride.

Q2. When did you decide to go to Hilversum?

A2. We just ended up there.

Q3. At that time did you see the word Provost on the jeep?

Joint witness for the prosecution (cont)

A3. Yes, sir, I saw it in his hand when we started out at approximately 1800 hrs.

Q4. Did you see the signed authority on the work ticket authorizing the jeep to go to Hilversum?

A4. No.

Q5. Did you know at the time whether the jeep had authority to go to Hilversum?

A5. No I didn't know

Q6. Did you at any time during that evening know whether or not the jeep had authority to go to Hilversum?

A6. No, I did not know.

Q7. At what time did this accident happen?

A7. At about 2100 or 2200 hrs.

Q8. How long had you both been in Hilversum before the accident happened?

A8. about half an hour, I guess.

Q9. Did you have anything to drink before the accident?

A9. No sir

Q10. Did the accused have anything to drink before the accident?

A10. No, not that I know of.

Q11. Did either you or the accused have anything to drink after the accident?

A11. No, sir.

Fourth Witness for the Prosecution (cont)

Q12. When you both went to look for the Provost after the accident where did you leave the jeep?

A12. About 25 yards up the road from the scene of the accident.

Q13. How fast was the jeep travelling at the moment the accident happened?

A13. I would say about 20 to 25 miles per hour.

The accused declines to cross-examine this witness

Grisdale. JJ.
C. 53326 Pte GRISDALE, J.J.

Martinus Petrus Hendricus von Engelen, of the City of Hilversum, Interpreter, is duly sworn in as interpreter.

Fifth Witness for the Prosecution

Karel August Hendriks, of 80 Boschdrift, in the City of Hilversum, Retired bookbinder, having been duly sworn, states:

On Friday evening on the 6th day of July 1945, at approximately 2000 hours I was sitting in front of my residence at 80 Boschdrift in Hilversum, when I saw a jeep coming out of Leliestraat into Boschdrift at a fast rate of speed. The jeep made a left hand turn into Boschdrift, crossed the road and ran against the curb in front of the house known as 61 Boschdrift. It seemed as if the driver were trying to bring the jeep on to the Boschdrift, but the jeep ran through the hedge & against the wall of the house known as 63 Boschdrift & is situated on the North East corner of the Boschdrift and Anemonestraat. A crowd gathered immediately. The soldier sitting next to the driver received a head wound for I saw blood on his face. The driver as far as I could see remained behind the wheel all the time. The crowd pulled the jeep out of the yard onto the Anemonestraat & the jeep drove away under its own power, eastward up Anemonestraat, [illegible] then I lost sight of the jeep. I would not be able to recognize the driver of the jeep if I should see him again. I was under the impression that both soldiers in the jeep were under the influence of liquor. ~~The~~ I cannot explain this impression, but the ~~[illegible]~~ madcap driving of the jeep was as if the driver was under the influence of liquor. From the time the accident happened to the time the jeep drove away with both soldiers

JCK

JCK

Fifth Witness for the Prosecution (cont)

could ~~not~~ have been ~~more than~~ about 5 mins.

I would not be able to recognize the soldier who was with the driver again.

Cross-examined by the accused:

Q1. Where you sitting in front of your house throughout all this time?

A1. When the accident happened I was sitting in front of my house. As soon as the accident happened I crossed the road to the jeep. When I saw the soldier with blood on his face I returned to my house & stayed in front of it all the time.

Q2. Did you hear the squeal of tires and did you see any tire skids on the road?

A2. No.

Q3. Did you hear the squealing of brakes?

A3. Yes.

JCK

Q4. How ~~far away~~ close were you from the man with blood on his face?

A4. About 2 metres.

K. A. Hendriks

KAREL AUGUST HENDRIKS.

Sixth Witness for the prosecution

K85225 L/Cpl Peterson, J. P. No 3 Canadian Provost Company, Canadian Provost Corps, Canadian Army Overseas, having been duly sworn, states;

On the 10th of July, 1945. I proceeded to S.D.G Highlanders at Zeist, Holland. At approximately 1030 hours on that day I interviewed the accused, whom I now recognize, there. I told the accused that I was a member of the Canadian Provost Corps and that I was investigating the circumstances surrounding damage to civil property, namely to a house numbered 63 Borchdrift in the city of Hilversum. I then told the accused that this damage was alledgedly caused by military personnel riding in a W.D. vehicle 5 cwt No. CM 433445. on 6th day of July, 1945. I then asked the accused whether he wanted to say anything about the matter. I duly caution him by saying that he need not make any statement, but that if he did say anything or make any statement same might be used in evidence. The accused stated he would like to make a statement whereupon paper & pencil were supplied and the accused wrote out the following statement in my presence & I witnessed his signing of same. Said statement is attached to this summary & marked exhibit "B".

The accused declines to cross examine this witness

J P Peterson

K85225 L/Cpl PETERSON, J.P.

Seventh Witness for the Prosecution

Capt Hallam, R.E., of 5 Canadian Armoured Troops Workshop, Canadian Army Overseas, having been duly sworn, states:

On the 10th day of July, 1945; 5 cwt No CM. 4233445 arrived in 5 Canadian Armoured Troops Workshop. On the 11th day of July, 1945; I inspected said vehicle and found that the vehicle had been damaged in such a manner as to distort the frame on the right front, to crush the right fender, break the motor mounts and fracture the transfer case housing. I estimated the damage & the cost of labor at £49-16-0.

~~In my opinion the jeep does not necessarily have to go very fast to cause this damage.~~

Q1. In your opinion how fast would the jeep have to go to cause this damage when it hit a solid object?

A1. In my opinion ~~the damage caused to~~ the jeep could have been damaged to this extent when travelling 10 to 15 miles per hour.

The accused declines to cross examine this witness

R.E. Hallam

CAPT. R.E. HALLAM.

The accused is cautioned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declines to make a statement or to give evidence on oath and reserves his defense.

I certify that this summary of evidence consisting of the foregoing 14 pages was taken down in writing by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E) & (F) have been complied with.

J C Kirby, Capt.
CAPT. J. C. KIRBY
Officer detailed to take the summary

At the Field, Holland.
18 August 1945.

TRIAL BY COURT MARTIAL

I hereby certify that I have this day examined

C 54193 Pte Godard. J.A. of S. D. & G. High.
(Number) (Rank) (Name) (Unit)

and in my opinion he is fit to undergo trial by Court Martial.

Station S D & G. High.

Date 25 August.

[illegible] Capt.
(M.O., S D & G Highlanders

COUNTER NUMBER 431677

HOUR 15.15

OPERATOR'S INITIALS MRD

RELIEVING OPERATOR GG

KK-47

PTE GODBOUT A.

KK-47

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Division Rear Party, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* ~~[I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

~~None Available~~

*Omit if not applicable.

Proceedings [illegible]

[illegible] for Regt. [illegible] 27 Aug 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.W. Embury	1 Odn Div Sp Bn(SLI)

Members.

Rank.	Name.	Regiment.
MAJOR. ~~Capt~~	C.S. FRASER. ~~F.T. Egener~~	1 C Nest. R. ~~1 CID Sp Gp (SLI)~~
MAJOR. ~~Lieut~~	JA LEFEBURE ~~E.S. Thorne~~	C R22eR. ~~4 Odn Recce Regt.~~

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (F.D.Adams) Lt-Col

Commanding 1 Odn Div Rear Party

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E 4680 - Pte - GODBOUT-A. Royal 22e Reg	FIRST CHARGE A A Sec 15(1)	Guilty	Guilty To suffer field punishment for one day To forfeit one days pay. To be put under stoppages of pay to make good the sum of $3.1/5. costs of apprehension.	Confirmed J.E. Cedarwall Lt-Col 22 July 43

(See Charge Sheet attached)

Evidence and Charge Sheets (if necessary) to be PINNED here.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— Not applicable

(Signed) J.E. Cedarwall (Signed) A.W. Lindsay
(P.D. Adams) Lt-Col — major
Commanding 1 Cdn Div Rear Party — President.
Convening Officer (c)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~*3. The Interpreter~~
~~*4. The officers under instruction~~

were duly sworn.

Signed this 19th day of July 1943

A.W. Lindsay major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L., 1929.

~~*I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 22nd day of July 1943.

J.E. Cedarwall Lt-Col
Confirming Officer
C.C. 1 Cdn Div Rear Hqrs

Promulgated and extracts taken in the case of E 4680 Pte Godbout A 22nd R

(a) (Dated) 22 July 1943 (Signed) Major Secretary

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(24479) 100,000/70,510 3/1000 2-43 A & E.W.Ltd. Gp.499

CHARGE SHEET

E.4680 Pte Godbout A., Royal 22e Regiment, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE

SEC. 15 (1)

ARMY ACT

W.O.A.S. Absenting himself without leave in that he, at 0830 hrs 27 May 1943 absented himself from his quarters and continued so absent until surrendering himself to D.63301 L/C Archambault V. of the Royal 22e Regiment, No. 6 Cdn Inf. ~~xxxxxx~~ Reinf. Unit at 2045 hrs 16 Jun 43. thereby incurring expenses of arrest amounting to £ 3.1.8.
(Total time absent: 20 days, 12 hrs, 15 mins.

In the field.
23 June 43.

(J.E.P. GARNEAU) Major,
Officer Commanding
Royal 22e Regiment,
Rear Party (Grp)

To be tried by Field General Court Martial

In the Field

Dated 18 Jul 43

Comd 1 Cdn Div Rear Party

MEDICAL CERTIFICATE OF FITNESS

This is to certify that I have to-day examined E4650 Pte Godbout A. and that he is fit to undergo trial by Field General Court Martial.

Date: 19 Jul 43

C B Caswell Capt
Medical Officer

"H" [illegible]

Trial of E 4680 Pte Adelard Godbout Royal 22e Regt
Can Army

Prosecuter Capt J. E. Robinson 1 Can Div Support Bn (S+I)

The members of the Court as named in the convening order were present and the court satisfy themselves as to R.P. 22 + 23 in so far as they apply to an D.C.M.

The accused is paraded before the court and the convening order is read to him by the president.

The accused does not object to being tried by the president or any of the members.

President + Members are sworn.

The accused is arraigned on the charge sheet which is produced and marked B2 signed by the president + attached to the proceedings.

The accused pleads guilty to the First Charge as read to him.

R.P. 35 B is fully complied with as the accused voluntarely admitted the allegation against him + fully understood his position in pleading guilty + that he was in no way compelled to say or admit anything.

The Summary of Evidence was read + marked E. signed by the president + annexed to the proceedings.

The accused does not wish to call any witness or make any statements as to character or any other statements in his own behalf.

Prosecuter is sworn + produces evidence as to character marked F + G. and then read by the president.

The accused declines to cross examine

The accused through his Defending Officer addresses the Court as follows.

"The accused has tried to be paroled to the C.O. through his Coy, but up to without success. He produced a telegram from

his wife saying that she was going to hospital. - At this time his wife was pregnant, and she was to be operated on. - He did not know what it was exactly. - It proved to be a miscarriage. - Due to these facts and the worries of the accused at the time he went AWL. I ask the Court to have mercy for the accused. -"

CERTIFICATE UNDER SECTION 163 (1) (i) OF THE ARMY ACT.

I, O.C. 6 C.I.R.U., certify that

E-4680 Pte. Godbout, A.

Royal 22e Regiment,

STATIONED In the Field

Surrendered himself to D-63301 L/Cpl Archambault, V.

of the Royal 22e Regiment, No 6 Cdn. Inf. Reinf. Unit.

on the 16th day of June, 1943, at 2045 hours

AS AN ABSENTEE WITHOUT LEAVE

and that at the time of his surrender, he was wearing military uniform

Algonquin Camp,
Witley, Surrey,
17th day of June, 1943.

.....
(W.E.MORGAN), Colonel,
Commander,
No. 6 Cdn. Inf. Reinf. Unit.

File No. 19/178.

Officer Commanding,
D Coy., R 22 R. 1st. Div.
Ref:- E-4680, Pte. Godbout, A.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 31 Oct. 40.

London
19 June 43

(illegible) Capt.
(illegible) D. A. P. M.,
London Area.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (J)

I, ...W Fern, Capt. D.A.P.M. London Area ..... certify that

Re_. No. E-4680 ..Rank Pte... Name ..Godbout, A. .....

REGIMENT ..A Coy., R 22 R .....

UNIT .....

STATIONED AT .....

Surrendered himself to No. D-63301. Rank. L/Cpl. Name. Archambault, V. .....

of the ....NO.6 C.I.R.U. ...(R22 R) .....

on the 16... day of .June.....1943 , at .2045.... hours .....

.....AS AN ABSENTEE WITHOUT LEAVE .....

At the time of his surrender he was wearing (Military Uniform) or ~~xxxx~~ ~~xxxxxxxxxxx~~)'

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on surrender.
(Strike out part inapplicable)'

London
19 June 43

.....~~xxxxx~~ Capt.
~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~, D.A.P.M.
~~No. 6 Cdn. Provost Coy.~~ London Area

Expense Voucher Re[illegible]: Ref: K.R. & O. (Can) 539

Reg. No. E4680 Rank Pte Name Godbout, A. Unit K.22 e Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars ½ Portion	Amount		
20 June 43	Escorts return fare from LONDON To Glasgow	1	10	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Glasgow	1	10	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	3	1	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] CAPT.
[illegible] D.A.P.M.
LONDON AREA

..... Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Témoignage 27-5-43

Etant en charge de la section 4. de la Cie "D". le soldat 4680 Godbout. A. m'a demandé la permission pour aller se faire couper les cheveux. Il était alors 0830 hrs le 27-5-43 et. le dit soldat ne s'est pas présenté sur la parade d'entraînement

R. Bélanger C.S.L.

Charges to pay

1 32 PM d.

RECEIVED

TRA

From

POST OFFICE

TELEGRAM

Prefix. Time handed in. Office of Origin and Service Instructions. Words.

65

265 12.10 PURLEY

No.

OFFICE STAMP

To

PRIORITY E 4680 A GODBOUT B COY R 22 ER

1 ST CANADIAN DIVISION BASE POST OFFICE

CANRECORDS W 3 -

AM GOING INTO REDHILL HOSPITAL ON MONDAY GET

LEAVE AT ONCE LOVE - DOROTHY +

E 4680 ONE R 22 ONE 1 3 +

or call, with this form possible, the envelope

B or C / C

Wt. 14190/P.1721. 150,000 Pads. 4/42. J.D. & Co. Ltd. 51-3054.

SUMMARY OF EVIDENCE IN THE CASE OF:-

E.4680 Pte Godbout A;. Royal 22e Regiment (Rear Party) Grp. By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS:

E.5645 Cpl Belanger R. Royal 22e Regiment, having duly sworn states.

Being in charge of Section 4 of "D" Coy. I was asked by Pte Godbout A. E.4680, at 0830 hrs, 27 May 43, to give him permission to go and have his hair cut.

Pte Godbout did not show himself on training parade after.

Certified True copy
G A Fortin Lieut

(R. BELANGER) Cpl.

The accused declines to cross-examine this witness.

SECOND WITNESS

Colonel W.E. Morgan, Commander No. 6 Cdn Inf Reinf Unit states:

I, O.C. No. 6 CIRU certify that E.4680 Pte Godbout A. Royal 22e Regiment, stationed In the field surrendered himself to D-63301 L/Cpl Archambault V. of the Royal 22e Regiment, No 6 Cdn. Inf. Reinf. Unit on the 16 th day of June, 1943 at 2045 hrs. as an absentee without leave and that at the time of his surrender, he was wearing military uniform.

Certified True Copy
Raymond Mary Capt

Sgd (W.E. MORGAN) Colonel
Commander,
No. 6 Cdn Inf Reinf Unit.

The accused having been duly cautioned in accordance with Rules of Procedure 4(e) ~~XXXXXXX~~ makes the following statement:

"On the 14 May 43, I received a telegram from my wife telling me she was going into hospital. A similar telegram was sent to Capt. B. Guimond my Coy Commander. I was paraded to my Coy. Commander for a pass, and he in turn said he would parade me to the C.O. I waited until the morning the 27 May and then went to see my wife. I reported to No.6.C.I.RU. not knowing where the unit was at the time.

A Godbout

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) have been complied with.

G A Fortin Lieut
(G.A. FORTIN Lieut.)
Officer detailed to take complete the summary of evidence.

LIST OF WITNESSES in the case of E.4680 Pte Godbout A., Royal 22e Regiment, CAO.

PROSECUTION: 1. Capt. D.C. Young, Royal 22e Regiment, (Documentary)

2. Colonel W.E. Morgan, No. 6 Cdn Inf Reinf Unit. (Documentary)

3. E.5645 Cpl Belanger R. Royal 22e Regt. (Documentary)

DEFENCE; NIL

LIST OF EXHIBITS: 1. Exhibit A. Nil

2. Exhibit B. Two (2) copies of apprehension certificates.

3. Exhibit C. Two (2) copies of certificates of expenses incurred by escort.

3. Exhibit D Part II Orders #2

Statement by the accused as to a defending officer.

If I am to be tried by Court Martial on charges now pending against me I wish / ~~do not~~ wish an officer to defend me.

In the Field
Jun 43

A A Godbout
Signature of accused

This is to certify that I, ~~Lieut. G. J. Fortin~~ E 4680 Pte Godbout A

have been given free of charge, a copy of the Summary of evidence, charge sheet, documents, etc., relative to my trial by Court Martial.

In the Field
Jun 43

A Godbout
Signature of accused.

STATEMENT BY THE ACCUSED

I, E.4680 Pte Godbout A. Royal 22e Regiment, desire the service of an officer to represent me at my trial by Field General Court Martaial.

I desire the service of .. Lieut. ~~[illegible]~~ Morgan Sec'd L.S. if he is available.

This is to certify that I received free of charge, copies of proceedings, documents, etc. relating to my trial by Field General Court Martial.

A Godbout Pte

F1

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	13 May 43	Pte		Art. 8 (2) W. O. A. S. Using insubordinate language in that he in the Field at about 0830 hrs the 13 May 43 after being told by his Cdr. to stand his properly and to button his tunic before coming to speak to an E.O.D. Replied: Je vas partir en sprang bout de Christ puis je vas en tuer quelques cens.	CSM Roy Cpl Tarnet J.O.	14 days C.B.	25 May 43	Maj. Duncan	Forfeits 28 days pay

Certified Copy
[illegible]

M.F.M. 6
(A.F.B. 122)
173M—7-41 (1254-20)
H.Q. 1772-20-1852

No. E4680 Name Godbout A. Sqn., Battery, or Company "B" Corps R22°R C.A.O. Date of enlistment 10-11-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On the 17-11-41 this soldier completed two years consecutive service clear of a regt'l entry and in accordance with appdx F.O. 319 (overseas) the above regt'l entries were transferred from previous sheet which was then destroyed									
				on 15 A.A. A.W.L. from 0830 hrs 12-9-42 till 1643 hrs 13-9-42 Total 1 day 8 hrs	Cpl Moore	3 days C B	16-9-42	Capt L Esparza	2 days pay
On the Field	12-9-42	P.Le							
"	18-12-42	"		A.A. on 15 (1) W.O.A.S. A.W.L. from 0700 hrs 18-12-42 to 1100 hrs 26-12-42 Total absence 8 days 4 hrs	Cpl Brosonnier L/a Pineault	28 days F.P. 28 days pay	26-12-42	Lt Col Bernatchez	Forfeits 9 days pay under FRTM
"	30-4-43	"		on 15 A.A. (1) A.W.L. from 0700 hrs 30 April 43 until 1000 hrs 4 May 43 Total abs. 4 days 3 hrs	Sgt Roy Sgt Boulet	14 days C B	11-5-43	Sgt Garneau	Forfeits 5 days pay

"F" W. Emmerson

(P.T.O.)

M.F.B. 350
22M—5-41 (372-5)
H.Q. 1772-80-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number E.4680 Rank Pte Name Godbout A. Regiment (or unit) Royal 22e Regiment (Rear Party) GRP.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Secl 15 (1)	16-9-42. times	times
For A.A. Sec. 15 (1)	26-12242. times	times
For A.A. Sec. 15 (1)	11-5-43. times	times
For A.A. Sec. 8 (2)	25 May 43. times	times

Number of instances of gallantry or distinguished conduct Nil.

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted Nil.

~~XXXX~~. or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time N.A.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges for n.A. days in civil custody, and ~~33~~ 33 days in military custody, making a total of 33 days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 28 years old

6. The date of his commission specified in his record of service is attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
N.A. dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of N.A. years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank
Unit
N.A.
Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
~~Nil.~~	Nil.	Nil..	Nil.	Nil.

Captain D.C. Young.
Officer detailed to take down the summary.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of July 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

CCC-40

PTE GODBOUT J-AA.

CCC-40

FIELD GENERAL COURT-MARTIAL

(AFMS (to Secs of AFAS) 40/PAS/1908 (2004))

Convened by Order of A/Col J.A. Calder Comd "A" Gp CRU dated 30 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname	Unit
D-150093	Pte	Joseph Anatole	GODBOUT	(CIC) 6 CIRU

PROCEEDINGS REVIEWED
21 Feb 44
W.H. Waugh Capt.
REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 Dec 43, 7 Dec 43, 11 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5. For ~~othe~~ other instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1230 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 44(B), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt W.L. Neville as interpreter ? Ans No.

~~The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	F.D. Tweedie	HQ CRU
Member	Capt	A.C. Bannatyne	2 CIRU
Member	Lieut	J.W.F. Battershill	2 CIRU
~~Officers under Instruction:-~~ ~~Judge-Advocate~~	Lt C.S.B. Morison, Lt. K.A. Gray.		2 CIRU
Prosecutor	Lt	W.E. Marin	6 CIRU
Defending Offr	Lt	G.R. Lamothe	6 CIRU

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused D150093 Pte GODBOUT, J.A. before arraignment make[s] ~~(are)~~ (is) plea in bar - attached. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's present fitness to stand trial (AA 130, RP 57), or ~~if~~ one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. ~~The accused is (are) arraigned (separately) on all charges in the charge sheet.(1)~~ The accused ~~[s]~~ (is) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 34, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42 (7) when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court re-formed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-150093 Pte Joseph Anatole GODBOUT, (CIC) 6 CIRU.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 12(1)(a)	Not Guilty	Not Guilty	
2nd	AA Sec 13(1)	Not Guilty	Not Guilty	
3rd				
4th		11 Feb 44		F.D. Tweedie Lt Col President
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 13A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....
Date .....
Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 30(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in relevance to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 6 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be Cleared to consider the statement. Delete whole or part not applicable.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) now changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to present an oath anything here or previously stated which would affect the amounts of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) ??? (3)
(*1. When several accused tried separately see RP 46(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2303, RP 46. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 587. As to custody and disposal of accused after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D-150093, Private Joseph Albert Anatole GODBOUT, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 18 (1) (a)
ARMY ACT.

WHILST ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

at DEBERT, N.S., CANADA, when duly warned for a draft overseas, did absent himself without leave from 2350 hours 19 Sep 42 until he re-enlisted in LES VOLTIGEURS DE QUEBEC (ACTIVE FORCE) on 22 Sep 42.
(Total absence, 3 days).

SECOND CHARGE
SECTION 13 (1)
ARMY ACT.

WHILST ON ACTIVE SERVICE, FRAUDULENT ENLISTMENT,

in that he,

at QUEBEC, P.Q., CANADA, on 22 Sep 42, when belonging to LES FUSILIERS DE SHERBROOKE (ACTIVE FORCE), did, without having fulfilled the conditions enabling him to enlist, enlist into LES VOLTIGEURS DE QUEBEC (ACTIVE FORCE), thereby obtaining a free kit of necessaries to the value of forty-eight dollars and twelve cents ($48.12).

.....
(W.E. MORGAN), A/Col
Commander
6 Cdn Inf Rft Unit

Witley, Surrey,
27 Nov 43.

To be tried by Field General Court Martial.

(J. A. Calder) A/Col.,
Comd,
"A" Gp Cdn Rft Units
C.A.(O).

Witley, Surrey,
30 Nov 43.

FIELD GENERAL COURT-MARTIAL

CFA85 (In lieu of AF A3) 40/PA&R/1697 (28/9/43)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-150093	Pte		Joseph Anatole	GODBOUT	(CIC)6CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Nov 43 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint an Offr to be~~ the Offr to form the Court, ~~as a Fd Offr as President, for the reason that he is~~ ~~not readily available.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	F.D. Tweedie		HQ CIRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by 2 CIRU		
Lt	" "	" " "	

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	" "	" " "	

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 30 Nov 43

(Signed personally. RP 105 fn 2.)
(J. A. Calder)
A/Col.
(Rank.)
Commanding "A" Cp, Cdn Rft Units, C.A.(O).
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: E42746 Pte Godbout A.
(Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit / unfit to undergo
trial by Court Martial.

Station

Date 1 Dec. 43.

J. D.T.

Sgd [signature]
(Medical Officer)

CAPT. J. L. A. HURTEAU, M.D.
R.C.A.M.C.
CAPT.
MEDICAL OFFICER, 6 C.I.R.U.

FDI
7 Dec 43

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. E 22246 Pte Colhoun A
(Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station

Date Dec-7-1943

Sgd [illegible]
(Medical Officer)

Plea in bar:
The defending officer submits:
(a) The present 1st charge against the accused, if it were committed, was committed while the accused was a member of Les Voltigeurs de Quebec; that he was not at that time under the command of 6 CIRU & that 6 CIRU has not now the right to lay the charge & proceed with it.

(b). In July 1943 — Jul 12 — the accused was on sick leave. He was arrested in Canada at his home at a deserter from Les Fusiliers at Sherbrooke i.e. for the absence with out leave set out in the first charge. He was in custody from 1530 hrs 12 Jul 43 until 1330 hrs on 17 Jul. During that time he had been taken back to Les Voltigeurs at Quebec. He was released by that regiment. He left Les Voltigeurs on 18 Jul. sent by that Regt to Convalescent Depot in Halifax & remained there until 12 Sep 43. He was sent Overseas on 12 ~~Sep~~ Sep 43 as a reinforcement. In the meantime Les Voltigeurs has been broken up. He came to 6 CIRU on 19 Sept 43. He was paraded on the present charge on 24 Nov 43. He was not under arrest before 24 Nov 43. The offence was condoned.

First Witness in support of plea in bar:
The accused, sworn, states: On 12 Jul 43

I was at home in Canada on sick leave from les Voltigeurs de Quebec. The Provost stopped me at home, brought me to Thetford mines & I stayed there 2 days under arrest. Then I went to Quebec under escort & from there to Aldershot N.S. & joined les Voltigeurs there & was put in detention. The next day I was taken out of detention at 1330 hours. That was 17 Jul 43. At that time I was returned to parade ground. Next day they sent me to No 6 Depot in Halifax & I stayed there until I got on ship to come Overseas on 12 Sept 43. I arrived in England on 17 Sept. 43 & went to No 6 C I R U where I have been ever since. No one in Canada told me why I was arrested. I was not paraded when under arrest. I have had a 48 hr & a 36 hr pass in England.

Cross Exam: I don't remember the dates of any sick leave. I was given 15 days. I was operated 28 Jun. 8 days in hospital & given 15 days leave. I had embarkation leave just before leaving Canada.

The evidence is read over to the witness.

The defending officer states that he was informed that he was to act as defending officer in this case at about 1830 hours 30 Nov 43 & has not had an opportunity to

3.

contact Capt Taschereau (C.M.H.Q.) & other parties whose he believes can give material evidence in respect to the plea in bar.

He requests an adjournment to enable him to contact the witnesses.

No objection by prosecutor.

The Court is adjourned till 1000 hours Tuesday 7 Dec 43. at the same place.

JDT.

Court reassembled at 1000 hours 7 Dec 43 at the same place & with the same President, members, prosecutor, defending officer, interpreter & officers under instruction present.

The accused is brought before the Court.

The prosecutor produced a medical certificate that the accused is fit to undergo trial by Court Martial

The prosecutor states that the accused was very nervous at the hearing on 1 Dec. 43 & has been thinking & can now say that he was told by the Provost who arrested him in July 43 why he was arrested. The prosecutor states positively that this apparent revival of memory is not the result of suggestions to the accused & asks permission to recall him to state as above.

The Court considers & permission is granted.

The Accused, recalled, having been previously sworn, states:

When I was arrested in July 43 I remember that the Provost in whose custody I was told me that I was under arrest for being A.W.L. from the Fusiliers de Sherbrooke.

Cross Exam: Nil

The evidence is read over to the witness.

Sound Witness ~~for prosecut~~ in support of plea in bar.

Capt. C. C. Saskatoon, Voltigeurs de Lotbiniere, attached C.M.H.Q. sworn states:

I know the accused. In July '43 I was his company commander for about 4½ until he was sent to hospital in July. To the best of my recollection I gave him a weekend pass to go home, during which time he fell sick. He was sent to Sherbrooke hospital. The unit was informed. After which he was given a sick leave. One day he was brought in front of me under escort for having been arrested by the Military Provost Corps. To the best of my recollection it was in connection with a desertion from an Infantry Sherbrooke Regt. I could not deal with him because of his health. I sent him to the M.O. & was informed that he was off duty until such time as transport would be going to Valcartier to take him to hospital. To the best of my recollection he left the next morning.

Cross Exam:

I remember a charge sheet was handed down by our legal. Police & the like. The charge was for desertion. I wanted an adjournment for further evidence & something to

6/

that effect. He was paraded before me the day after he returned to the unit. He was S. O S. on unit before the charge was proceeded with further. I talked to my C.O. about it & my recollection is that the C.O. was going to take the matter up with Ottawa to have it remedied. I don't know if the accused was informed of that. I am not sure.

The evidence is read over to the accused.

The court is closed to consider the plea & evidence

The court is reopened. The President announces that the plea is bar is not allowed and the trial will proceed.

The accused on being arraigned, the Name Rk. Rank & unit being read to him & he being asked, Is that your Rk. name, rank & unit? says: "That is not my number - my number is E 42746."

The defending officer pleas:
That unless the party is accused before the Court we submit that he is the accused & is proven to be the person named in the

Convening Order and Charge Sheet the Court has no jurisdiction. & the Court in the circumstances as they now appear has no jurisdiction.

The prosecutor states that he is not able to produce any verbal or written evidence to identify the accused before the court as the accused named in the convening order and charge sheet.

The Court is closed to consider the plea.

The Court reopens.

The President announces that the plea is allowed as it does not appear by admission by the accused or evidence that the party before the Court is the person named as the accused in the convening order & charge sheet.

Under R.P 34(c) the Court reports to the convening authority & adjourns at 1500 hours

7 Dec 43

F D Tweedie Lt Col
President.

D.1[illegible]093 Pte Joseph Anatole GODBOUT (CIC) 6 CIRU

All parites having been notified the Court reassembled at No 3 CARU at 1500 hours on the 11th day of February, 1944, with the same President and Members presiding and with Lt A M POIRIER as Prosecutor and Lt G LECLERC as DEFENDING OFFICER.

On the accused being arraigned he admits that the number, rank, name and unit as set out in the Charge Sheet and Convening Order are his number, rank and name and unit.

The accused having pleaded Not Guilty to the charges the Prosecutor states that he has no evidence to offer on the charges.

The Defending Officer moves that the charges be dismissed and the Court is closed to consider the motion.

The Court is reopened and the accused is brought before it.

The President states to the accused that the submission of the Defending Officer on the charges is allowed, that the charges are dismissed and the accused is found Not Guilty on the charges.

---

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been servedwith a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

.....Capt. Mugnis J.L. C.I.C.....

if he is available.

.....[illegible].....

Algonquin Camp,
Witley, Surrey,
27th Day of Nov.....1943.
1000 hrs

FDT.

Exhibit "A"

ORIGINAL
DUPLICATE
TRIPLICATE
(To be completed in triplicate. Copy designation to be shown by striking out terms not applicable.)

M.F.M. 2
A.F.(B.37)
(G.U.—5-42—[illegible])
H.Q. 1773-45-10

Unit Les Fusiliers de Sherbrooke AF. Regimental Number D-150093

CANADIAN ACTIVE SERVICE FORCE
ATTESTATION PAPER

1. Surname GODBOUT
2. Christian Names Joseph Albert Anatole.
3. Present address Lime Ridge, Cte. Wolfe, P. Que. Canada
4. Date of birth 17 Novembre 1917
5. Place of birth Canada (Country) Quebec (County or Province) Weedon (Town or Township)
6. Religion (state denomination) Catholique Romain
7. Trade or Calling Journalier
8. Married, Widower or Single Celibataire
9. Name of next of kin Mr Usadeon GODBOUT
10. Relationship Pere
11. Address of next of kin Lime ridge, Cte. Wolfe, P. Que Canada.
12. Have you served in any Naval, Military or Air Force? oui reserve force
13. If previous war service, state arm, force and regimental particulars 7/11th Hussars., AF. de Aout 1940 a date.
14. Do you now belong to or have you served in the Active Militia of Canada? Non

(Give unit and date of attestation.)

DECLARATION TO BE MADE BY MAN ON ATTESTATION

I, Godbout Joseph Albert Anatole do solemnly declare that the above particulars are true, and I hereby engage to serve in the Canadian Active Service Force so long as an emergency, i.e., war, invasion, riot or insurrection, real or apprehended, exists, and for the period of demobilization after said emergency ceases to exist, and in any event for a period of not less than one year, provided His Majesty should so require my services.

Date 26 May 1942 Signed: Albert Godbout (Signature of recruit)

OATH TO BE TAKEN BY MAN ON ATTESTATION

I, Godbout Joseph Albert Anatole do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to His Majesty.

Signed: Albert Godbout (Signature of Recruit)

CERTIFICATE OF MAGISTRATE, JUSTICE OF THE PEACE OR ATTESTING OFFICER

The Recruit above-named was cautioned by me that if he made any false answers to any of the above questions he would be liable to be punished as provided by law.

The above questions and answers were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and the said recruit has made and signed the declaration and taken the oath before me,

at Sherbrooke Que. this 26iems day of may 19 42

Signed: A.Dupuis Capt Les Fus. Sherbrooke CA (A((Signature of Magistrate, Justice or Attesting Officer.)

(Office or Rank and Unit or appointment.)

N.B.—ATTENTION IS DRAWN TO THE FACT THAT ANY PERSON MAKING A FALSE ANSWER TO ANY OF THE ABOVE QUESTIONS IS LIABLE TO A PENALTY OF SIX MONTHS' IMPRISONMENT

Certified true copy [signature]
Officer having custody of original documents.

Christian Name Surname

Regtl. No. Rank

STATION	Date of Arrival at the Station	Admission into Hospital: Day	Month	Year	Discharge from Hospital: Day	Month	Year	DISEASE

Certified true copy dated: [signature]
Officer having custody of original documents

Number of days in Hospital

Remarks on cases of sickness, how caused, and whether contracted on service or otherwise. If sick on service, state nature of primary disease, and whether secondary has been given. If so, specify. If injuries, state whether received on duty, and whether a Court of Inquiry was held. Date of issue and particulars of certificate (sick or surgical) forwarded

Signature of Medical Officer

For additional entries see M.F.M. 1 and 2 (b).

Record of Service of GODBOUT Joseph Antole Albert (Surname) (Christian Names)

Regimental Number

EDUCATIONAL QUALIFICATIONS

	Graduation or Matriculation (grade completed)	(specify)
High School or Collegiate		
*College	école du village	
*University		

*Name of institution, course or years completed, and degrees obtained to be shown.

QUALIFICATIONS

Military Les Fusiliers de Sherbrooke CA (A)

Business or Professional

Trade or Civil Journalier

Technical

Languages Français

All enlisted personnel will be taken on as Private soldiers, appointments and promotions to higher rank to be shown as provided in the space below.

Effect		Record of Promotion, Reduction, Transfer, Casualties, Reverted to ranks on Strength of Field Force	Rank Shown	Effective Date	Unit	Place	Authority Part II D.O. No. Can. Litt. etc.	Dated
Date	From whom received	Initial on appointment						
4-6-42	4 DD	Devi de beaucattaché AF at Sherbrooke Que in T.C.S. and is shown as S.C.S. on transfer to his unit, Les Fusiliers de Sherbrooke CA. Sherbrooke Que.	Pte	26-5-42	4 DD	MTL-STH	4 DD Pt II # 133	4-6-42
27-5-42	4 DD	T.C.S. Les Fusiliers de Sherbrooke C.A. on transfer from 4 DD	Pte	27-5-42	F de S	Sherb	Pt II No 18	11-6-42
18-9-42	F de S	Granted special leave & transport pervent A-165880 from Hebert A.S. to Lime Ridge Que	Pte	14-9-42	F de S	Debert	Part II No 91	14-9-42
28-9-42	F de S	After having been warned to proceed Overseas and having missed the draft is A.W.L.	Pte	19-9-42	F de S	Debert	Part II No 99	24-9-42

Certified true copy

(Lt Beaulieu) Capt

Officer having custody of original documents

For additional entries see N.P.M. Card 9 (c)

CERTIFICATE OF MEDICAL EXAMINATION

Name in full GODBOUT Albert Joseph Antole Date 25 mai 1942

Part 1. Information obtained from the recruit.

1. Age 24

2. Have you ever suffered from any of the following diseases?

a. Pheumatism	Non	j. Nasal trouble	Non
b. Tuberculosis	Non	k. Ear disease	Non
c. Bronchitis or asthma	Non	l. Eye disease	Non
d. Heart disease	Non	m. Epilepsy	Non
e. Kidney or bladder disease	Non	n. Nervous or mental disease	Non
f. Gastro-intestinal	Non	o. Syphilis	Non
g. Rupture	Non	p. Gonorrhoea	Non
h. Varicose veins	Non	q. Have you ever worn glasses?	Non
i. Flat or deformed feet	Non		

Signed: Albert Godbout (Signature of Recruit)

Examiner's remarks re above

Part 2. Information obtained by medical examination. The recruit must be stripped.

1. Identification marks or scars. (If operative obtain history.)

1 Vacc. left arm, 1 Scar forehead & both hands

2. Height 5 feet 3¾ inches. 3. Weight 131 pounds.

4. Complexion Medium Eyes Brun Hair Brun

5. Development Bon (Good / Fair / Poor)

6. Chest measurement—Girth on full expansion 38 inches.
Range of expansion 2 inches.

7. Vision, right 20/40 left 20/40 8. Hearing, right C.V 20 left C.V 20

9. Condition of mouth and teeth Good, Ears: Wax in left ear.

10. The abnormalities (congenital and pathological) found on examination are as follows:

genitalia, abdomen, extremities, reflexes, C.N.
Heart & Lungs: Negative?

Part 3. We, the examiners find no evidence of the diseases mentioned in Question 2, Part 1, except as reported in the remarks. We have examined the Recruit in accordance with the pamphlet "Physical standards and Instructions for the medical examination of recruits" and he is found fit for Category

Special remarks when category lower than A

Signed: A.L.H. MacNeill Capt (President) By C.J. Dagneau (Member) M. Plante MD. (Member)

VACCINATIONS, INOCULATIONS, BOARDS, RECLASSIFICATION OF MEDICAL CATEGORY

Date	Brief details and signature	Date	Brief details and signature
	Entrys illegible		
	Certified true copy dated:		
	(Lt Beaulieu) Capt		
	Officer having custody of Original documents		

Statement of the Service of No. D-150093 Rank Fus Sheet No.

Name DEBERT Joseph Anatole Albert

REPORT Date	REPORT From whom received	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc. (Continuation of Folio 2, M.F.M. 1 or M.F.M. 2)	Rank Shown	Effective Date	Unit	Place	Authority: Part II D.O. No. Cas. List, etc.	Authority: Dated
14-10-42	F de S	Having been declared by a Court of Inquiry held at Debert N.S. on the 13 Oct 42 to have been illegally absent since 2350 hrs 19 Sep 42 to have deficiencies in kit and Equipment amounting to $46.12 is struck off strength this Unit as deserter. To forfeit pay from 19 Sep 42 to 13 Oct 42 under the provisions of Art 149 P R & I (Twenty-five (25) days' pay)						
14-10-42	F de S		Fus	13-10-42	F de S	Debert	Part II No 114	14-10-43

Certified true copy dated:

.....

Officer having custody of original documents

Exhibit "D"

ORIGINAL
DUPLICATE
TRIPLICATE

22-9-42
L.D

M.F.M. 2
A.F.B. 271
(40 M—4-38 (1939)
H.Q. 1772-40-14

(To be completed in triplicate. Copy designation to be shown by striking out terms not applicable.)

Unit 24th. Recce. BTN.C.A.(ACTIVE) Regimental Number K.42746

CANADIAN ACTIVE SERVICE FORCE
ATTESTATION PAPER

1. Surname GODBOUT
2. Christian Names ALBERT
3. Present address St-Camille. CO. Wolfe. P.Q.
4. Date of birth 17 Novembre, 1918.
5. Place of birth CANADA (Country) Prov. Quebec. (County or Province) Weedon (Town or Township)
6. Religion (state denomination) Catholique Romaine
7. Trade or Calling Menuisier
8. Married, Widower or Single Celibataire.
9. Name of next of kin Gedeon Godbout
10. Relationship Pere
11. Address of next of kin Lime Ridge. CO. Wolfe. P.Q.
12. Have you served in any Naval, Military or Air Force? Oui dans la reserve.
13. If previous war service, state arm, force and regimental particulars 7 & 11th. Hussard. (R). Aout 1940. Oui. N.P.A.M. Reg't No. Unknown
14. Do you now belong to or have you served in the Active Militia of Canada? Non

(Give unit and date of attestation)

DECLARATION TO BE MADE BY MAN ON ATTESTATION

I, Albert Godbout do solemnly declare that the above particulars are true, and I hereby engage to serve in the Canadian Active Service Force so long as an emergency i.e., war, invasion, riot or insurrection, real or apprehended, exists, and for the period of demobilization after said emergency ceases to exist, and in any event for a period of not less than one year, provided His Majesty should so require my services.

Date 23-9-42 Signed: Albert Godbout
(Signature of recruit)
Witness: L. Desjardins.

OATH TO BE TAKEN BY MAN ON ATTESTATION

I, Albert Godbout do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to His Majesty.

Signed: Albert Godbout. (Signature of Recruit)

CERTIFICATE OF MAGISTRATE, JUSTICE OF THE PEACE OR ATTESTING OFFICER

The Recruit above-named was cautioned by me that if he made any false answers to any of the above questions he would be liable to be punished as provided by law.

The above questions and answers were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and the said recruit has made and signed the declaration and taken the oath before me,

at Quebec this 21ème day of Septembre 1942

Signed: A. Sylvestre. Capt. for/
J.P.J. Godreau, Lt/Col.

(Signature of Magistrate, Justice or Attesting Officer.)

(Office or Rank and Unit or appointment.)

N.B.—ATTENTION IS DRAWN TO THE FACT THAT ANY PERSON MAKING A FALSE ANSWER TO ANY OF THE ABOVE QUESTIONS IS LIABLE TO A PENALTY OF SIX MONTHS' IMPRISONMENT

CERTIFIED THAT THE OCCUPATIONAL HISTORY FORM HAS BEEN MADE FOR THIS SOLDIER BEFORE HIS FINGERPRINTING.

Certified true copy dated: [illegible] Capt

officer having custody of original documents

Regtl. No. K-42746 Rank Pte Surname Godbout Christian Name Albert

STATION	Date of Arrival at this Station	Duties: Admission into Hospital Day	Month	Year	Discharge from Hospital Day	Month	Year	Number of Days in Hospital	Remarks as to cause of the disease, how induced, if mild or severe, if completely recovered from, whether any particular treatment was adopted. In venereal cases state nature of primary disease, and whether patient has been given. If so specified, state whether it occurred on duty and whether a Court of Inquiry was held. Date of same and particulars of artificial teeth or surgical appliances supplied.	Signature of Medical Officer

Certified true copy dated: [illegible] Capt

officer having custody of original documents

For additional entries see M.F.M. 1 and 3 (b)

Record of Service of Godbout (Surname) Albert (Christian Names) Regimental Number E-42746

Qualifications

Military: Oui. (1 mois)

Business or Professional: Non

Trade or Civil: Menuisier

Technical: Non

Languages: Francais. Anglais

Educational Qualifications

High School or Collegiate: 6 annees (years completed) Graduation or Matriculation: Non (specify)

*College: Ecole de Lime Ridge. CO. Wolfe. P.Q

*University: Non

*(Name of institution, course or years completed, and degrees obtained to be shown)

All enlisted personnel will be taken on as Private soldiers, appointments and promotions to higher rank to be shown as provided in the space below.

Report: Date	Report: From whom received	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc., from date taken on Strength of Field Force	Rank Shown	Effective Date	Unit	Place	Authority: Part II D.O. No. Cas. List, etc.	Authority: Dated
		Joined as appointment 24th R.E.C.C.E. Btn. C/A., (A/F).& attached for all purposes	Pte	22-9-42	DD5	Quebec	D.O. No 230	26-9-42
		S.O.S. from this depot on proceeding to C.A.C. 24th Recce. Battalion Camp Bordon Ont.	Pte	27-10-42	DD5	Quebec	D.O. No 256	27-10-42
		T.O.S. fr. No 5 D.D. w.e.f. 28-10-42	Pte	28-10-42	Recce	Bordon	D.O. No 248	30-10-42
		Rates of pay of $1.40 Under R.O. 2757 w.e.f. 1-1-43	Pte	1-1-43	V. de Q.	Sussex	Part II O. No 23	29-1-43
		D.O. No 23 is amended to read 1-2-43	Pte	1-2-43	"	"	Part II O. No 43	23-2-43
		14 days fourlough and M/a from 1-3-43 to 14-3-43.	Pte	1-3-43	"	"	Part II O. No 48	1-3-43
		Embarkation leave and m.s from 30-3-43 to 4-4-43.	Pte	30-3-43	"	"	Part II O. No 73	30-3-43
		Granted rates of pay $1.50 R.O. 2772 & Auth.144(1) F.R. & I CASF	Pte	22-3-43	"	"	Part II O. No 75	1-4-43
		S.O.S. on trans to D.D. No 6 Halifax N.S.	Pte	18-7-43	"	Aldershot	Part II O. No 168	19-7-43
		T.O.S. from 1st. Bn. Les Voltigeurs de Quebec	Pte	19-Jul 43	#6 Depot	Halifax	D.O. 174	20 Jul 43
		Amended to read T.O.S. 16 July 43	Pte	16 Jul 43	#6 Depot	Halifax	D.O. 182	29 Jul 43

Certified true copy dated:

B J Barette a/capt

..... For additional entries use M.F.M. 1 and 2 (a)

officer having custody of original documents

CERTIFICATE OF MEDICAL EXAMINATION

Name in full Godbout Albert Date 22-9-42

Part 1. Information obtained from the recruit.

1. Age 23 ans 2. Have you ever suffered from any of the following diseases?

a. Rheumatism Non j. Nasal trouble Non

b. Tuberculosis Non k. Ear disease Non

c. Bronchitis or asthma Oui l. Eye disease Non

d. Heart disease Non m. Epilepsy Non

e. Kidney or bladder disease Non n. Nervous or mental disease Non

f. Gastro-intestinal Non o. Syphilis Non

g. Rupture Non p. Gonorrhoea Non

h. Varicose veins Non q. Have you ever worn glasses? Non

i. Flat or deformed feet Non

Signed: Albert Godbout (Signature of Recruit)

Examiner's remarks re above

Part 2. Information obtained by medical examination. The recruit must be stripped.

1. Identification marks or scars. (If operative obtain history.)

Cicatrice tete du premier metatarsien gauche.

2. Height 5 feet 4 inches. 3. Weight 131 pounds. Good

4. Complexion clair Eyes bruns 5. Development Bon Poor

Hair Bruns

6. Chest measurement—Girth on full expansion 37 inches.

Range of expansion 2 inches.

7. Vision, right 20/40 left 20/40 8. Hearing, right C.V. 20 left C.V. 20

9. Condition of mouth and teeth Traitement.

10. The abnormalities (congenital and pathological) found on examination are as follows

Douleurs rhumatoides jambe gauche. Traumatisme au gros orteil pied gauche en 1938.

A ete sous la Commission des accusants sans compensation permanente.

Oreilles, Urines & Reflexes: Normaux.

Part 3. We, the examiners find no evidence of the diseases mentioned in Question 2, Part 1, except as reported in the remarks. We have examined the Recruit in accordance with the pamphlet "Physical standards and Instructions for the medical examination of recruits" and he is found fit for Category "A"

Special remarks when category lower than A

Certified true copy signed: J.A. Girard, Major.

J.A. Girard, Major RCAMC (President) Dr. P.V. Marceau (Member) C. Selines, M.D. (Member)

VACCINATIONS, INOCULATIONS, BOARDS, RECLASSIFICATION OF MEDICAL CATEGORY

Date	Brief details and signature	Date	Brief details and signature
	Entrys illegible		
	Certified true copy dated:		
	B J Barette a/capt		
	Officer having custody of original documents		

Statement of the Service of No. E-42746 Rank Pte Sheet No.

Name

REPORT		Record of Promotions, Reductions, Transfers, Casualties, Transits, etc. (Continuation of Folio 2 M.F.M. 1 or M.F.M. 2)	Rank Shown	Effective Date	Unit	Place	Authority: Part II D.O. No. Can. Lnd. etc.	Dated
Date	From whom received							
		S.O.S. to No 1 Transit Camp	Pte	30 Aug 43	6 Depot	Halifax	210	31 Aug 43
		Att. No 1 Transit Camp	"	30 Aug 43	1 Transit	Windsor N.S.	223	3 Aug 43
		T.O.S. from No 1 Transit Camp	"	2 Sep 43	6 Depot	Halifax	216	7 Sep 43
		S.O.S. to No 14 A.I.C(R) T.C.	"	7 Sep 43	6 Dept	Halifax	217	8 Sep 43
		T.O.S. on transfer from No 6 Dist. Depot	"	8 Sep 43	A-14 CITC	Aldershot NS	218	8 Sep 43
		S.O.S. A.14 C.I.T.C. att. P.A.C. Ex. Pay	"	11 Sep 43	A-14 CITC	Aldershot NS	221	11 Sep 43
		Ceases to be attached for all purposes except pay on proceeding overseas.	"	13 Sep 43	A-14 CITC	Aldershot NS	222	13 Sep 43
		S.O.S. Cdn Army (Canada)	"	13 Sep 43	6 CIRU	U.K	203	25 Sep 43
		T.O.S. Cdn Army (Overseas)	"	14 Sep 43	6 CIRU	U.K.	203	25 Sep 43
		Disembarked in U.K.	"	19 Sep 43	6 CIRU	U.K.	203	25 Sep 43
		Reported for duty at 6 CIRU	"	20 Sep 43	6 CIRU	U.K.	203	25 Sep 43

Certified true copy Dated:

Lt Barrette a/capt

Officer having custody of Original documents

SUMMARY OF EVIDENCE

In the case of No D-150093, Private Joseph Albert Anatole GODBOUT, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken onoath.

First Witness for the Prosecution. Lt R. Blais, of the Canadian Infantry Corps, on the strength of 6 CIRU, having been duly sworn, states as follows:

I hereby produce the following documents relating to the accused:

(a) Exhibit "A" - Certified true copy of Attestation Paper (MFM 2), purporting to be signed hy the Adjutant of 6 CIRU.

(b) Exhibit "B" - Clothing and Equipment Statement (MFC 800)

(c) Exhibit "C" - Record of the Declaration of a Court of Inquiry, purporting to be signed by the Adjutant of Les Fusiliers de Sherbrooke, C.A.(A)

(d) Exhibit "D" - Certified true copy of Attestation Paper (MFM 2), purporting to be signed by the Adjutant of 6 CIRU.

(e) Exhibit "E" - Certified true copy of Equipment and Equipment Statement (MFM 1, Part III), purporting to be signed by Lt H.A. Verge, Assistant Quartermaster of 6 CIRU.

The accused declines to cross-examine this witness.

Roger Blais
.....Lt.

The accused was cautioned in French as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one sheet, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

W.A. Marin
.....Lt.
Officer detailed to take the Summary of Evidence.

Witley, Surrey,
27 Nov 43.

4A-31

Pte. Godere R

No. B48456 Name GODERRE R. Sqn., Battery, or Company | Corps RCAMC | Date of enlistment 2J n43 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. H. A. Frink, Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Aug 43	Gnr		A.W.L from 2200hrs 1 Aug 43 to 2040 hrs 7 Aug 43. Absent 5 days 22 hrs, 4 mins. A.A. Sec 15(1)	Gnr Gray	7 days C.B. 7 days Pay A.A. Sec 46	9 Aug 43	WM Smith Lt. Col.	6 days auto forf F.R. 1. H.A.F.
Field	19 Feb 44			A.W.L. from 2300 hrs 19 Feb 44 to 2345 hrs 19 Feb 44. (T.A. 45 mins) Sec 15(1) A.A.	Sgt Mayo, E.M.	5 days C.B.	21 Feb 44	Maj Melanson	H.P.M.
Field				Donated 350 c.c. Blood on 15 Sep 44					D.A.H.

I certify that this is a true copy of the original document which is in my possession.

D.A. House Lt.

(Paul Melanson) Major
O.C. Pl Cdn F.D.S., RCAMC

(P.T.O.)

I

First Pros Wit. Capt W.A. Butler 21 FDS RCAMC.
duly sworn is examined :-

On 17 Sep 44 about 1930 hrs I walked over to the vehicles near the kitchen to warn some soldiers regarding standing on the road. After this the Acc whom I recognize said to me "Capt. Butler, are we Germans to be behind a fence like this" or words to that effect. I answered "no you are better off" to which the Acc said "I think we are worse off." I then told Acc to behave himself to which he replied "I do not give a shit." This expression was repeated several times. I warned Acc he'd be up for office & contacted senior N.P.O. was said to me.

I've known Acc ~~since~~ for 6 or 7 months. He is a good soldier. Very good.

Cross Ex. Acc said "Are we treated like Germans or are we treated like Germans" or words to that effect. Said it as they couldn't go on road.

Re X — Nil.
Const. —

RP83(b) complied with

2nd Pros Wit. C28552 Sgt. McFadden Rd. 21 FDS. sworn, deposes
On 17 Sep 44 I heard Acc say "Are we being treated like Germans." I then heard Capt. Butler talk & then the Acc said "I dont give a shit." Acc was addressing his remarks to Capt Butler. I was only 3 or 4 feet from Acc at the time

Cross X — I was about 2 ft from Butlers. I dont know what Butler said but I heard him talk. Butler spoke & I was then talking to some one else. I heard the Acc definitely say both the remarks. Hunder than rest of conversation.

Re X — Nil
Const. — I thought Acc was talking to Capt. Butler. At the time of the remark "I dont give a shit" I was facing Acc & Capt Butler. I was not facing them for the first remark.

RP83 b Complied with.

3rd Pros Wit. F97954 Pte Pumphs, Geo 21 FDS
sworn deposes:-
On 17 Sep 44 I saw Capt Butler & he said the boys couldn't be outside. Then I heard Acc say something about are we Germans to be behind boys.

Cross Ex I didn't hear Arcsag "I don't give a shit".

No Re X —

Cont. — I did hear Arcsag something wondering about the question he had asked.

The Def Off does not require the [illegible] of the other Pros. units.

Defence

Nil

Pros. makes a closing Address

Def Off " " " "

In opinion of Ct. & J. A. it is not necessary to sum up.

Statement in Mitigation

Closing address of Defence
on the
On the cross-examination of
Capt W A Butler it was brought
out that the accused did
not refer to himself or the other
soldiers as being Germans, rather
being kept within boundaries
like Germans.

[illegible]

Closing address of Prosecutor

I submit to the Court that the charge against Pte Godeme, R of using insubordinate language to a superior Officer has been proved by the testimony of two witnesses. The defence has brought forth no witness whatever to deny that the statement "I don't give a shit" was actually stated by the accused

D.A. House Lt

Substitute for MFB355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. B 48456 Rank Pte. Name Goderre, R. ..... Unit. 21 Cdn. F.D.S., RCAMC ..

Age. 20yrs. Married or Single. Single ..... No of Dependents..... Nil.....

Date of attestation. 29 Jan 43 .....

Number of days in close arrest awaiting trial..... 3 .....

Character Good

Civil..... Military. 3 ... Hospital..... Total..... 3 .....

Dates of appointments, promotions etc (if any).....

..... Nil.....

In the Field

Paul Melanson Major .....
Officer i/c Records

21. Sept. 44...
Date

21. Cdn. F.D.S., R.C.A.M.C. .....
Unit

Note: Certified true copy of MFM 6 must accompany this form.

CERTIFICATE OF MEDICAL EXAMINATION

This is to certify that B-45456, Pte. Goderre, R., 21 Cdn. FDS
was on this date, medically examined and found fit
to undergo trial by Court Martial.

21 Sept 44

Medical Officer
21 Cdn. F.D.S., R.C.A.M.C.



FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy; AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B45456	Pte		Robert	GODERRE	21 Cdn F.D.S. R.C.A.M.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [XXX] committed the offence[X]s set forth in the Charge Sheet[X] attached and on (date) 20 Sep 1944 endorsed by me, [illegible] to be tried by Field General Court-Martial ";

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial ; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D. BULT-FRANCIS (Must be named. RP 106.)	8 Cdn Recce Regt (14CH) (Unit.)

MEMBERS.

Lt.	A.E. STREET	2 Cdn Fd Coy RCE
Lt. (Rank.)	R.H. CANNON (Named or detailed. RP 106.)	7 Cdn Fd Coy RCE (Unit.)

WAITING MEMBER.

Lt. (Rank.)	R.S. GRAHAM (Named or detailed, if any. RP 106.)	1 Cdn Fd Pk Coy RCE (Unit.)

JUDGE-ADVOCATE.

Capt. (Rank.)	E.K. Mc DOUGAL (Must be named, if any. RP 106.)	HQ 2 Cdn Inf Div. (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 (s 2).) Lt-Col. (Rank.)

Date 20 Sep 1944

Commanding CRE 2 Cdn Inf Div.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAO 12b (See AFAO 40/9 & 57/1607 (4691))

(See overleaf for oaths and notes for use at trial.)

CHARGE SHEET

The accused, B-46456, Pte Godarre, R., 21 Cdn F.D.S., R.C.A.M.C., C.A.D., is charged with:

Using Insubordinate Language to a Superior Officer. (A.A. Sec 8 (2))

In that he, WCAS, in the field at approx 1930 hrs, 17 Sep 44, did use insubordinate language to Capt W.A. Butler, and when warned that if he continued to make such remarks as "We are being treated like Germans", he would be placed on charge, replied, "I don't give a shit".

Paul Melanson Major

In the Field
18 Sep 44

(Paul Melanson) Major
O.C. 21 Cdn F.D.S., RCAMC

TO BE TRIED BY F.G.C.M.

[illegible signature]
CRE 2 Cdn Ded
20 Sep 44

[illegible signature]

RECORDED AT CMHQ IN AB 160

RECEIVED 18 OCT 1944 JAG Branch CMHQ

FIELD GENERAL COURT-MARTIAL

4A-31

CP 495 (To issue as AP 431) 40-P-R-1098 (40701)

4-38B

Convened by Order of Lt Col L.S.P. Lilly, C.R.E. ~~Comdt~~, 2 Cdn Inf Div. dated 20 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent and confirmed rank, and (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 45456	Pte	Robert	Godeau	7 FDS RCASC

PROCEEDINGS REVIEWED 19 Oct 44

JAG

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 21 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for edits and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Pestes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is not amenable to military law, and each charge discloses an offence.(3) SHELL

(1. As to use of Summary of Evidence see RP 12 fn b. 2. As to, RP 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) SHELL

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to SHELL as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D. Bult-Francis	6 Cdn Recce Regt
Member	Lieut	A.F. Street	2 Cdn Fd Coy RCE
Member	Lieut	R.H. Cameron	7 Cdn Fd Coy RCE
Judge-Advocate	Capt	S.K. Mellenbergh	HQ 2 Cdn Inf Div
Prosecutor	Lieut	D.A. Howe	7 FDS RCASC
Defending Offr	Lieut	K.R. Wallace	4 F.D.S. RCASC

Questions by President: Is the Prosecutor a lawyer ? Ans. NO. Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dft p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea SHELL

.....(2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) SHELL not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Ref Vol I Fol 81

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 45456 Pte Robert Godeau, 7 F.D.S. RCASC.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

SHELL As present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 3 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer Field punishment for twenty eight days + to restore all rates and pay for a period of twenty eight days.

(Sgd) Emil Mellenbergh Judge-Advocate, if any. 21 Sept 44. Date awarded. (Sgd) D Bult-Francis Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirm the findings and sentence of the Court.

DCK

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~

(1. AA 57A. Delete if not used.)

Date 25 Sept 44 (Sgd) A.C. Chelley Lt Col Commanding RCE 2 Cdn Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 45456 Pte Godeau R	25 Sept 44	D.K. Howe Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 92(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans No Sir. Do you intend to call witnesses on your behalf ? Ans No Sir. Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 4 and Ex 2 respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No Sir.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.S. if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Y 101

PTE GODFREY, G.F.

See 141K for 1st Case

K-53430 Pte. George Edward GODFREY
Seaforth of C. 1 C.D.I.R.U.

D0 - 27/31 X-43

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

Y101

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 27th day of JANUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer];

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[I am unable to appoint (—)

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—].

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.E.T. PAQUET (P.P.C.L.I.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	N. Bullock (Perth R.)	2 C.I.R.U.(Arm'd Div.)
Lieutenant	S.I. Schafran (R.H.C.)	2 C.D.I.R.U.
Waiting Member Lieutenant	H. Barritt (Ddun.R.)	1 C.D.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Lieut.-Colonel,
Commanding "A" Group Cdn. Reinf. Units, C.A.(O).
Convening Officer.

A1.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-53430 Pte. George Edward GODFREY Seaforth of C. 1 C.D.I.R.U.	First Charge A.A. Sec. 15(1)	GUILTY/	GUILTY. Sentence. To undergo detention for a period of 120 days. To be put under stoppages whilst he has made good the sum of $5.17½ and in respect of the lost clothing as shown in A.C.O. a sum of $3.00 Court of Inquiry. A.E.T. Paquet Majr. PPCLI President. 28.1.43.	Confirmed J. Stewart Lough Colonel
	SEE CHARGE SHEET ATTACHED.			

"I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial."

A.E.T. Paquet Majr. PPCLI
President of the Court.
28.1.43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded as separate sheet if necessary*):—

(Signed) J. Stewart Lough Colonel, (Signed) A.E.T. Paquet Majr. PPCLI
Commanding "A" Gp. Cdn. Reinf. Units, 1CIRU
Convening Officer (*e*) C.A.(O). *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of January 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) N.A.T.D.
*(4. ~~The officers under instruction~~) N.A.T.D.

were duly sworn.

* Omit if not applicable.

Signed this 28th day of January 1943.

A.E.T. Paquet Majr. PPCLI
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on Form 162 (A.F.) 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

A.E.T.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 30th day of January 1943.

J. Stewart Lough Colonel
Confirming Officer.

Promulgated and extracts taken in the case of K-53430 Pte. Godfrey, G.E. (SHofC)
Promulgated in Part II D.O. 27 dated 31 Jan 43
(*a*) (Dated) 30 January 43 (Signed) [illegible]

Promulgated and extracts taken in the case of K-53450 Pte. Godfrey, G.E. (SHof C)
Promulgated in Unit PART II D.O.(SUPP.4) #27, dated 28 Feb 43.
(Dated) 25 Feb 43, (Signed) [illegible] Col.
(A.S.Pearson) A/Cmdr. I C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W1, 47707/1427 20 M. 5/43 K.H./S.H.Q. Gp. 698/3

M.F.M. 6
(A.F.B. 132)
173M—7-41 (1219-20)
H.Q. 1772-39-1852

NK53430 Name Godfrey, G.E. Sqn., Battery, or Company Corps Seaforth Highrs Date of enlistment C. 26 Mar 40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 26-8-41 No. and date of last drunk NIL Period not reckoning towards freedom from extra fine Sheet No. 2. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
LAST SHEET DESTROYED ON COMPLETION OF SIX MONTHS SERVICE.									
Field	24-8-41	Pte		A.A. Sec 15 (1)					1 days forf. F.R.&.I.149, 1.(a)
Field	26-8-41	Pte		A.A. Sec 15 (1)					1 day forf. F.R.&.I.149, 1.(a)
Field	3-3-42	Pte		A.A. Sec 40.		28 days F.P. XXXXXXXXX	13-3-42	C.O.	
Field	13-3-42	Pte		A.A. Sec 15		1 days pay	13-4-42		F.R.&I 149, 1.(a)
Field	10-5-42	Pte		F.G.C.M. A.A. 15(1) AWL 60 days		60 days detention Forf. 1o1 day pay.	14-7-42	F.G.C.M.	24 days Pay F.R.&.L. 149

A.C.T. Paquet Maj. P.P.C.L.I. President

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-5-42			Remission of 20 days with pay			24-8-40		

CERTIFIED TRUE COPY Consisting of one sheet.

A.C.I.O.

Records Officer,
(Officer Having custody of Original Document)

E. 1

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K53430	Pte	Godfrey, G.E.	Seaforth Highrs of Canada.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be produced from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The members before stated should correspond with the number in column (2) of the conduct sheet, any omission being given in the usual manner, and in correspondence special attention is drawn to distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 40	1 times	times.
For A.A. Sec 15 (1)	2 times	4 times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~ ~~Nil~~

or

~~There are no entries in the conduct sheets of the accused.~~ Nil

2. ~~The accused has not been previously convicted.~~ or Nil

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~ Nil

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and days in military custody, making a total of Seven days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 40 years 11 Months

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 28 Mar 40.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2yrs8months 20 days.

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs8 months 20 days

9. The accused is entitled to reckon 2 yrs8months20days for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to claim any military decoration or reward.)~~ Nil

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the ~~superseded~~ rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated

~~Nil~~ in his regiment (or corps or department) the rank of dated

(18250) W1/13882/144 125,000 6/41 A.&E.W.Ltd. Gp.698

A.C.I Paquet Maj. P.P.C.L.I.
President

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K53430 Rank Pte Name Godfrey, G.E. of Seaforth High Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which trial, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 14-7-42	A.A. 15 (1) A.W.L. (60 days)	60 days detention Forf 101 days pay	20 days with pay

ACTD

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of January 1943.

[signature]

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date, [illegible]

In the rank of ..... years, ... Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial. A6

Dated at Witley, Surrey,
this 26th day of,
January 1943

George E. Godfrey

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial.

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut L.J. Pronger if he is available.

Dated at Witley, Surrey,
this 26th day of
January 1943

George E. Godfrey

A.E.T. Paquet Maj. P.P.C.L.I. pres.

The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the sentence in these proceedings is invalid, I hereby direct that the record of the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused, K.53430 Pte. Godfrey, G.E., The Seaforth Highlanders of Canada, No.1 Canadian Division Infantry Reinforcement Unit, to undergo detention for one hundred and twenty days.

P J Montague

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters

Feb 43.

B 2

CHARGE SHEET

The accused No.K53430 Pte George Edward GODFREY, Seaforth Highrs of Canada on the Strength of No. 1 Canadian Division Infantry Reinforcement Unit as a reinforcement, a soldier of the Canadian Army (overseas) is charged with.

FIRST CHARGE
Sec 15 (1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at Algonquin Camp, Witley, Surrey, absented himself without leave from 2200 hrs, 20 September 1942, until surrendering himself to Provost of No. 6 Coy., Canadian Provost Corps in London, at 2045 hrs, 19 January 1943.

Total absence 120 days 22 hrs 45 minutes.

A.S. Pearson Colonel,
(A.S. Pearson,) Commander,
No. 1 Cdn Div Inf Reinf Unit.

Algonquin Camp,
Witley, Surrey,
22 January 1943.

To be tried by Field General Court Martial.

J.R. Stewart Lough
(J.R. Stewart Lough) Colonel,
Commanding,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
27 Jan. 43.

A. E. T. Paquet Major P.P.C.L.,
president

A-3

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

I certify that I have this morning examined No. K53430 Pte Godfrey G.E. - Sea of C Coy - No 1 C D I R U No. 1 Cdn. Div. Inf. Reinf. Unit, and in my opinion, he is fit ~~unfit~~ to undergo trial by Court-Martial.

[signature]
(Medical Officer)

Dated Jan 28th 1943.

A.C.T.D.

A.2.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT ON THE DAY OF 42

TRIAL OF:-No. K53430 Pte. George Edward Godfrey Unit S. of C. 1. C.D.R.U.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut. J.L. Harling (Unit) S.W.A.C.

Defending Officer:- (Name) Lieut. J.L. Pronger (Unit) S.W.A.C.

At 10 00 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:-

President Major A.R.T. Rosmini R.A.O.C. (Unit) 1. C.D.R.U.

Members Capt. H.B. Hockey, R.A.S.C. (Unit) S.W.A. Command

Lieut S.T. Schafman, S.A.R.H.C. (Unit) 2 C.D.R.U.

~~The officers under instruction are duly sworn.~~

Q2 Do you object to ~~Lieut. Pte. Berg, Mrs. Muir, R.J.~~ acting as shorthand writer? A2 - No.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lieut. J.L. Harling .....(Unit) S.W.A.C. .....sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - No

Q4 ~~Do you wish to give evidence yourself or to call any witnesses as to character? A4 - Do you wish to give evidence yourself in person?~~ A.C.D.

~~Or in writing, after leaving the Court?~~ A.4. No

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

K.S. Statement in mitigation of Punishment by:
K.53430 Pte. George Edward GODFREY

The accused having been warned in accordance with R.P. 40(c)(iv) 41(a) (iii)(1) is duly sworn.

FIRST WITNESS FOR DEFENCE

I am K.53430 Pte. George Edward GODFREY:
"While serving overseas I have been receiving very little mail and only at odd times. I received a letter concerning my wife and another man. I took the letter up to the Major of my Company and he directed me to the Colonel. I was advised to take compassionate leave with the evidence I gave to him. My compassionate leave was turned down. I also went to see the Paymaster to have the allowance stopped. He advised me to see my Commanding Officer. I had already done that, so I let it go at that for awhile. I received one letter from home. I went again to see the Paymaster about having the allowance stopped. He still said the only thing I could do was to apply to my Commanding Officer. I was paraded before the Major and Colonel Ferry. I talked about my compassionate leave. The Colonel said, "You might as well save the paper, it is a waste of time." "There is nothing can be done." The only way I could see to straighten my family affairs was to stop my wife's money. If I did she would know just how things were. So I went A.W.L. This is the only reason, Sir, why I did what I done.

The Prosecution declines to cross-examine the accused.

Lieut. L.J.PRONGER, Defending Officer makes closing address.

"I would like to draw your attention to M.F.M.6. Absent one day entry. One of 28 days Field Punishment for driving a car without permission, and there is one other Court Martial, which to my idea is the only criminal offence. He went absent for the same purpose to get things straightened out. The man has an almostclean conduct sheet. There is really only one charge and that is this one. He is not a criminal or A.W.L. He went A.W.L. this time with a definite object in view. He knew that he would be punished. He returned to take his punishment and pleaded guilty to the crime. With the knowledge that his home in Canada is smashed up, as a direct result of his coming overseas. He came overseas leaving his wife at home, things happened, and it is of the direct result of not being there to look after things himself. He is surprised at the state of affairs. He realizes if he cut off her allowance it might straighten things up, so he decided to take the only step he could do to straighten things up. The wounds he has are just as deep and honourable as any received by a soldier at Dieppe. I ask you to be lenient with this man, and give him a sentence of 28 days and no more.

R.P. 40-41 have been duly complied with.

A-4

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at 1 C.D.I.R.U. on the 13th day of October 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K-53430 Pte GODFREY, G.E. of Seaforth of C. No. 1 C.D.I.R.U.

DECLARATION.

The Court declare. No. K-53430 Pte GODFREY, G.E. of the Seaforth of C. Coy, illegally absented himself without leave from 2200 hrs at No. 1 C.D.I.R.U. on the 20th day of September 1942 and that on the 13th of October he was deficient, and that he is still deficient of the following articles./

	Vocabulary Price	Appraised Value
1 Pr. Boots Ankle	£ 1- 1- 6	£ 16-1½
1 Pr. Trousers B.D.	1- 7-11	1- 1- 0
1 Greatcoat	3-17- ½	2- 17- 9
1 Pr. Trousers Denim	11- 9	8-10
1 Respirator container	6- 9	5- 0
1 Respirator Facepiece	7- 6	5- 6
6 Eyeshields	2- 3	1- 9
2 Ointment A/G	1- 6	1- 2
	£ 7-16- 2½	£ 5-17- 1½

Names of President and Members

Capt. H.J. Bishop	Pres.
Edmn. R.	1 CDIRU
F.R.S. Robertson Lieut.	Member
P.P.C.L.I.	1 CDIRU
Lieut. C.E. WOOD	Member
Seaforth of C.	1 CDIRU

Signature of Commanding Officer (C.C. Ferrie) Lt-Col.

CERTIFIED TRUE COPY.

Exhibit 'A' RAB.

H F Robertson Lieut

Signature of Officer having custody of the Original Record.

A.E. Paquet Major P.P.C.L. Pres.

(12281) Wt.34518/1622 75,000 10/39 A.& E.W.Ltd. Gp.498 Forms/B115/66
(13443) Wt.45720/760 225,000 1/40 " "

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (J)

I, Lieut.H.F.German ..... certify that

Re . No. K-53430 Rank: Pte. Name Godfrey,C.E.

REGIMENT #1C.D.I.R.U.

UNIT .....

STATIONED AT Witley .....

Surrendered himself to No. M-17179 Rank Cpl. Name thomson,L.

of the #6Coy.Cdn.Provost Corps.

on the 19th. day of January 194 3, at ..... hours 2045hrs.

.....AS AN ABSENTEE WITHOUT LEAVE .....

at the time of his surrender he was wearing (Military Uniform) or xxxxx
xxxxxxxxxxxxxx

Signature of Provost-Marshall,Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on surrender. (Strike out part inapplicable)

Lieut.

Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

Exhibit 'B' - Kab

A-5

SUMMARY OF EVIDENCE

In the case of K53430 Pte Godfrey, G.E. of the Seaforth Highrs of Canada on the Strength of No. 1 Canadian Division Infantry Reinforcement Unit, as a reinforcement of the Canadian Army (overseas).

By the direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS for the PROSECUTION

Capt. R.A. Butterworth, Edmonton Regiment, having been duly sworn states:

I am, Capt. R.A. Butterworth, Adjutant, No. 2 Bde Wing, No. 1 CDIRU. I produce AFB 115, copy of record of declaration of a Court of Inquiry which relates to the accused whom I now recognise. This document is marked exhibit "A".

I produce a certificate in accordance with the Army Act Section 163 (I) (j) which relates to the accused. This document is marked Exhibit "B".

The accused declines to cross-examine this witness.

R.A. Butterworth Capt.
R.A. Butterworth,
Adjt. No. 2 Bde Wing.
1 Cdn Div Inf Reinf Unit.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) & (g) have been complied with.

L.J. Pronger Lieut.
L.J. Pronger, Lieut.
(Officer taking Summary)

Algonquin Camp
Witley Surrey,
21st Day of January 1943.

A.E.T. Paquet Major Pres

ACTD

5E-98.

Re. Godfrey, D.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B73053 Pte James Walton GODFREY 2 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	Guilty	Guilty	
2nd AA Sec 15 (1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for six months

(Sgd) ..... Judge-Advocate, if any. 10 Apr 45 Date awarded. (Sgd) D McAdam Maj President. (RP 45, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until he has undergone (1)
(1. AA 57A. Delete if not used.)

(Sgd) D McAdam

Date 11 Apr 45 Commanding A/OIC Cdn Sec 1 Fch AFHQ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B73053 Pte James Walton GODFREY 2 Cdn NETD.	13 Apr 45	D McAdam Maj OC No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT GHQ IN AF Vol. 5E 98

27 APR 1945 CANADIAN SECTION G.H.Q.

FIELD GENERAL COURT-MARTIAL (FORM 1 (in lieu of AFA 21) 411 P.M. 81/1608 (38064))

Convened by Order of Brig J.C. Stewart DSO Comd Cdn Sec 1 Fch AFHQ dated 9 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/ronk or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B73053	Pte	James Walton	GODFREY	2 Cdn NETD

PROCEEDINGS REVIEWED Capt Bills 20 Apr 45 for action OC 27 Apr 45 PROCEEDINGS REVIEWED REVIEWING OFFICER, JAG BRANCH, CMHQ

Held at (place in full (nonentry)) Italy on (date(s)) 10 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1215 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D McAdam	Cdn Sec 1 Fch AFHQ
Member	Capt	E P McDonald	78 Cdn Gen Hosp
Member	Lieut	Edd Macleod	2 Cdn NETD
Judge-Advocate			
Prosecutor	Lieut	D M Nichol	2 Cdn NETD
Defending Offr	Lieut	G Clark	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (or) plea ..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accusrd may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accusrd may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accusrd see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accusrd and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accusrd see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to recon(proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-exanination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N D
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. MFB 253 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes on instructions (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to retract on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its gotnics, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 135, 182, RP 46-50, 69, 118, 119(A)(B), KR Can 30A, 32B, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 61(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 56A. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Dwm

CHARGE SHEET

The accused, B.73053, Private James Walton GODFREY, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 1800 hrs 24 Dec 44 absented himself without leave until about 1300 hrs 2 Jan 45.
(Total Absence: 8 days, 19 hrs).

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 1700 hrs 14 Jan 45 absented himself without leave until about 0001 hrs 2 Mar 45.
(Total Absence: 46 days, 7 hrs, 1 Min).

In the Field
30 Mar 45

D J Burgoyne
(D.J.Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.
1 Cdn Base Rft Group

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
[redacted]
9 Apr 45

J C Stewart
(J. C. STEWART) Brigadier
[redacted]
OIC Cdn Sec 1 Ech-AFHQ

Dem

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B73053	Pte		James Walton	GODFREY	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 9 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ Pte

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Pte

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ Pte

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	D W McADAM	(CIC)	Cdn Sec 1 Ech-AFHQ
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Capt to be detailed by OC 28 Cdn Gen Hosp

Capt or Lieut to be detailed by O.C. 2 Cdn NETD.	
(Rank.) (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 2 Cdn NETD	
(Rank.) (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) (J. C. STEWART) Brigadier (Rank.)

Date 9 Apr 45

~~Commanding~~ OIC Cdn Sec 1 Ech-AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

Exhibit D
Dlm

SUMMARY OF EVIDENCE

In the case of B.73053 Private GODFREY, J.W. No.2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS For the PROSECUTION

Captain T.B.Harrison, R.C.A., having been duly sworn, states:-

"I am Captain T.B.Harrison, R.C.A., attached to No.2 Cdn. N.E.T.D. I present a certified true copy of an extract from 48th Highlanders of Canada Part II Order No. 6 dated 15 Jan 45 (Appended hereto as Exhibit "A"); a Record of the Declaration of a Court of Inquiry dated 7 Feb 45 (Appended hereto as Exhibit "B") and a certified true copy of X-9 List Part II Order No. 22/45 (Appended hereto as Exhibit "C") all these documents pertaining to B.73053 Pte. Godfrey, J."

(T.B.Harrison) Capt.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

In the Field
28 March 45.

(E. D. Tutsell) Capt.
Officer detailed to take Summary of Evidence.

A
Deo

PART II ORDER EXTRACT FORM

TO: Officer Commanding
2 Cdn NETD (B)
Cdn Army (C.M.F.)

99/20/

26 Mar 19 45

EXTRACTS FROM: Unit 28TH HIGHLANDERS OF CANADA

Part II Order No. 6 dated 13 Jan 45

ABSENT WITHOUT LEAVE
(c) A.W.L. from 1800 hrs 24 Dec 44. Returned from A.W.L. 1300 hrs 2 Jan 45.
B 73053 Pte Godfrey, J.

THIS IS EXHIBIT "A" REFERED TO BY ME IN THE CASE OF B.73053 Pte. Godfrey, J.

(R. D. Hutsell) Capt.

Officer detailed to take Summary of Evidence.

The following documents are ~~attached. Please acknowledge receipt on attached duplicate.~~ ~~required. Please forward same.~~

Certified True Copy

Date of Certification March 27, 45

(D.M. Owen) Capt
Officer having custody of the original
Det Cdn Sec 2nd Echelon - AFHQ

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF B.73053 Pte. Godfrey, J.

(R. D. Russell) Capt. Officer detailed to take Summary of Evidence.

RECORD of the Declaration of a Court of Inquiry assembled at FIELD, ITALY on the 7th day of FEBRUARY, 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

B73053 Pte. GODFREY, J.W.

DECLARATION

The Court declare, B73053 Pte. GODFREY, J.W., "C" Coy, 48TH HIGHLANDERS OF CANADA, Canadian Army Overseas, CMF, illegally absented himself without leave (or other sufficient cause) in the Field, in ITALY, at 1700 hrs 14 JANUARY, 1945, that he is still so absent and that on the 6th FEBRUARY, 1945, was deficient and is still so deficient the articles on the u/m list:

Article	Vocab Price	Unexp Value
Blouses, BD 1	1 - 3 - 6	17 - 8
Trousers, BD 1 pr	1 - 14 - 1½	1 - 5 - 7½
Boots, ankle, 1 pr	1 - 4 - 5	18 - 2
Drawers, woollen, 1 pr	5 - 4½	4 - 0½
Greatcoat, drab, 1	2 - 11 - 7	1 - 17 - 8
Sweater, pullover, 1	6 - 0	6 - 0
Shirts, angola, drab 1	9 - 1	6 - 10
Dressing, Field 1	1 - 1	10
Tins, Mess, rect	1 - 7	1 - 2
Totals	£6 - 16 - 9	£5 - 14 - 0

Names of President and Members:

President: Capt. W.G. Burke-Robertson

Member: Lt. N.H. McMurrich

Member: Lt. I. Macdonald

Signature of Commanding Officer.

In the Field, ITALY,
7th February, 1945.

(D.A. MacKinnon, Lt.-Col,
Commanding Officer,
48 Highrs.

I certify this to be a True and Correct copy of the Record of the Declaration of a Court of Inquiry convened for the purpose of inquiring into the illegal absence without leave of B73053 Pte. GODFREY, J.W. of the 48th Highlanders of Canada.

Capt. & Adjt.
48th Highlanders of Canada

Dwm

MEDICAL OFFICER'S CERTIFICATE.
(K.R. (CAN) 557)

I certify that I have this morning examined No. B.73053 Pte GODFREY, J.W. of No. 2 Cdn N.E.T.D. 1 CBRGp and in my opinion is ~~fit/unfit~~ to undergo trial by Court Martial.

In the Field
10 Apr 45

J. M. McMartin Capt
.....
(Medical Officer).

THIS IS EXHIBIT "C" REFERRED TO BY ME IN THE CASE OF
B-73053 PTE. GODFREY, J.

(R. D. Hutsell) Capt.
Officer detailed to take
Summary of Evidence.

CERTIFIED TRUE COPY

C

Officer having custody
of the original.
Det Cdn Sec 2nd Echelon AFHQ

30 Mar 45

Last Order
No 21
13 Mar 45

X - 9 LIST
Part II Orders Issued By
Canadian Section, 2 Echelon, AFHQ

This Order
No 22
20 Mar 45

"A" OFFICERS

1. STRENGTH INCREASE
(a) T.O.S. from X-10 List C.I.C. 15 Mar 45 (Defending Officer at F.G.C.M.
Capt. N.S. Bergman Sask L.I.

2. STRENGTH DECREASE
(a) AMENDMENT - Part II Order No 21 para 2(c) of 13 Mar 45 insofar as it concerns the u/m is amended to read, "SOS to X-4 List 2 Cdn N.Q.T.D.(B)"
Lieut. D.D. Phelan CIC

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) T.O.S. from X-4 List Hast & PER (1 Inf Bn) 10 Mar 45, pending disc action
D122806 Pte Edwards, R.C.
H103981 Pte Forster, R.J.
B149005 Pte Hosinick, L.
C4086 Pte Jose, J.G.
B75468 Pte Kozak, M.T.
C6446 Pte Phillips, J.L.

(b) T.O.S. from Carlt & York Regt 14 Feb 45, pending disc action
G56788 Pte Driedelle, E.J.

(c) T.O.S. from X-3 List Carlt & York R 27 Feb 45, pending disc action
G17713 Pte Crowell, A.C.

(d) T.O.S. from X-4 List RCA "A" (3 Gen Bn) 14 Mar 45, pending disc action
B110107 Gnr Bisaillon, J.P.

(e) T.O.S. from X-4 List CB Highrs (1 Inf Bn) 13 Mar 45, pending disc action
B132572 Pte Durand, F.R.
A87233 Pte Durocher, S.J.
F55718 Pte Gear, J.F.

(f) T.O.S. from X-4 List RCA "A" (3 Gen Bn) 14 Mar 45, pending disc action
D11615 Gnr Jones, J.H.

(g) T.O.S. from X-4 List CB Highrs (1 Inf Bn) 13 Mar 45, pending disc action
F55168 Pte Sampson, F.
F40943 Pte Thibeault, B.J.

3. SUNDRY INCREASE (CONT'D)

(h)T.O.S. from X-4 List Westmr R (2 Inf Bn) 13 Mar 45, pending disc action
K47505 Pte Tulloch, F.J.

(i)T.O.S. from X-4 List Perth R (2 Inf Bn) 14 Mar 45, pending disc action
D27185 Pte Wasylyk, M.M.

(j)T.O.S. from X-3 List R22eR 26 Feb 45, pending disc action
D142176 Pte Paquin, L.J.A.

(k)T.O.S. from 48 Highrs Regt 2 Mar 45, pending disc action
B75715 Cpl Jones, W.M.

(l)T.O.S. from X-4 List CAC "D" (3 Can Bn) 15 Mar 45 Auth - As Shown

A44021	L/Cpl Graves, H.K.	Witness	
B63268	Tpr Perron, M.F.	Witness	Veh Mech(MV)"B"
B62274	Tpr Smyth, M.F.	Disc Action	Dr Mech(MV) "C"

(m)T.O.S. from Desertion on apprehension on dates and times shown

D118617	Gnr Ting, R.	1115 hrs	3 Mar 45
G17436	Pte Marquis, L.	1640 hrs	6 Mar 45
C21627	Pte Staffen, A.G.	(hr unknown)	7 Mar 45
C72424	Pte St Denis, J.R.L.	1700 hrs	2 Mar 45
G4664	Pte Pettis, W.A.	2345 hrs	5 Mar 45
B73053	Pte Godfrey, J.	(hr unknown)	2 Mar 45

(n)T.O.S. from 1 Can Inf Base Rft Bn(B) 12 Mar 45 Auth - Witness to FGCM
F34585 Cpl McKinlay, V.

(o)T.O.S. from X-4 List shown (1 Inf Bn) 13 Mar 45, whilst AWL

F76169	Pte McNeil, E.M.	CB Highrs
F60043	Pte Gaudet, J.I.	CB Highrs
B40295	Pte MacDonald, W.H.	West NSR

(p)T.O.S. from X-4 List RCASC "B" (3 Can Bn) 10 Mar 45, whilst AWL
M101537 Pte Brenner, G.H.J. Cook "B"

(q)T.O.S. from X-4 List Nfld & NSR (1 Inf Bn) 10 Mar 45, whilst AWL
C122134 Pte Connors, C.E.
E30709 Pte David, E.J.
C5078 Pte Grier, A.

(r)T.O.S. from X-4 List CAC "D" (3 Can Bn) 14 Mar 45, whilst AWL
C38301 Tpr Gagne, E.L.J.

(s)T.O.S. from X-4 List Westmr R (2 Inf Bn) 15 Mar 45, whilst AWL
C5377 Pte McMahon, F.F.

(t)T.O.S. from X-4 List RCASC "B" (3 Can Bn) 13 Mar 45, whilst AWL
F30090 Pte Connors, F. Cook "C"

5. PUNISHMENTS (CONTD)

(c)On 14 Mar 45 tried by F.G.C.M.
CHARGES: (1)AA 15(1) AWL from 0900 hrs 21 Apr 44 to 2000 hrs 26 Jan 45. Absent 280 days 11 hrs
FINDINGS: Guilty
SENTENCE: To undergo Detention for 9 months
CONFIRMATION: Findings & sentence confirmed by Comd 1 CMDp 16 Mar 45
CLOSE ARREST: Close arrest from 2000 hrs 26 Jan 45 to date of trial
FORFEITURES: Forf 281 days pay under FR&I 149(1)(a)
Forf 46 days pay under FR&I 149(1)(a)(i)
Forf 275 days pay under FR&I 149(1)(b)
Total forf 602 days pay

D63636 Pte Mallette, M. R22eR

(c)On 14 Mar 45 tried by F.G.C.M.
CHARGES: (1)AA 15(1) AWL from 2030 hrs 4 Jan 45 to 1640 hrs 19 Feb 45. Absent 45 days 20 hrs 10 min
FINDINGS: Guilty
SENTENCE: To be imprisoned with hard labour for 2 years
CONFIRMATION: Findings and sentence confirmed by Comd 1 CMDp 16 Mar 45
CLOSE ARREST: Close arrest from 1640 hrs 19 Feb 45 to date of trial
FORFEITURES: Forf 46 days pay under FR&I 149(1)(a)
Forf 23 days pay under FR&I 149(1)(a)(i)
Forf 730 days pay under FR&I 149(1)(b)
Total forf 799 days pay

F43671 Pte McLeod, C.M. West NSR

(d)On 14 Mar 45 tried by F.G.C.M.
CHARGES: (1)AA 15(1) AWL from 0700 hrs 11 Oct 44 to 0001 hrs 28 Dec 44. Absent 77 days 17 hrs 1 min
(2)AA 15(1) AWL from 0515 hrs 21 Jan 45 to 0001 hrs 25 Jan 45. Absent 3 days 18 hrs 46 min
FINDINGS: Guilty on both charges
SENTENCE: To be imprisoned without hard labour for 2 years
CONFIRMATION: Findings and sentence confirmed by Comd 1 CMDp 16 Mar 45
CLOSE ARREST: Close arrest from 0001 hrs 28 Dec 44 until 0515 hrs 21 Jan 45 and from 0001 hrs 25 Jan 45 to date of trial
FORFEITURES: Forf 82 days pay under FR&I 149(1)(a)
Forf 72 days pay under FR&I 149(1)(a)(i)
Forf 730 days pay under FR&I 149(1)(b)
Total forf 884 days pay

C4086 Pte Jose, J.G. Heat & PER

Dlew

3. STRENGTH INCREASE (CONT'D)

(u)T.O.S. from X-4 List RCA "A" (3 Gen Bn) 13 Mar 45, whilst AWL
A23269 Gnr McNulty, W.J. Sig Arty "C"

(v)T.O.S. from X-4 List Gen List (3 Gen Bn) 13 Mar 45, whilst AWL
C675 Gnr Anderson, W.B.

(w)T.O.S. from X-4 List L Edmn R (2 Inf Bn) 10 Mar 45, pending disc action
M7890 Pte Creighton, A.W.
M107698 Pte Hanson, R.
M28223 Pte Randall, T.A.
M93408 Pte Strasiuk, P.F.

(x)T.O.S. from X-3 Lists shown 16 Mar 45, pending disc action
B91435 Pte Asselin, P.J. RCAMC
B41722 Pte Brown, J. CIC
F40076 Pte Cooke, G.E. CIC
F44991 Pte Pound, G.A. RCASC

4. ABSENT WITHOUT LEAVE

(a)AWL from 2200 hrs 6 Mar 45. Still absent 2200 hrs 14 Mar 45
G24039 Pte Quinn, C.J. RCAMC (8th day)

(b)AWL from 0830 hrs 12 Mar 45. Still absent 0830 hrs 8 Mar 45
R57029 Gnr Albertin, O. RCA (1st day)
R103852 Tpr Levandosi, E.J. CAC

(c)AWL from 2200 hrs 7 Mar 45. Still absent 2200 hrs 8 Mar 45
G17436 Pte Marquis, L. CIC (1st day)

(d)AWL from 2359 hrs 27 Feb 45. Still absent 2359 hrs 28 Feb 45
G17713 Pte Crowell, A.C. CIC (1st day)

(e)AWL from 2200 hrs 7 Mar 45. Still absent 2200 hrs 15 Mar 45
G17436 Pte Marquis, L. CIC (8th day)

(f)AWL from 2359 hrs 27 Feb 45. Still absent 2359 hrs 7 Mar 45
G17713 Pte Crowell, A.C. CIC (8th day)

5. PUNISHMENTS

(a)On 26 Jan 45 tried by F.G.C.M.

CHARGES: (1)AA15(1) AWL from 0800 hrs 13 Dec 44 to 0920 hrs 11 Jan 45. Absent 29 days 1 hr 20 min.

FINDINGS: Guilty

SENTENCE: To undergo Detention for 9 months

CONFIRMATION: Findings confirmed and sentence commuted to read, "To suffer F.P. for 90 days," by DEMS 1 Cdn Corps 2 Feb 45

CLOSE ARREST: Close arrest from 0920 hrs 11 Jan 45 to date of trial

FORFEITURES: Forf 30 days pay under FR&I 149(1)(a)
Forf 90 days pay under FR&I 149(1)(b)
Forf 14 days pay under FR&I 149(1)(c)(i)
Total forf 134 days pay

K98149 Pte Quissy, E. Seaforth of C

6. STRENGTH DECREASE (CONT'D)

(g)S.O.S. to X-2 List CIC 18 Feb 45 on comm to 2 Cdn Fd Punishment Camp (Awd 90 days F.P. by FGCM 26 Jan 45)

K98149 Pte Guisay, L.

(h)S.O.S. to X-2 List C.I.C. 15 Mar 45 on comm to Central Guard Rome. Awarded sentence shown by FGCM on dates shown

F97582	Pte Baker, O.	2 yrs imprisonment without hard labour 9 Nov 44
B37505	Pte Cooper, L.R.	2 yrs Detention 2 Mar 45
M7890	Pte Creighton, A.W.	2 yrs imprisonment with hard labour 12 Jan 45
K54451	Pte Dixon, D.	6 months Detention 23 Nov 44
M107690	Pte Hammon, E.	1 yr imprisonment with hard labour 16 Feb 45
B51922	Pte Kerb, G.D.	6 months Detention 3 Mar 45
K50111	Pte Jefferys, E.J.	6 months Detention 2 Mar 45
B113297	Pte Johnson, B.E.	18 months Detention 2 Mar 45
K69175	Pte Keenan, J.M.	2 yrs imprisonment with hard labour 23 Feb 45
D26340	Pte Lee, H.M.	1 yr imprisonment with hard labour 23 Feb 45
D166343	Pte Mulcahey, J.M.	180 days Detention 16 Feb 45
L2305	Pte McKinley, L.J.	90 days Detention 23 Feb 45
D57494	Pte Pageau, J.Y.B.	18 months imprisonment with hard labour 27 Jan 45
M28223	Pte Randall, T.A.	1 yr imprisonment with hard labour 28 Feb 45
L103306	Pte Skipper, H.J.	18 month Detention 2 Mar 45
C53636	Pte Spicer, L.W.	90 days Detention 2 Mar 45
B88176	Pte Watts, W.J.	180 days Detention 23 Feb 45

(i)AMENDMENT - Part II Order No 19 para 6(n) of 19 Mar 45 insofar as it concerns the u/m is hereby cancelled

B63683 Pte Harrison, R.W.G. RCASC

W.H. Laughlin

(W.H. Laughlin) Capt.
for Officer i/c
Canadian Section 2 Echelon - AFHQ

ZED

5. PUNISHMENTS (CONT'D)

(e) On 14 Mar 45 tried by F.G.C.M.

CHARGES: (1) AA 15(1) AWL from 0830 hrs 11 Aug 44 to 1400 hrs 7 Sep 44. Absent 27 days 5 hrs 30 min

(2) AA 15(1) AWL from 0800 hrs 15 Sep 44 to 2215 hrs 23 Jan 45. Absent 130 days 14 hrs 15 min.

FINDINGS: Guilty on both charges

SENTENCE: To undergo Detention for 180 days

CONFIRMATION: Findings and sentence confirmed by Comd 1 CBRGp 16 Mar 45

CLOSE ARREST: Close arrest from 1400 hrs 7 Sep 44 to 0800 hrs 15 Sep 44 and from 2215 hrs 23 Jan 45 to date of trial

FORFEITURES: Forf 159 days pay under FR&I 149(1)(a)
Forf 56 days pay under FR&I 149(1)(c)(i)
Forf 180 days pay under FR&I 149(1)(b)
Total forf 395 days pay

A22318 Pte Bemis, H.R. Sask LI

(f) On 12 Mar 45 tried by F.G.C.M.

CHARGES: (1) AA 15(1) AWL from 2200 hrs 28 Jan 45 to 2030 hrs 8 Mar 45. Absent 38 days 22 hrs 30 min

FINDINGS: Guilty

SENTENCE: To undergo Detention for a period of 120 days

CONFIRMATION: Findings and sentence confirmed by Comd 1 CBRGp 13 Mar 45

CLOSE ARREST: Close arrest from 2030 hrs 8 Mar 45 to date of trial

FORFEITURES: Forf 39 days pay under FR&I 149(1)(a)
Forf 4 days pay under FR&I 149(1)(c)(i)
Forf 120 days pay under FR&I 149(1)(b)
Total forf 163 days pay

M53408 Pte Stasiuk, P.F. L Edmn R

6. STRENGTH DECREASE

(a) S.O.S. to X-4 List RCA 2 Gen NETD(B) 9 Mar 45 on release from Central Guard Room (Sentence expired)

B6271 Gnr Gillooley, G.J. Equip Repairer "C"

(b) S.O.S. to X-4 List CAC (3 Gen Bn) 13 Mar 45 on returning from AWL

B23874 Tpr McCreedy, A.R.

(c) S.O.S. to X-8 List 17 Mar 45 Auth - Evac Certificate

F55718 Pte Genr, J.F. CIC

(d) S.O.S. to X-3 List RCE 13 Mar 45

M35298 Spr Hayden, J.M.V.

(e) S.O.S. to X-3 List RCEME 13 Feb 45

B94561 Cfn Turpin, J.R.

(f) S.O.S. to X-3 List RCA "A" 13 Feb 45

B110107 Gnr Bisaillon, J.P.

E

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
B.73053	PTE	James Walton GODFREY	# 2 Cdn N.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 15(1) 7 times.

For A.A. Sec 40 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 4 July 40

Date of last entry in Field Conduct Sheet 20 Sept 43

2. ~~Previous convictions of the accused~~ Fwd

*3. ~~[illegible]~~ Fwd

*Strike out if not applicable

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 38 days in military custody, i.e., NIL days in open arrest, 38 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 25

6. The date of his attestation is 13-9-39

7. ~~[illegible]~~ Fwd

8. The accused is in possession of † CVSM & CLASP.

†State the military decorations (if any) held by accused.

9. ~~[illegible]~~ Fwd

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~ Fwd

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 51-432 7 Ltd. Form B.296/War 22

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10TH day of APRIL 45

Geo W Akehurst Capt & Adjt.
(G.W.Akehurst) Officer i/c
Regtl Books & Records 2 Cdn METD.

DLVB

PLEA OF MITIGATION

In the case of: B.23053, Pte GODFREY, J.

Mr President and members of the Court:-

You have before you Pte Godfrey, who has pleaded guilty of absenting himself illegally from duty while in the field in Italy. This is indeed a serious charge that must be dealt with justice to the army and also to him.

Before you pass a sentence in this case I would like the Court to know a few facts in respect to the accused, and his offence.

Pte Godfrey enlisted in the army at 20 in Sept 1939. He has been serving overseas since December 1939. Throughout his long service he has but few minor charges on his crime sheet. He is married in Canada, and is the father of one child.

He landed in this theatre on D-Day in Sicily, and has never been out of the field since that time.

Last winter while in Ortona he was informed by his father that his wife had given birth to a child, and later on that his own baby was sick in hospital. He then saw his adjutant for the service of the welfare department of the army, and also for a compassionate leave to Canada.

Last fall, twice he was told, first by his CSM and later by the Company Orderly-Room Sergeant that his leave had came through, and to pack his kit. But was never sent to Canada. Later in December when the Rotation-leave came into effect he was left out of the first two drafts.

Up to that time his moral was good, and stood up to the grind of battle, but at that point he broke down and went AWL.

For these reasons, I would ask the Court to be very lenient, and understanding before giving out a sentence.

.....

Blank

LIST OF WITNESSES

In the case of B.73053, Private James Walton GODFREY, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. Capt T.B. Harrison, RCA -- Att 2 Can N.E.T.D.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

1. Exhibit "A" -- Certified true copy of an extract from 48th Highlanders of Canada Part II Order No. 6 dated 13 Jan 45.

2. Exhibit "B" -- Record of the Declaration of a Court of Inquiry dated 7 Feb 45.

3. Exhibit "C" -- Certified true copy of X-9 List Part I Order No. 22/45.

I, B.73053, Private James Walton GODFREY, request that my Commanding Officer appoint Lt. G. Clark to defend me at my forthcoming trial by Field General Court Martial.

DATE 31 Mar 45 J.W. Godfrey
(J.W.Godfrey).

ACCUSED'S RECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET.

I, B.73053, Private James Walton GODFREY, acknowledge receipt of a copy of Summary of Evidence and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

DATE 31 Mar 45 J.W. Godfrey
(J.W.Godfrey)

No. B.73053 Name GODFREY, J. | Sqn, Battery or Company | Corps CIC. | Date of enlistment 13.9.39. | GC Badges | Service or Proficiency Pay 1.50. | MFM 6 (AFB 122) 40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL		7 days CB	4 Jul 40	OC 48 Higrs	Forf 1 days pay.
Field		Pte		AA 15(1) AWL		7 days ~~XX~~Pay	17 Mar 41	OC 48 Higrs	
Field		Pte		AA 15(1) AWL		7 days CB	21 Apr 41	OC 48 Higrs	Forf 1 days pay.
Field		Pte		AA 15(1) AWL		168 hrs Detn	17 May 41	OC 48 Higrs	Forf 6 days pay.
Field		Pte		AA 15(1) AWL from 1800 hrs 15 Aug 42 to 1900 hrs 29 Aug 42 (absent 14 days, 1 hr).		Forf 30 days pay.	1 Sep42	OC 48 Higrs	
Field		Pte		AA 15(1)		7 days CB	6 Oct42	OC 48 Higrs	Forf 1 days' pay.
Field		Pte				5 days CB	1 Jun43	OC 48 Higrs	Forf 1 day's pay.

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 40		Forf 28 days' pay.	20 Sep 43	OC 48 Hlgrs.	

" Certified to be a true copy from the Regtl Books in my Custody."

G.W.Akehurst Capt & Adjt.
(G.W.Akehurst)
Officer i/c Regtl Books & Records.
2 Cdn H.E.T.D.

00-39
GNR GODFREY S.E.

00.39 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Sixteenth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 5 Canadian Armoured Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible]] 1034

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [illegible] } 1034

*Omit if not applicable.

Proceedings Reviewed

E.H.McDonald Capt

Revising Officer

1 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.C.O. Dunbar	4 Cdn A Tk Regt

Members.

Rank.	Name.	Regiment.
Capt.	to be detailed by	5 Cdn LAA Regt
Lieut.	to be detailed by WAITING MEMBER	4 Cdn A Tk Regt
Lieut.	to be detaile by JUDGE ADVOCATE	17 Cdn Fd Regt
Capt.	G.M. Morrison	HQ 5 Cdn Armd Div.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed R. O. G. Morton

Commanding CRA 5 Cdn Armd Div

Convening Officer.

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-11200 Gnr. Stanley, Ernest, GODFREY 17 Cdn Fd Regt., RCA	First Charge A.A. Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.	Guilty	Guilty To undergo 50 days Detention and to be placed under stoppages of pay in the amount of £1-6-0 costs of apprehension Angus Dreuber Major President	Confirmed [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) R. D. G. Morton Maj (*Signed*) Angus Dreuber Major

Commanding CRA 5th Ind Div *President.*
Convening Officer (e) G. McCorrison Capt. Judge Advocate

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

29

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of August, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court and Judge Advocate
2. The witnesses and Stenographer

*(~~3. The Interpreter~~) AD

*(~~4. The officers under instruction~~) AD.

were duly sworn.

*Omit if not applicable.

Signed this 25th day of August 1943.

Angus Dunbar Major

President of the Court Martial.

Guardhouse Capt Judge advocate

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

AD Signed this ~~day of~~ 19 .

AD

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) RDG

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 27 day of August 1943.

R.O.G. Morton Brig.

Confirming Officer.

CRA & CDN ARMD DIV

Promulgated and extracts taken in the case of the accused

(a) (Dated) 31 Aug 43 (Signed) R.C. Pulchrist Major RCA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) WL.40179/950 50,000 2/43 A.&E.W.Ltd. Gp.498
(24256) WL.11182/74 100,000 5/43 " "

LISTS OF EXHIBITS

For the Prosecution

Exhibit "A" - Certificate under A.A. Sec 163 (1) (j)

Exhibit "B" - CMHQ 1000:55 Costs of apprehension and return

Exhibit "C" - " " " " " " " "

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1215-20)
H.Q. 1772-30-1652

No. H11200 Name Godfrey, S.E. Sqn., Battery, or Company Corps RCA Date of enlistment 8 Dec 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. [signature] Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Oct 42	Gnr		A.A. Sec 15 (1) Absenting himself without leave from 0600 hrs 19 Oct 42 to 0300 hrs 23 Oct 42 (Absent 3 days 18 hrs 30 mins)	L/Bdr Blayney L/Sgt Harris	10 days F.P.	24 Oct 42	G.T. Inch Lt-Col.	Forfeits 4 days pay for absence Forfeits 10 days pay for time in detention.
Field	20 Mar 43	Gnr		A.A. Sec 15 (1) Absenting himself without leave from 1900 hrs 20 Mar 43 until 2310 hrs 1 Apr 43 (Absent:12 days, 4 hrs, 10 mins)	Sgt Robertson S.A.	28 days F.P.	5Apr43	R.W. Armstrong Lt-Col. RCA	Ftfts 13 days pay for absence Ftfts 28 days pay for time in detention

12 Aug 43

CERTIFIED TRUE COPY [signature] .....Major. RCA.....
Cmdg 37 Fd Bty R.C.A.

(P.T.O.)

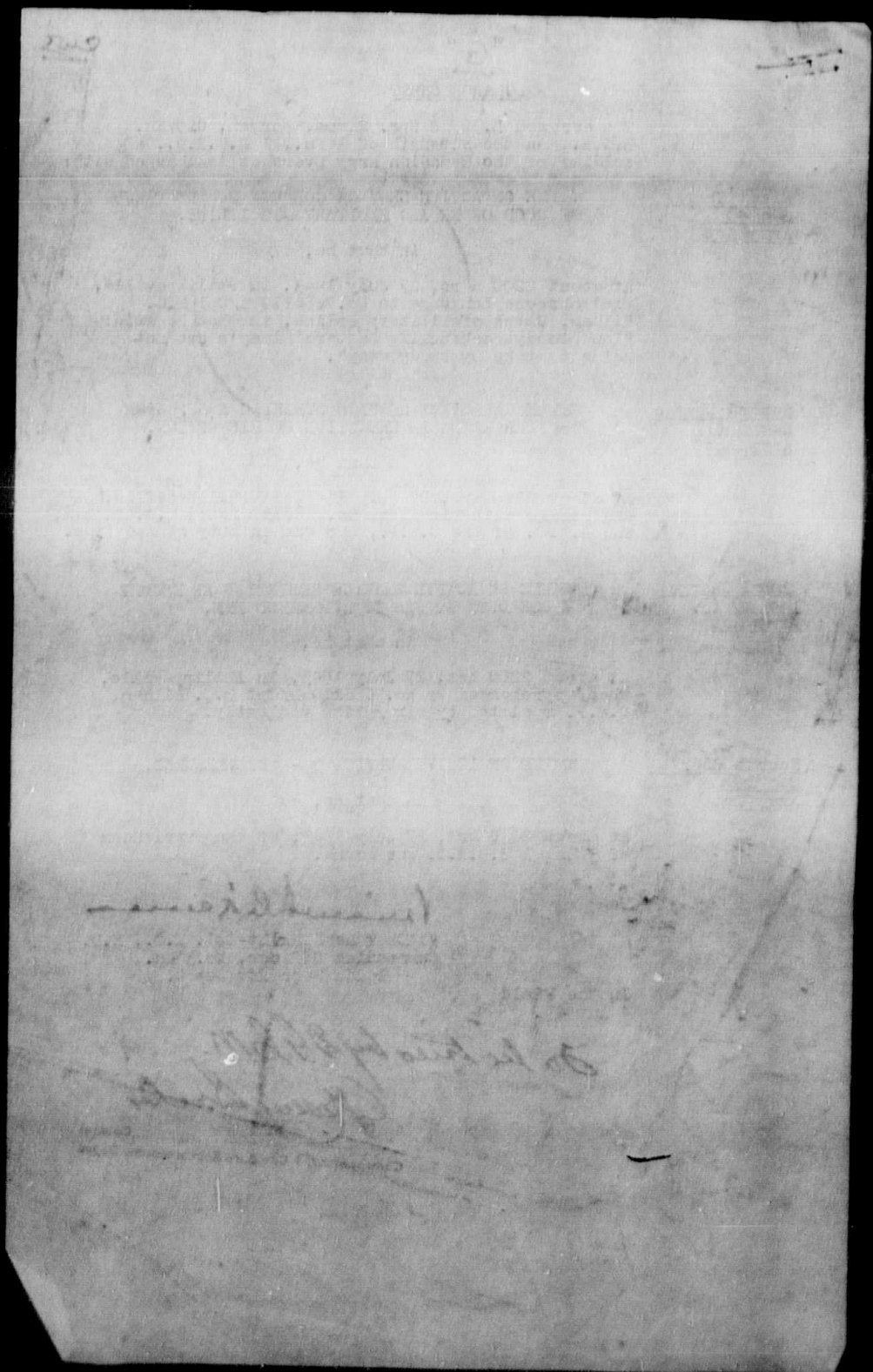
No. H-11200 Name Godfrey, S.E. Sqn., Battery or Company N/A Corps RCA Date of enlistment 8 Dec 39 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc.

MFM. 6 (A.F.B. 122)

Plate	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of or her dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 11 Nov 42- Last entry 20 Feb 40- Cases drunkeness- Nil					
Field	17 Aug 40	Pte		A.A.Sec 15 (1) Absenting himself without leave for 3 days	L/Sgt Hogarth, Cpl Hulson Sgt Nichols	7 days detention	20 Aug 40	G.E.McCartney Lt-Col.	Forfeit 3 days pay for absenc
Field	18 Jul 41	Pte		A.A.Sec 15 (2) Absenting himself without leave from 2359 hrs 19 Jul 41 to 0745 hrs 20 Jul 41 (Absent 7 hrs 45 mins)	Cpl Stewart C.A. Pte McRae,M	7 days C.B.	21 Jul 41	B.A.McPherson Capt.	Forfeits 7 days pay for time in detention.
Field	1 Aug 41	Pte		A.A.Sec 15 (1) Absenting himself without leave from 2300 hrs 1 Aug 41 to 0515 hrs 2 Aug 41. (Absent 9 hrs 15 mins)	Sgt Nichols L/Cpl Durack	7 days F.P. Forfeits 9 days pay FR&I 149(2)	4 Aug 41	G.A.Sinclair Lt-Col.	Forfeits 1 days pay for absence Forfeits 7 days pay for time in det

Place	Date of offence	Rank	Cause of drunkenness	Offence	Name of Offender	Punishment awarded	Date of award or of order dispensing with trial	To whom awarded	Remarks
Field	11 Jan 42	Pte		A.A.Sec 40 "Improperly dressed when checked by Cdn Provost Corp at Piccadilly Circus at about 1950 hrs 11 Jan 42	L/Cpl Hannah L/Cpl Ross	3 days C.B.	16 Jan 42	E.C.Cape	
Field	16 May 42	Pte		A.A.Sec 11 "Neglecting to obey Unit standing orders, did gamble in barracks.	Capt. E.D. Rathbone	7 days C.B. Extra Guards	16 May 42	G.Curry Major	
Field	17 Jul 42	Pte		A.A.Sec 15 (2) Failing to appear at the place of parade appointed by his C.O.	Sgt.Stewart C.A.	3 days C.B.	18Jul42	(Not known)	
Field	31 Jul 42	Pte		A.A.Sec 15 (1) Absenting himself without leave for 2 days 14 hrs	Sgt.Harris L/Bdr Criss	6 days F.P.	4 Sep42	A.E.Fort	Forfeits 3 days pay for absence Forfeits 6 days pay for time in detn



"G"

CHARGE SHEET

The accused B.39760 Sgt. James Norman, GLOVER, R.C.E., on the strength of 3 Bn., 1 C.B.R.D., a soldier of the Canadian Army Overseas is charged with:

First Charge
Sec 40
Army Act

WHILE ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

At about 2200 hrs, 27 July 1943, in Philippeville, used obscene language to No.7686110 L/Cpl H.C. Bilham, Corps of Military Police, in that he said: "You bloody cocksucking bastard Limey's are not going to take my buddy away".

Second Charge
Sec 9 (1)
Army Act

WHILE ON ACTIVE SERVICE STRIKING A SUPERIOR OFFICER BEING IN EXECUTION OF HIS OFFICE,

in that he,

At about 2200 hrs, 27 July 1943, in Philippeville, did strike with his fists No.7686110 L/Cpl H.C. Bilham, and N.C.O. of the C.M.P., who was on duty at the time.

Third Charge
Sec 10 (1)
Army Act

WHILE ON ACTIVE SERVICE RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM,

in that he,

At about 2200 hrs, 27 July 1943, in Philippeville, when apprehended by No.7686110 L/Cpl H.C. Bilham, C.M.P. resisted by struggling violently.

Fourth Charge
Sec 15
Army Act

WHILE ON ACTIVE SERVICE - DRUNKENNESS,

in that he,

At about 2230 hrs, 27 July 1943, at the guard Room of 3 Bn, 1 C.B.R.D. was drunk.

VINCENT McELHINA) Lt-Col. M.C., E.D.
Commanding Officer, No.3 Bn.,
1 Cdn Base Rft Depot.

In the Field
4 Aug 43.

To be tried by D.G.B.M.

Colonel
Commandant, 1 Cdn Base Reinforcement Depot

LIST OF WITNESSES

FOR THE PROSECUTION

1. B-10033 L/Bdr. Donald SMITH,
   37 Bty, 17 Fd Regt R.C.A.
   Cdn Army Overseas

2. H-54628 Sgt. John TAFE
   37 Bty, 17 Fd Regt R.C.A.
   Cdn Army Overseas

3. Capt. J.L. Wallace
   17 Fd Regt R.C.A.
   Cdn Army Overseas

FOR THE DEFENCE

NIL

M.F.B. 359
22M—5-41 (372-3)
H.Q. 1772-39-6(2)
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-11200	Gnr	GODFREY, Stanley, Ernest 17 Fd	Regt R. C. A.

1. The following is a fair and true summary of the entries in the FIELD ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A. A. Sec 15 (1) 3	times	A. A. Sec 15 (1) 6	times
For		times	A. A. Sec 40 1	times
For		times	A. A. Sec 11 1	times
For		times	A. A. Sec 15 (2) 1	times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[redacted]

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for [redacted] in [redacted] custody, and 16 days in military custody, making a total of 16 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] is attestation paper is 26 yrs, 8 mos

6. The date of his [redacted] specified in his [redacted] attestation attestation paper 8 Dec 1939

7. The service which the accused is allowed to reckon towards discharge is 3 8/12 yrs

8. The accused is entitled to reckon 3 8/12 service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward [redacted]

[redacted]

10. [redacted]

12/

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit ..... ~~dated~~ ....., ~~and in his regiment (or corps) the rank of~~ ..... ~~dated~~ .....

~~12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.~~

..... Date of promotion.

~~In the rank of~~ ..... ~~years~~

~~In the rank of~~ ..... ~~years~~

~~In the rank of~~ ..... ~~years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number H11200 Rank Gnr Name Godfrey, S.E. of 17 Fd Regt R.C.A. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 th day of August 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

[signature] Capt

ADJUTANT, 17th FIELD REGIMENT
R.C.A.

17

QUESTIONS TO THE ACCUSED

1. "Do you wish to make any statement or give evidence upon oath?
You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make a statement.

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been duly complied with.

G.M. Forbes Lt.

(G.M. Forbes) Lieut RCA

Taken down by me in the presence and hearing of the accused in the Field this 12th day of August 1943.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H-11200, Gnr. Stanley Ernest GODFREY, 37 Fd Bty, 17 Fd Regt R.C.A., a soldier of the Cdn Army Overseas.

-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-

FIRST WITNESS:- B-10033 L/Bdr. Donald Smith, 37 Bty, 17 Fd Regt R.C.A. having been duly sworn deposed as follows:

"On 19th July 1943, I was NCO in charge of "C" Troop Right Section hut, in the 37 Bty, 17 Fd Regt R.C.A.,
At 2300 hrs, 19 July 1943, I called the roll and Gnr. Godfrey, S.E., the accused, was absent. I checked at the Guard Room and he had checked out but not in. I turned in his name as an absentee to the Orderly Bombardier.

D. Smith.

(B-10033 L/Bdr. Smith, D.)

The accused declined to cross examine the witness.

SECOND WITNESS:- H-54628 Sgt. John Tafe, 37 Bty, 17 Fd Regt R.C.A., having been duly sworn deposed as follows:-

"I am NCO in charge of "B" Sub-section "C" Troop, 37 Bty, 17 Fd Regt R.C.A., of which Gnr. Godfrey, S.E., the accused, is a member. I called the roll on the morning of July 20th, 1943 and each succeeding morning until August 12th, 1943, Gnr. Godfrey, S.E., was absent each day.

J. Tafe.

(H-54628 Sgt. Tafe, J.)

The accused declined to cross examine the witness.

THIRD WITNESS:- Capt. J.L. Wallace, 17 Fd Regt R.C.A., having been duly sworn deposed as follows:-

"I am Adjutant, 17 Fd Regt R.C.A. I produce certificate under A.A. Sec 163 (1)(j), marked Exhibit "A" refering to H-11200 Gnr. Godfrey, S.E. the accused. Also Expense Vouchers marked Exhibit "B" and Exhibit "C".

J.L. Wallace

(J.L. Wallace, Capt. RCA)

The accused declined to cross examine the witness.

Expense Voucher Re— [redacted] Ref: R.R. & O. (Can) 539 23

Reg. No. H/1200 Rank Gnr. Name Godfrey, L.E. Unit 1 Fld Regt R.C.A.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
11 Aug 43	Escorts return fare from LONDON To Diss		14	8
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Diss		7	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	2	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Crayons Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

Expense Voucher Re— Exhibit "B" Ref: K.R. & O. (Can) 539 21

Reg. No H112200 Rank Gnr. Name Godfrey, J.C. Unit R.Fld.Regt. R.C.A.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Brighton

Date	Particulars	Amount		
11 Aug 43	Escorts return fare from LONDON To Brighton	Own Ticket		
	Prisoners single fare to LONDON From Brighton		4	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		4	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L.S. Simpson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Exhibit "A"

Sm2

Exhibit "B"

Sm3

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (I) (J)

I, ...W. FERN. CAPT. (D.H.P.N.)..... certify that 19

Reg. No. H 11200 .....Rank Gnr. Name Godfrey, S.E.

REGIMENT ROYAL CANADIAN ARTILLERY (5 CDN ARMD DIV)

UNIT .....37nd Bty 17th Fld Regt.

STATIONED AT .....

Surrendered himself to No.....Rank Cpl. Name Dench, S.J.

of the CORPS of MILITARY POLICE. (BRIGHTON & HOVE)

on the 2.... day of August 1943, at 2245 hrs hours Brighton.

.....AS AN ABSENTEE WITHOUT LEAVE .....

at the time of his surrender he was wearing (Military Uniform) or (Civilian Clothes)'

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on surrender. (Strike out part inapplicable)'

LONDON
11 Aug 43.

L. S. Crayon. Lieut.
for Lieut. Capt.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

The President complies with R.P. 35(B) by ascertaining that the accused understands the nature of the charge and his plea thereto, explaining the difference in procedure by his plea and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

The finding of the Court is recorded on page 2 of AFA 3.

President to accused

Q. 3 Do you desire to make any statement of the circumstances in reference to the charge?
A. 3 No, sir.

The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

President to accused

Q. 4 Do you wish to make any statement in mitigation of punishment?
A. 4 Yes, sir.

The accused makes the following plea in mitigation of punishment:

"I applied for my leave about 22 months ago and the Bty Captain told me that I should wait for my leave until my wife went to the hospital. He practically promised me that I would get it when my wife went to hospital. That was on the 16th of July that my wife went to hospital. When I came back off the scheme I had a telegram which was three days overdue. I went up to the orderly room about this and asked whether my leave had gone through. The Battery Captain said it had not gone through. I applied for a 48 hours pass and it was also turned down so I took it and went to see my wife. My last leave was a 7B hour leave which I received when I first made application for my 7 day leave. I am 26 years old and have been married a year this October. My wife lives in Brighton with her married sister."

President to accused

Q. 5 Do you wish to give evidence yourself or to call any witnesses as to character?
A. 5 No, sir.

Statement of Character and Service, and Field Conduct Sheet, signed in the manner required by A.A. 163(1)(b) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, signed by the President and attached to the proceedings.

President to accused

Q. 6 Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment?
A. 6 No, sir.

The President announces:

"The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated."

The Court is closed to consider the sentence.

The sentence is recorded, dated and signed by the President on page 2 of AFA 3.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 25th day of August, 1943.

G. [illegible] Captain
Judge Advocate

Record of Proceedings of a Field General Court Martial

Held in the Field in England on 25th August, 1943, to try

H11200 Gnr Stanley Ernest GODFREY, 17 Cdn Fd Regt RCA, 5 Cdn Armd Div,

PRESIDENT
Major A.C.O. Dunbar 4 Cdn A Tk Regt RCA

MEMBERS
Captain C.D. Munro 5 Cdn LAA Regt RCA
Lieutenant J.W. LeBreton 4 Cdn A Tk Regt RCA

JUDGE ADVOCATE
Captain G.N. Morrison ADJA 5 Cdn Armd Div

PROSECUTING OFFICER
Lieut. G.W. Forbes 17 Cdn Fd Regt RCA

DEFENDING OFFICER
Lieut. J.V.C. Dowling 17 Cdn Fd Regt RCA

The President produces the Convening Order, Charge Sheet and Summary of Evidence.

The President, in closed court, reads the Convening Order and the Charge Sheet to the Members, and the Court satisfy themselves that it is properly convened and constituted, that the accused is amenable to Military Law, and that the charge discloses an offence.

The accused is brought before the Court and at 1030 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under R.A.(Can)587 that the accused has this day been examined and is fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

President to accused

Q. 1 Do you object to A87385 Sgt B.W. Manhaffer, CMSC, HQ 5 Cdn Armd Div, acting as shorthand writer?
A. 1 No, sir.

The shorthand writer is duly sworn.

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused and they severally answer to their names.

President to accused

Q. 2 Do you object to be tried by me as President or by any of the officers whose names you have heard read over?
A. 2 No, sir.

The President, Members and Judge Advocate are duly sworn.

The Prosecuting Officer informs the Court that the accused has not elected trial by Court Martial.

The charge is read to the accused and he is asked as the charge is read whether he pleads guilty or not guilty. He pleads as follows:

First Charge - Guilty

No. 13

OFFICE STAMP

Charges to pay

[redacted] d.

RECEIVED

POST OFFICE

TELEGRAM

Prefix. Time handed in. Office of Origin and Service Instructions. Words.

19

TRA

From

319 4.2 BRIGHTON Y 21

To

GNR S E GODFREY H 11200 37 FIELD BTY 17 REGT

RCA BASE PO ENGLAND CANRECORDS W 3 =

WIFE IN HOSPITAL BABY DAUGHTER +

H 112 HUND ONE 37 17 W 3 +

Augus [illegible]

Prosecutor

free repetition of doubtful words telephone "TELEGRAMS ENQUIRY" or call, with this form of delivery. Other enquiries should be accompanied by this form and, if possible, the envelope.

Dunger Dunba
Major
President

5

MEDICAL OFFICERS' CERTIFICATE

I hereby certify that H.11200 Gnr. Godfrey, Stanley Ernest, 37 Fd Bty, 17 Fd Regt R.C.A. is fit to undergo trial by Court-Martial.

Date 25 Aug 43

R.W. Barron Capt. Capt. RCAMC
FOR M.O. 17 Fd Regt R.C.A.

Angus Dunbar
Major
President

3

CHARGE SHEET

The accused H-11200 Gnr GODFREY, Stanley, Ernest, 37 Fd Bty, 17 Fd Regt R.C.A., Cdn Army (Overseas), at present on the strength of the 17 Fd Regt R.C.A., is charged with, when on Active Service:-

ABSENTING HIMSELF WITHOUT LEAVE

First Charge
Army Act
Sec 15 (1)

in that he at 2300 hrs 19 July 1943, absented himself without leave until 2245 hrs 9 August 1943, when he surrendered himself to the Military Police at Brighton.

(Total absence 20 days, 23 hrs, 45 mins)

(Cost of apprehension and return £1-6-0)

Dated in the Field
this 12th day of
August 1943

R W Armstrong
(R. W. Armstrong) Lt-Col, RCA
Comd 17 Fd Regt R.C.A.

To be tried by Field General
Court Martial

R. O. G. Morton
Brig

Dated in the Field
this 23rd day of Aug
1943.

4M-14

Pte. Godfrey L.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H11200 Pte Stanley Ernest GODFREY - CIC - 2 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings: see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 28 days FP No 1 Pay beginning on (date) 22 Nov 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which 7/14 days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Ninety (90) days and to be put under Stoppages of pay unless he has made good the loss of his Coats Greatcoat

(Sgd) ..... Judge Advocate, if any. 27 Dec 44 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

Date 30 Dec 44 (Sgd) Blackader Brig Comd 13 Corps Troops Bde Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H-11200 Pte Stanley Ernest GODFREY	8 Jan 45	(AJA Baxter) Maj Adm Offr 2 CITR

LETTERED DATE 9 Jan 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CONFIDENTIAL IN AB 160 4/17-14

FIELD GENERAL COURT-MARTIAL

CPA38 (To Use of APAR) 40/P & B/1688 (C) (44)
4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITR dated 20 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 329, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H11200	Pte	Stanley Ernest	GODFREY	CIC 2 CITR

PROCEEDINGS REVIEWED cpl 27 Jan 45 K Ker Stacey Lt Col DJAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 27 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding form number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(1), accused is (are) amenable to military law, and each charge discloses an offence.(2)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO:(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For offrs see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans .....(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R Pemberton Esq	MC RA
Member	Capt	H B Wilson	2 C S J R
Member	Capt	R Cooper	2 C S J R
~~Judge Advocate~~			
Prosecutor	Lieut	A de Penia	2 C S J R
Defending Offr	Lieut	D B Corfe	2 C S J R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment make(s) (two) (no) plea(s) .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 52(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or as to one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 40s as record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ..., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 85(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....
Do you intend to call witnesses on your behalf?
Ans.....
Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 45, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ... and Ex ... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 99, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 2203, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. H 11200 Pte. Stanley, Ernest GODFREY CIC, on strength of 2 Cdn. Inf. Trg. Regt., a soldier of the Canadian Army Overseas, is charged with:-

SEC 15(1) ARMY A.T.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

In that he

In the Field, at 1500 hrs 25 Nov 44 whilst undergoing Field Punishment did absent himself without leave until apprehended at 2030 hrs 4 Dec 44. Thereby incurring costs of apprehension and return in the amount of 0-9-4.

(Total absence: 9 days, 2 hours, 30 min).

Laurentide Camp
8 Dec 44

(J.A. Wilson) Col
Comdr
2 C.I.T.R.

To be tried by Field General Court Martial.

In the Field
20 Dec 44

(K.G. Blackader) Brig
Comd
13 Cdn Inf Trg Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H11200	Pte		Stanley Ernest	GODFREY	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Dec 44 endorsed by me, (~~for any of the~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to convene for the purpose an ordinary General~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I direct Major to appear (a) Test Officer for the Court, as a Fd Offr as President, for the purpose stated~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate for the aforesaid purpose~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	E M MILLER		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer		2 CITR
Lieutenant	to be detailed by Commanding Officer		4 CITR

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer		4 CITR

~~JUDGE ADVOCATE~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 20 Dec 44

K G Blackader
(Signed personally. RP 105 fn 2.)
(K G Blackader)
Commanding 13 Cdn Inf Trg Bde
Convening Officer.

Brigadier
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (in lieu of AFA3)
60-7 & 67-1687 14611

(See overleaf for oaths and notes for use on trial.)

PLEA OF MITIGATION

for

H.11200, Pte. Godfrey, S.E. (CIC)

Pte. Godfrey, S.E., the accused, is a married man with a wife and two children to support in England. He enlisted on 8 Dec 39, and has seen action twice; first, in 1940 at Brest with the 4th Field Ambulance; and the second time, in Normandy, with the Algonquin Regt., where, after 5 weeks of action, he was evacuated wounded. He is at this time A1 category.

The accused is before the Court today on a charge of A.W.L. and his Charge Sheet shows that as far back as to 1940 (previous records destroyed) A.W.L.'s have been his ~~only~~ misdemeanours. Since his marriage in October 1942, the accused had only one motive prompting him being A.W.L.

Pte. Godfrey, S.E., the accused, married a woman who already had a child who ~~xxxx~~ bore her maiden name. They have since had a child of their own.

The accused has been trying for some time to adopt a child of his wife so that dependents' allowance can be granted. The fact that this dependents' allowance is not forthcoming has led to financial difficulties in the family. There has also been the worry of infidelity on the wife's part to agitate and concern the accused. On looking at the Charge Sheets of the accused, it reveals that he is always picked up in the Brighton area on being apprehended for A.W.L. and it is the contention of the accused that his home troubles are his only motive for going A.W.L.

The accused has tried on several occasions to have something done about the home problem through the Padre Service but to no avail as it is necessary for him to return to Canada before he can adopt the child of his wife.

I would ask the Court to consider these circumstances in passing their Judgment on the A.W.L. ~~as~~ of the accused.

.....~~Lieut.~~
~~(W. L. Stern)~~

~~22~~ 27 Dec 44.

accused added
I have been told I cannot adopt the child while I am in England. I never heard of any legal aid. I was sent to the Paymaster

SUMMARY OF EVIDENCE

In the case of, G 11200 Pte. Stanley, Ernest GODFREY CIC, on the strength of 2 Cdn. Inf. Trg. Regt., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

FIRST WITNESS PROSECUTION.

Lieut. W.L. Butler, of Regimental Headquarters 2 C.I.T.R., having been duly sworn states as follows:-

"I am Lieut. W.L. Butler of Regimental Headquarters, 2 CITR and I produce as exhibits for the prosecution the following:

Exhibit "A": Certified true copy of Part II D.O. No. 25, d/30 Nov 44 showing that H 11200 Pte. Godfrey S.E. was Absent Without Leave from 1800 hrs 25 Nov 44 and was still so absent at 1800 hours 26 Nov 44.

Exhibit "B" Certified true copy of Part II D.O. No. 32, d/8 Dec 44 showing that h 11200 Pte Godfrey S.E. was Absent Without Leave from 1800 hrs 25 Nov 44 and that he returned from Absence Without Leave at 2030 hrs 4 Dec 44.

Exhibit "C" Certified true copy of Part II D.O. No 24, d/29 Nov 44 showing that H 11200 Pte Godfrey S.E. was awarded 28 days Field Punishment on 23 Nov 44.

Exhibit "D" Expense Voucher d/5 Dec 44 showing expenses incurred in apprehending and returning H 11200 Pte Godfrey S.E. from Brighton and London were 0-9-4.

Which of the above exhibits pertain to the accused herein.

The accused declines to cross-examine this witness.

W.L. Butler Lieut.
(W.L. Butler)

SUMMARY OF EVIDENCE (2CITR/15)

In the case of H.11200 Pte. GODFREY, S.E.

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(Continued)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence consisting of pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

Laurentide Camp.

18 Dec 44.

Lt.

(P. Saperia)

Officer detailed to take the Summary of Evidence.

Ref: KR & O (Can) 539 Exhibit D

Expense Voucher Re—

Reg No. H11200 Rank Pte Name Godfrey, S.E. Unit 2 CITR

The following expenses were incurred in apprehending and returning the ~~M/N~~ Soldier to ~~his Unit from~~ London from Brighton

Date	Particulars (1/3 portion)		Amount	
5 Dec 44	Escorts return fare from LONDON To	Brighton	5	4
	Prisoners single fare to LONDON From	Brighton	4	0
	Prisoners fare from	to		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson LIEUT.
J. A. THOMSON,
ADMIN. OFFICER-D.P.M's BR. Capt
Q.M. H.Q.

Officer Issuing Railway Warrant and Expense mo[illegible]
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55 40/P A/S/483 (6762)

Exhibit C

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 23 d/28 Nov 44

PART II DAILY ORDERS BY:

A/COLONEL J A WILSON, COMMANDER

This Order No: 24 d/ 29 Nov 44

Para

13. PUNISHMENTS

(g) H-11200 PTE GODFREY S E (ALG R) CHARGE: A A SEC 15 (1) AWL from 2200 hrs 5 Nov 44 until apprehended by CMP at Hove at 1500 hrs 15 Nov 44 (Absent 9 days 17 hrs)

AWARDED: 28 days F P

FORFEITS : 10 days pay FR&I 149 (1) (a)
28 days pay FR&I 149 (1) (b)

TOTAL FORFEITURE: 38 days pay and £0-11s-11d, cost of apprehension. 23 Nov 44

CERTIFIED TRUE COPY OF PART II ORDER
PURPORTING TO BE SIGNED BY .....J Gartside..Lt.....
Records Officer 2 C.I.T.R.

..14 Dec..19.44..

.....J Gartside Lt.....

Exhibit B

2 CANADIAN INFANTRY TRAINING REGIMENT

PART II DAILY ORDERS BY:

A/COLONEL J A WILSON, COMMANDER

Last Order
No: 31
d/7 Dec 44

This Order
No: 32
d/8 Dec 44

Para

11. ABSENT WITHOUT LEAVE

(c) AWL from 1800 hrs 25 Nov 44. Returned 2030 hrs 4 Dec 44 (App)

H-11200 PTE DODFREY S E (ALG R)

CERTIFIED TRUE COPY OF PART II ORDER
PURPORTING TO BE SIGNED BY .....J. L. Henslowe, Capt.....
Records Officer 2 C.I.T.R.

.14. Dec.....1944...

.....J L Henslowe Capt.....

Exhibit A

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 24 d/29 Nov 44

PART II DAILY ORDERS BY:

A/COLONEL J A WILSON, COMMANDER

This Order No: 25 d/ 30 Nov 44

Para

9. ABSENT WITHOUT LEAVE

(c) H-11200 PTE GODFREY S E (ALG R) AWL from 1800 hrs 25 Nov 44. Still absent 1800 hrs 26 Nov 44

CERTIFIED TRUE COPY OF PART II ORDER PURPORTING TO BE SIGNED BY .....J.Carlisle..LT..... Records officer 2 C.I.T.R.

14 Dec 44 19.....

M.F.B. 155
22M—9-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H.11200	Pte.	Stanley Ernest GODFREY,	2 CITB.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For Sec. 15(1)	6	times Sec. 15 (1(	13 times
For Sec. 40	1	times Sec. 40	2 times
For Sec. 11	0	times Sec. 11	1 times
For		times	times

~~Number of instances of gallantry or distinguished conduct~~ ~~nil~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.A. 73 ~~A.F.A. 73~~ are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~

~~or~~

The accused at the present time is under sentence for 28 ~~days~~ FP beginning on the 23 day of Nov 44.

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 23 days in ~~Air Force~~ military custody, making a total of 23 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 yrs.

6. The date of his ~~commission specified in his record of service~~ attestation paper is 8-12-39

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

CVS and Clasp.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force~~ the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number H.11200 Rank Pte. Name GODFREY, Stanley Ernest of 2 CITR. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F G C M	25 Aug 43 Field	Sec. 15 (1) A.W.L.	50 days Det'n.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of Dec 44 Chaperia Lieut Asst Admin Offr 2 CITR

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked B signed by the president, and annexed to the proceedings.

2 CITR/13

LIST OF WITNESSES

In the case of H 11200 Pte. Stanley, Ernest GODFREY 2 CITR
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. Lieut. W. L. Butler — Regimental Headquarters 2 CITR
2.
3.

(For the Defence)

NIL

LIST OF EXHIBITS

In the case of H 11200 Pte. Stanley, Ernest GODFREY 2 CITR
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

Exhibit "A": Cert. true copy of Part II D.O. No. 28, d/30 Nov 44 showing that H 11200 Pte Godfrey S.E. was AWL at 1800 hrs 25 Nov 44 and was still so absent at 1800 hrs 26 Nov 44

Exhibit "B" Cert. true copy of Part II D.O. No 32, d/8 Dec 44 showing that H 11200 Pte Godfrey S.E.was AWL from 1800 hrs 25 Nov 44 and that he returned from AWL at 2030 hrs 4 Dec 44.

Exhibit "C" Cert. true copy of Part II D.O. No. 24, d/29 Nov 44 showing that H 11200 Pte Godfray S.E. was awarded 28 Days F.P. on 23 Nov 44.

(For the Defence)

FOR DEFENCE
NIL

REQUEST FOR DEFENDING OFFICER

I, H 11200 Pte. Stanley Ernest GODFREY 2 CITR

hereby request that the Convening Officer appoint Lieut Reynolds to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp,
18 Dec 44

S.E. Godfrey Pte
(S.E. Godfrey) H 11200

RECEIPT FOR DOCUMENTS.

I, H 11200 Pte. Stanley Ernest GODFREY 2 CITR hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
18 Dec 44

S.E. Godfrey Pte
(S.E. Godfrey) H 11200

MED OFFRS CERTIFICATE 2 CITR/A1

K.R.Can Para 557

I certify that I have this morning examined No. H11200....

.C.T.E. GODFREY.....S.E.... and in my opinion he

is FIT ~~UNFIT~~ to undergo trial by Court-Martial.

Station: Laurentide Camp .....S A Simms.....Capt.

(RCAMC) Attached to 2 CITR

Date: 27 DEC 44

Mj

No. 11200 Name GODFREY S.E. Sqn, Battery, or Company Corps RCA Date of enlistment 8 Dec 39 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No 2 Signature OC Company, etc R. Richbourn Maj Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	19Oct42	Gnr		AA Sec 15 (1) AWL from 0600 hrs 19 Oct 42 to 0300 hrs 23 Oct 42. Absent 3 days, 18 hrs, 30 min.	L/Bdr Blayney L/Sgt Harris	10 days F.P.	24Oct42	Lt Col G.T. Irish	Forf 4 days pay. Forf 10 days pay. for time in detn.
Field	20Mar43	Gnr		AA Sec 15(1) AWL from 1900 hrs 20 Mar 43 till 2310 hrs 1 Apr 43 Absent 12 days, 4 hrs, 10 min.	Sgt. S.A. Robertson	28 days F.P.	5Apr43	Lt Col R.W. Armstrong	Forf 13 days pay. Forf 28 days pay for time in detn.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 19	Jul43	Gnr		AA Sec 15 (1) AWL from 2300 hrs 19Jul43 to 2245 hrs 9 Aug 43. Absent 20 days, 23 hrs, 45 min. Cost of apprehension £1/6/0	Documentary L/Bdr Smith	30 days detn	25Aug43	FGCM	Forf 30 days pay FRI 14B (2) Forf 16 days pay FRI 14B(1)(a)(1) Forf 21 days pay FRAI 14B (1) (a) Total forf 87 days pay
Field 12	Dec43	Gnr		AOAS AWL from 2200 hrs 12 Dec 43 till 23 0 hrs 16 Dec 43. Absent 4 days, 1 hr. AA Sec 15 (1)	Documentary	14 days F.P. 14 days pay Cost of app. 8s.	21Dec43	LtCol G. Inch	Forf 13 days pay Cost of app. 8s.

No H 11200 Name GODFREY B.E. | Sqn, Battery or Company | Corps CIC | Date of enlistment Dec 39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 11 Nov 42 - Last Entry 20 Feb 40 - Cases of Drunkenness-Nil					
Field	17 Aug 40	Pte		AA Sec 15(1) A&L - 3 days	L/Sgt Hogarth Cpl Huston Sgt Nichols	7 days det.	20 Aug 40	LtCol D. McCartney	Forf 3 days pay Forf 7 days pay
Field	18 Jul 41	Pte		AA Sec 15(1) A&L from 2359 hrs 19 Jul 41 to 0745 hrs 20 Jul 41. Absent 7 hrs, 45 min.	Cpl Stewart Pte McRae M.	7 days C.B.	21 Jul 41	Capt B.A. Macpherson	
Field	1 Aug 41	Pte		AA Sec 15 (1) A&L from 2300 hrs 1 Aug 41 to 0515 hrs 2 Aug 41. Absent 9 hrs, 15 min.	Sgt Nichols L/Cpl Durik	7 days F.F. Forf 9 days pay RAI 149 (2)	4 Aug 41	LtCol G.A. Sinclair	Forf 1 days pay. Forf 7 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	11Jan42	Pte	✓	AA Sec 40 Improperly dressed when checked by GPC at Piccadilly Circus at 1950 hrs 11 Jan 42	L/Cpl Hannah L/Cpl Ross	3 days C.B.	16Jan42	C.O. Cape	
Field	16May42	Pte	✓	AA Sec 11 Neglecting to obey Unit Standing Orders, viz gamble in barracks.	Capt E.B. Rathbone	7 days C.B. Extra Guards	16May42	Major G. Curry	
Field	31Jul42	Pte	✓	AA Sec 15(1) AWL - 2 days, 14 hrs.	Sgt Harris L/Bdr Criss	6 days F.P.	4Sep42	Major A.E. Fort	Forf 3 days pay Forf 6 days pay for time in detn.

MFM 6
(AFB 122)
40/PAS/126 (5428)

No H11200 Name GODFREY S.E. Sqn, Battery, or Company Corps CIC Date of enlistment 8 Dec 39 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet n/a No and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No 4 Signature OC Company, etc E.J. Crake Lt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25Oct44	Pte		AA Sec 15(1) AWL from 2359 hrs 15 Oct 44 till 2230 hrs 22Oct44. Absent 6 days, 22 hrs, 31 min. Cost of app. 11s. 11d.	Documentary	28 days F.P. Cost of app. 11s. 11d.	28Oct44	LtCol R.C. Coleman	7 days pay 28 days pay
Field	5Nov44	Pte		AA Sec 15(1) WOAS AWL from 2200 hrs 5 Nov 44 to 1500 hrs 15 Nov 44 Absent 9 days, 17 hrs.	Documentary	28 days F.P. 28 days pay FR&I 149(1)(b)	23Nov44	LtCol J. Runcie	Forf 10 days pay FRI 149 (1)(a) Cost of app. 11/11

CERTIFIED TRUE COPY CONSISTING OF 1 PAGES
DATE 14 Dec 44

L.P. Byrne
(L.P. Byrne) Lieut

Officer Having custody of Regimental Books

(PTO)

No. H 1120 Name GODFREY S.E. Sqn, Battery, or Company | Corps RCA | Date of enlistment 8 Dec 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet: n/a | No. and date of last drunk: n/a | Period not reckoning towards freedom from extra fine: n/a | Sheet No 3 | Signature OC Company, etc: W Rose. A/Adj. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26Dec43	Gnr		WOAS AWL from 1200 hrs 26 Dec 43 till 2030 hrs 7 Jan 44. Absent 12 days, 8 hrs, 30 min. A.A. Sec 15 (1)	Documentary	27 days pay 27 days F.F. Cost of app. 8s.	10Jan44	LtCol G.T. Inch	Total Forf. 40 days pay. Cost of appreh. 8s.
Field	22Mar44	Gnr		AA Sec 15(1) WOAS AWL from 2200 hrs 22 Mar 44 till 2145 hrs 28 Mar 44. Absent 5 days, 23 hrs 45 min. Close arrest 2 days, 2 hrs, 15 min.	Documentary Sgt McKenna	28 days detn. Cost of app. 11s. 11d.	31Mar44	LtCol W.S. Fleury	Forf 6 dys pay PRI 149 (1)(e) Forf. 20 days pay PRI 149(1)b Forf 5 days pay PRI 149 (1)(e)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6Feb44	Gnr		WOAS AWL from 2200 hrs 6 Feb 44 till 2235 hrs 21 Feb 44. Absent 15 days, 35 min. AA Sec 15 (1)	Documentary	27 days F.P. 27 days pay	24Feb44	LtCol G.T. Finch	Forf 15 days pay FRI 149(1)
Field	17Apr44	Pte		WOAS AWL from 1330 hrs 17Apr44 till 2350 hrs 23 Apr 44. Absent 6 days, 10 hrs, 20 min. AA Sec 15 (1)	Documentary Cpl McColl	28 days F.P. 28 days pay Cost of app. 11s. 11d.	28Apr44	LtCol W.J. Bingham	Forf 7 days pay FRI 149 (1)
Field	17-6-44	Pte		AA Sec 40 Failing to report to place of parade.	Pte Burns Pte Allary	Admonished	17-6-44	Capt C. Conway	

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GNR GODFREY S.E.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19 day of November 43.

(K.J.C. Ridley) Capt & Records Officer,
No. 1 Cdn Arty Reinf Unit.

B.
DDY.
19 Jun 43

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

H-11200 Gnr Godfrey, S.M. the No 1 Cdn Arty Reinf Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.A. Sec 11	0	times	1	times
For A.A. Sec 15 (1)	1	times	6	times
For A.A. Sec 15 (2)	0	times	1	times
For A.A. Sec 40	0	times	1	times

Number of instances of gallantry or distinguished conduct.

[illegible]

[illegible]

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges for 0 days in Civil Custody, and 8 days in Military Custody.

Total 8 days.

Of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 25 11/12 yrs

6. The date of his birth as specified in his attestation paper is 8 Dec 39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 11/12 years

8. The accused is entitled to deferred pay or gratuity in respect of 3 11/12 yrs years' service.

9. The accused is entitled to reckon 3 11/12 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name H-11200 Gnr GODFREY, S.E. of the No 1 Canadian Artillery Reinforcement Unit.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Field 25 Aug 43.	A.A. Sec 15 (1)	50 days detention	16 days

(Continued overleaf.)

No H-11200 Name Godfrey, E.E Sqn. Battery, or Company Corps RCA Date of enlistment 8 Dec 39 GC Badges Service or Proficiency Pay N/A MFM 6 (AFB 122) 40/PAS/136 (9488)

Date of last entry in Company Conduct Sheet 28 Oct 42 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Mar 43	Gnr		A.A.Sec 15(1) Absenting himself without leave from 1900 hrs. 20 Mar 43, until 2310 hrs, 1Apr 43.(Absent 12 days, 4hrs, 10min)	Sgt. Robertson	26 days F.P.	5 Apr 43	R.W.Armstrong Lt-Col RCA	Forf 13 days pay for absence. Forf 28 days pay for time in Detention.
Field	19 Jul 43	Gnr		A.A.Sec 15(1) WOAS AWL from 2300 hrs, 19 Jul 43 to 2245 hrs, 9 Aug 43 (Absent 20 days, 23 hrs, 45 min) Cost of App £1-6-0	Documentary L/Bdr Smith D.	50 days Detention	25 Aug 43 Conf	F.GC.M.	Forf 50 days pay FR&I 149(2) Forf 16 days pay FR&I 149 (1)(c)(i). Forf 21 days pay FR&I 149 (1)(a) Total Forf 87 days pay

Released from Detention Barracks 27 Sep 43 Sentence having expired Remission earned under rules for Detention Barracks and Military Prisons 16 days. Commandants Initials???

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY ..... (K.J.C. RIDLEY) Capt. and Records Officer #1 C.A.R.U. Officer having custody of Regimental books				

No H-11200 Name Godfrey, S.E. Sqn, Battery, or Company — Corps RCA — Date of enlistment 8 Dec 39 GC Badges — Service or Proficiency Pay N/A — MFM 6 (AFB 122) 40/P&S/136 (3438)

C- Date of last entry in Company Conduct Sheet N/A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 11 Nov 42 -Last entry 20 Feb 40 -Cases drunkeness =Nil					
Field	17 Aug 40	Pte		A.A. Sec 15 (1) Absenting himself without leave for 3 days	L/Sjt Hogarth Cpl. Huslon Sjt. Nichols	7 days Detention	20 Aug 40	G.E.McCarthy Lt-Col	Forf 3 days pay for absence Forf 7 days for time in detention
Field	18 Jul 41	Pte		A.A. Sec 15 (1) Absenting himself without leave from 2359 hrs, 19 Jul 41 to 0745 hrs 20 Jul 41 (Absent 7 hrs. 45 min)	Cpl. Stewart Pte. McRae	7 days C.B.	21 Jul 41	B.A.McPherson Capt.	
Field	1 Aug 41	Pte		A.A.Sec 15(1) Absenting Himself without leave from 2300 hrs, 1 Aug 41 to 0515 hrs, 2 Aug 41 (Absent 9 hrs, 15 min)	Sjt Nichols L/Cpl Durack	7 days F.P. Forf 9 days pay FR&I 149 (2)	4 Aug 41	G. A.Sinclair Lt-Col	Forf 1 days for absence Forf 7 days pay for time in Detention.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Jan 42	Pte		A.A.Sec40 "Improperly dressed" when checked by Cdn Provost Corp at Piccadilly Circus at about 1950 hrs, 11 Jan 42	L/Cpl Hannah L/Cpl Ross	3 days C.B.	16 Jan 42	E.C. Cape	
Field	16 May 42	Pte		A.A.Sec 11 Neglecting to Unit Standing Orders, did gamble in barracks	Capt. E.D. Rathbone	7 days C.B. Extra Guards	16 May 42	G. Curry Major	
Field	17 Jul 42	Pte		A.A.Sec 15(2) Failing to appear at the place of parade appointed by his C.O.	Sjt. Stewart	3 days C.B.	18 Jul 43	(Not known)	
Field	31 Jul 42	Pte		A.A.Sec 15(1) Absenting himself without leave for 2 days 14 hrs	Sjt. Harris L/Bdr Criss	6 days F.P.	4 Sep 42	A.E. Fort Major	Forf 3 days pay for absence Forf 6 days pay for time in detention
Field	19 Oct 42	Gnr		A.A.Sec 15(1) Absenting himself without leave from 0600 hrs 19 Oct 42 until 0300 hrs, 23 Oct 42 (Absent 3 days 18 hrs 30 min)	L/Bdr.Blayney L/Sjt.Harris	10 days F.P.	28 Oct 42	G.T.Inch Lt-Col	Forf 4 days pay for absence. Forf 10 days for time in detention

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-11200 Gnr GODFREY, Stanley Ernest

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 8.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of 30 days.
To be kept under stoppages of pay until £6 has been made good the sum of eleven shillings and eleven pence (11/11) expenses incurred in return to unit

(Sgd) ..... 19 Nov 43. (Sgd) F. O Lweedie Lt Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 22/Nov/43 (Sgd) J. C. Stewart

Commanding J. C. STEWART, Brigadier, Commanding "C" Group. Con. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H-11200 Gnr. Godfrey. S.E.	22 Nov 43.	[signature] COL C.O. - 1 C.A.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

VV-97

FIELD GENERAL COURT-MARTIAL

CFA99 (in lieu of AFA33) 40/P.S.&T./1808 (2864)

Convened by Order of Brigadier J.C. Stewart Comd "C" Gp - CRU dated 19 Nov 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H-11200	Gnr	Stanley Ernest	GODFREY	1 CARU

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 19 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Lt Col	J. D. Lweedie	H.Q.C.R.U.
Member	Capt	A. T. Palmer	3 C.A.R.U.
Member	Lieut	F. G. Haddon	3 C.A.R.U.
~~Judge-Advocate~~ ~~Officer under instruction~~	Lieut	D. V. Lloyd	1 C.A.R.U.
Prosecutor	Lieut	J. M. Sutherland	1 C.A.R.U.
Defending Offr	Lieut	R. M. Jones	1 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) ~~not~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or in one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) ~~separately~~ arraigned on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 B.E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~of~~ 01 charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on~~ ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds on complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114. KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. .....
Do you intend to call witnesses on your behalf ?
Ans. .....
Are they witnesses as to character only ? Ans. .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No .
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. Ibid fn 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes ... Attached .....(2)
(*1. RP 37(C), 40(D). 2. Addresses, if any, recorded per Notes. Court should permit accused or his witnesses to answer on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2) 71 (D)
(*1. When several accused tried separately see RP [redacted]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The Accused, M-11200 Gnr. Stanley Ernest GODFREY, Royal Canadian Artillery, on the strength of "P" Training Wing No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

WHEN ON ACTIVE SERVICE.

1st. Charge. A.A. Sec. 15 (1) ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

at Bordon, Hants., did absent himself without leave from 2359 hours 19 October 1943, until apprehended by the Military Police at 70 Coleman Street, Brighton, at 1410 hours 10 Nov 43, thereby incurring costs of apprehension and return to Unit in the amount of £0-11-11.
Total absence 30 days, 14 hours, 11 minutes.

Bordon, Hants.,
17 November 1943.

(W.A. Townsley) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.

To be tried by Field General Court Martial

Brigadier
Commanding "C" Gp, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants.

19 Nov 43

19 Nov 43

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA95) 40/P&S/1697 (2665)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-11200	Gnr		Stanley Ernest	GODFREY	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Nov 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~[illegible]~~ PS
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ PS
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ PS
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col.	F.D. Tweedie	HQ, CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain		3 CARU
Lieutenant		3 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

[signature] (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 19 Nov 43

Commanding "C" Gp - Cdn Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

[illegible] 19 Nov 43

Plea for mitigation of sentence

Gnr. Godfrey has committed a crime against military law. He is aware of this crime and willing to serve his punishment

This crime sheet is full but most crimes up till the last eight months these crimes are of a minor nature.

Gnr Godfrey is a married man with wife on her country and his major crimes have been committed since that time. This previous absent without leave crime occured ~~during~~ ~~both~~ when his wife was ~~giving~~ to give birth to a ~~baby~~ child and Gnr Godfrey could not obtain leave. Since the birth of the child his ~~life~~ married life has not been smooth. He obtained 36 hr pass on 8th Oct to try and straighten out his family affairs. was doing this he was absent.

I ~~believe~~ if Gnr Godfrey showed his willingness to serve his country by joining the army the 8th Dec 39.

I believe if this man serves his sentence and is given a chance to straighten out his ~~married~~ family life, and then returned to ~~the~~ a field unit both himself and the army will benefit by a good soldier.

R.M. Jones Lt. R.C.A.

SUMMARY OF EVIDENCE in the case of H-11200 Gnr Godfrey, S.E., on the strength of "P" Training Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath:

First Witness.

H-60339 Sjt Toal, G., of No. 1 C.A.R.U., having been duly sworn states:

I am H-60339 Sjt Toal, G., Troop Sergeant for "A" Battery, No. 1 C.A.R.U. I called the roll for troop parade at 0800 hours 11 Oct 43, and H-11200 Gnr Godfrey, S.E., was absent from parade. I immediately reported his absence to B-114758 Bdr Fell, L.F., the Permanent Orderly Sergeant. Gnr Godfrey has been absent from every roll call since that date and I have not seen the accused in camp or vicinity since the above mentioned date.

The Accused declined to cross-examine this witness.

G. Toal

H-60339 Sjt Toal, G.

Second Witness.

B-114758 Bdr Fell, L.F., of No. 1 C.A.R.U., having been duly sworn states:

I am B-114758 Bdr Fell, L.F., Permanent Orderly Sergeant for "A" Battery, No. 1 C.A.R.U. H-11200 Gnr Godfrey, S.E. was reported to me as being absent from troop parade at 0800 hours 11 Oct 43. I immediately reported to the Unit Guard room to pick up the passes of those men who returned from leave the previous night. I found that Gnr Godfrey had not returned from his pass which expired the previous night at 2359 hours 10 Oct 43. He was marked absent each night and morning since that date until he was S.O.S. strength No. 1 C.A.R.U. as unapprehended deserter wef 1 Nov 43. I have not seen Gnr Godfrey in camp or vicinity since the above mentioned date until he was returned to the Unit Guard Room under escort after being apprehended by a member of the Military Police at Brighton at approximately 1410 hours 10 Nov 43.

The Accused declined to cross-examine this witness.

L.F. Fell

B-114758 Bdr Fell, L.F.

Third Witness.

Capt G.W. Pritchard, of No. 1 C.A.R.U., having been duly sworn States:

I am Capt G.W. Pritchard, Adjutant of "P" Training Wing, No. 1 C.A.R.U. and as such, I produce from Wing Files, the following documents relating to the Accused:
The first and marked Exhibit "A", is a certificate in accordance with Army Act Sect. 163(1)(jj), stating that the accused was apprehended by the Military Police at Brighton at approximately, 1410 hours 10 Nov 43.
The second and marked Exhibit "B" is an expense voucher showing that cost of return from Brighton to London was £0-11-11.
The Third and marked Exhibit "C" is a declaration of a Court of Inquiry declaring that H-11200 Gnr Godfrey, S.E. absented himself from No. 1 C.A.R.U. at 2359 hours 10 Oct 43, and was deficient in the amount of £4-1-9 Vocab Price and £3-1-4 Unex. Wear Value. The complete kit of the accused has been checked and found no deficiencies.

The Accused declined to cross-examine this witness.

G.W. Pritchard

Capt G.W. Pritchard

Caution to the Accused.

"Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The Accused declined to make any statement and reserves his defence

I certify that the foregoing Summary of Evidence, consisting of two pages and three Exhibits was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

Bordon, Hants.,
16 Nov 43.

(J.M. Sutherland) Lieut R.C.A.
Officer detailed to take this Summary of Evidence.

J.B.M.

LIST OF WITNESSES.

PROSECUTION:

1.	B-114758 Bdr Fell, L.F.	No. 1 C.A.R.U.
2.	Capt G.W. Pritchard	No. 1 C.A.R.U.
3.	R-60339 Sjt Toal, G.	No. 1 C.A.R.U.

DEFENCE:

NIL.

LIST OF EXHIBITS.

1. A certificate in accordance with Army Act Sec. 163 (1)(jj).
2. An expense voucher.
3. A declaration of a Court of Inquiry.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B).

I, R-11200 Gnr Godfrey, S.E., of No. 1 C.A.R.U., desire to have Lieut R.W. Jones, of No. 1 C.A.R.U., appointed to represent me at my trial by Court Martial if available, otherwise desire to have an Officer assigned by the convening Officer to defend me.

Godfrey S.E.

R-11200 Gnr Godfrey, S.E.

P.T.O.

File: P/6-1-8-G
17 Nov 43.

"P" Wing.

H.Q.

SUMMARY OF EVIDENCE - CHARGE SHEET.

1. This is to acknowledge the receipt of the m/n documents from B-16602 L/Sjt Hill, J.A., "P" Wing H.Q. Orderly Room, on the a/m date.

H-11200 Gnr Godfrey, S.E.

1. I received a new Summary of Evidence from B-16602 L/ Sjt Hill, J.A., of "P" Wing H.Q., on the 19 Nov 43.

H-11200 Gnr Godfrey, S.E.

Exhibit "B" JMS

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. H11200 Rank Gnr. Name Godfrey, S.E. Unit 1 CARU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Brighton

Date	Particulars		Amount	
11 Nov 43	Escorts return fare from LONDON To	Brighton	7	11
	Prisoners single fare to LONDON From	Brighton	4	0
	Prisoners fare from	To		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
		Total £	11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Grayson Capt.

...ilway Warrant and Expense monies
...mpany, Canadian Provost Corps, London.

EXHIBIT "B"

C.M.H.Q. 1
40/P & S/4

JAG BRANCH - REVIEW RECORD

Acquised

11200 Gnr Godfrey S.C.

1 CARU

Remarks	Date
Trial in (Country) Eng.	19 Nov
Charges Sec 15 (1)	
Sentence For 80 days pay & stoppages	19 Nov
Rec'd from CR at JAG Branch	1 Dec
To E P L for (pre)(post) rev	3 Dec
Recommendations by [illegible]	
(1) Pass and record.	
(2) ~~Rep on irregularities.~~	
(3) Quash ~~charge(s).~~	
(4)	
Ret'd to JAG Rev 1 by [illegible]	1 Dec
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Record & File [illegible]	3 Dec 43
Instrs completed by	

6-1-44

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bordon, Hants. on the 1st day of November 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.11200 Gnr. Godfrey, S.E.

DECLARATION.

1. The Court declare, that H.11200 Gnr Godfrey, S.E. of "A" Battery, No. 1 C.A.R.U. absented himself without leave from his Unit at Bordon, Hants., at 2359 hours 10 Oct 43., and that he has been absent for a period of more than 21 clear days and that he is still so absent on this date.

2. The Court declare, that his remaining kit has been checked against the normal Issue as laid down in CARO (O) 1956 and CARO (O) 2120 and found to be deficient in the amount of £4-1-9 Vocab Price and in the amount of £3-1-4 Unex. Wear Value as per attached list marked Appendix "A".

EXHIBIT "C"

Signed at Bordon, Hants., this 1st day of November 1943.

Names of President and Members

PRESIDENT : Lieut. A.F.Churchill RCA 1 CARU

MEMBERS : Lieut. G.N. Harvie, RCA 1 CARU
Lieut. F.A. Edmundson, RCA 1 CARU

Signature of Commanding Officer Lt. Lieut-Col
No. 1 Cdn. Arty. Reinf. Unit.
A/C.O.

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(12261) W1.34718/1622 75,000 10/39 A.& E.W.Ltd. Gp.688 Forms/B115/56
(13442) W1.40725/760 225,000 1/40

APPENDIX "A".

DEFICIENCIES - REGIMENTAL KIT - H-11200 Gnr Godfrey, S.E.

Article	No.	Vocab Price			Unex Wear Value		
Anklets Web	1			Error			
Badges cap	1			4½			3½
Trousers serge	2	2	15	10	2	1	8
Braces prs	1		1	6		1	1½
Brasses button	1			2			1½
Brushes boot polishing	1			9			7
Brushes shaving	1		1	4		1	0
Brushes tooth	1			4½			3½
Cap comforter	1		1	1½			10
Cap Field Servide	1		3	8		2	9
Comb hair	1			2			1½
Discs Identity	2			2			1½
Doldalls	1			9			7
Razors	1		1	10½		1	5
Socks prs	1		1	8		1	3
Shorts P.T.	1		1	11		1	5
Drawers cello	1		2	0½		1	6½
Eyeshields	3		4	9		3	9
Ointment A/G	2		2	4		1	9
Anti dim	1			11½			8½
Total Vocabular Price		£4	1	9			
Total Unexpired Wear Value					£3	1	4

FDT.

E C Anderson

G-7105 BQMS Anderson, E.C.

AT Churchill Pt

Exhibit "A" — [illegible]

Certificate in accordance with Army Act. Section 163 (1) (ii).

I certify that No H.11200 Rank G.H.R. Name Godfrey S.E.

Unit No 1 C.A.R.U. was arrested at 70 Coleman St Brighton

about 1410 HRS 10/11/43 and that at the time of his arrest he

was wearing military uniform.

Signature of Provost Marshal A.P.M., or other officer into whose custody the above named person was taken into arrest. ..... [illegible] Macneall Major.

D.P.M. SUSSEX DISTRICT

EXHIBIT "A"

[illegible]ers' Certificate
[illegible]ra 557
H 11200

I certify that I have this morning examined No Godfrey S.E. (Rank) (name)

of #1 C.A.R.U. and in my opinion he is fit ~~unfit~~ to undergo

trial by Court Martial.

Station Feild.

Date 19 Nov 43.

Sgd. [illegible] (Medical Officer)

5D-33

Pte. Godfrey. S.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H-11200 Pte Stanley Ernest GODFREY - CIC - 2 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 9(2) Alternative	Guilty	Guilty	
3rd	AA Sec 40	Withdrawn by Pros. RP 35 C.		
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

— Nil —

At present under sentence for ——— beginning on (date) ——— (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for ~~Two (2) months~~ One hundred and fifty-three (153) days.

(Sgd) ——— Judge-Advocate, if any. 6 Apr 45 Date awarded. (Sgd) Hon. Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ——— (Sgd) ——— Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be attested before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 572. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be duly committed to prison or detention barracks and further orders~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) R Blackader Brig

Date 7 Apr 45 Commanding Comd 13 Cdn Inf Trg Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H 11200 Pte. Godfrey S.E.	9 Apr 45	Bajeux L

ENTERED ORDER No. 86 DATE 11 Apr 45 Pte. Mclop

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160 5D-33

RECD 17 APR 1945

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P.A.E/1608 (2604)

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 5 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-11200	Pte		Stanley Ernest	GODFREY	CIC 2 CITR

PROCEEDINGS REVIEWED Capt Bilby Bapt 19 Apr 45

REVIEWING OFFICER, HQ 1 Brdn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 6 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to as interpreter ? Ans

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer ? Ans ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E Th Mussen EDICE	MG Chr
Member	Capt	H.J. Thornton	#1 C 3 DR
Member	Lieut	J.G. Hartubise	4 C 3 DR
~~Judge Advocate~~			
Prosecutor	Lieut	F. Saperia	2 C 3 DR
Defending Offr	Capt	J.P. Cat	2 C 3 DR

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in RE rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 9. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without asthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination : and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(6) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP [redacted] 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir I just want something different to be assumed he was right, I don't need
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.) any more because I've been trying what I've been
E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. AFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Have read and heard my Dfg offr (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as with anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 7/4/67
(1. When several accused tried separately see RP [redacted]. One sentence only, comprised of the punishment or punishments laid down in AA 61, 44 and its powers, is to be awarded in cases of all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 208, 330, Sick-Sea, Overseas RD 309, 2323, MML p 80, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 69(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-11200	Pte		Stanley Ernest	GODFREY	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Apr 45 endorsed by me, ~~[illegible]~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR	E M MILLER, ED	HQ CRU
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Captain	to be detailed by Comd	1 CITR
Lieutenant	to be detailed by Comd	4 CITR
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Captain	to be detailed by Comd	2 CITR
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~[illegible]~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

K G Blackader (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(K G Blackader)

Date 5 Apr 45

Commanding 13 Cdn Inf Trg Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA56 (In lieu of AFA3) 40/P & G/1897 (4951)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, No. H-11200 Private Stanley Ernest GODFREY, C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, while undergoing Field Punishment absented himself without leave from 2150 hours, 17 Mar 45 until he was apprehended at Hove at 1045 hours, 20 Mar 45.

(Total Absence: 2 days, 12 hours, 55 minutes)

SECOND CHARGE
SEC 9 (2)
ARMY ACT

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In that he

At Hove, on 18 Mar 45 did not return to his unit by the next available train when ordered to do so by D-77511 Sgt SCRUTON, A.

SECOND ALTERNATIVE CHARGE
SEC 40
ARMY ACT

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

At Hove, on 18 Mar 45 neglected to return to his unit by the next available train when ordered to do so by D-77511 Sgt SCRUTON, A.

Laurentide Camp
31 Mar 45

.....
(J A Wilson) Colonel
Comd
2 C I T R

To be tried by Field General Court Martial.

IN THE FIELD
5 Apr 45

(K G Blackader) Brig
Comd 13 Cdn Inf Trg Bde

Plea in Mitigation in the Case of H11200 Pte Godfrey, S.L.

This man enlisted on 8 Dec 39 & came to U.K. 29 Dec 39 with an R.C.A.M.C. Unit. After 2 yrs he was remustered to R.C.A. He was remustered to R.C.I.C. in Nov 43. Went O/S with Algonquin Regt in July 44 & was in action until wounded 10 Aug 44. He is 28 yrs old & married with two children in this country. Has been examined by a psychiatrist & has been recommended for base duties, since he displays mild neurotic traits & will probably continue to be a ~~constant~~ disciplinary problem. This soldier feels that he could settle down and be a good soldier if he were given a job to do. He has had family troubles and went A.W.L. to go home & try to get things straightened out. He is A category & is quite willing to go back to the front.

D.P. Kay Capt. 2 C.I.R.
D.J. Off.

SUMMARY OF EVIDENCE

Third Witness for the Prosecution

U-2029 Cpl Harrington, R.A. No 6 (Area) Coy, No 7 Detachment. Cdn Provost Corps.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

.....
(P. Saperia) Lieut
Officer detailed to take
The Summary of Evidence.

Fourth Witness for the Prosecution

P-51503 L/Cpl Curran, M. No 6 (Area) Coy, No 7 Detachment. Cdn Provost Corps.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "B".

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

.....
(P. Saperia) Lieut
Officer detailed to take
The Summary of Evidence.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Laurentide Camp
30 Mar 45

.....
(P. Saperia) Lieut
Officer detailed to take the
Summary of Evidence.

SUMMARY OF EVIDENCE

In the case of H-11200 Pte Stanley Ernest GODFREY, C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness for the Prosecution.

Lieut K.A. JOHNSON, Regimental Headquarters, 2 Canadian Infantry Training Regiment having been duly sworn, states as follows:

"I am Lieut K.A. JOHNSON, Regt HQ 2 CITR and I produce the following documents pursuant to Overseas RO 5352 which have been read over and shown to the accused and which are attached hereto as Exhibits."

Exhibit "A"- Certified True Extract of 2 CITR Pt II D.O. No 64 d/16 Mar 45 showing that H-11200 Pte GODFREY, S.E. was awarded 21 days Field Punishment on 13 Mar 45.

Exhibit "B"- Certified True Extract of 2 CITR Pt II D.O. No 77 d/1 Apr 45 showing that H-11200 Pte GODFREY, S.E. absented himself without leave at 2150 hours, 17 Mar 45.

Exhibit "C"- Certificate in accordance with P.C. 2797 of 10 Apr 42, showing that H-11200 Pte GODFREY, S.E. was arrested at Hove at 1045 hrs, 20 Mar 45.

Exhibit "D"- Cdn Army Overseas special pass, issued to H-11200 Pte GODFREY, S.E. by D-77511 Sgt Scruton, A. at Brighton, to permit immediate return to unit.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

Second Witness

K.A. Johnson Lt
.....
(K.A. Johnson) Lieut

Second Witness for the Prosecution

D-77511 Sgt SCRUTON, A. No 6 (Area) Coy No 7 Detachment CPC.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A" and "B".

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

P. Saperia
.....
(P. Saperia) Lieut
Officer detailed to take The Summary of Evidence.

Exhibit A

2 CANADIAN INFANTRY TRAINING REGIMENT
PART II DAILY ORDERS BY
A/COLONEL JA WILSON COMMANDER

Last Order No: 63 d/15 Mar 45

This Order No: 64 d/16 Mar 45

PARA: 14 (1)
H-11200 Pte GODFREY S E (ALQR) CHARGE: AA Sec 15 (1) AWL from 0600 hrs 2 Mar 45 to 0815 hrs 8 Mar 45. Absent 6 days 2 hrs 15 mins.

AWARDED: 21 days F. P.
21 days pay

FORFEITS: 7 days pay FR&I 149 (1)(a)
21 days pay FR&I 149 (1)(b)

TOT FORFEITURE: 28 days pay 13 Mar 45

(Sgd) J.L. HENSLOWE, Capt
"or AJA BAXTER - Major
ADMIN OFFICER
2 CITR

Certified True Extract

30 Mar 45
(Date)

(W/ Henslowe) Capt.
Records Offr 2 CITR

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 76 d/30 Mar 45

PART II DAILY ORDERS BY A/COLONEL JA WILSON COMMANDER

This Order No: 77 d/1 Apr 45

PARA:

H-11200 Pte GODFREY S E (ALQR)
AWL from 2150 hrs 17 Mar 45 to 1045 hrs 20 Mar 45.

Certified True Extract

30 Mar 45
(Date)

(Sgd) J.L. HENSLOWE, Capt
for A/A BATTER - Major
ADMIN OFFICER
2 CITR

J.L. Henslowe Capt.
Records Offr 2 CITR

MED OFFRS CERTIFICATE 2 CITR/11

K.R.Can Para 557

I certify that have this morning examined No. H11200.....

PTE. GODFREY S.E. .....and in my opinion he

is ~~FIT~~ to undergo trial by Court-Martial.

6 Apr 45

[illegible] Capt

CERTIFICATE IN ACCORDANCE WITH P.C. 2787 of 10 AUG 42

I certify that No. H-11200 Rank Pte. Name Godfrey S.T.

Unit No.2 C.I.T.R. (CRU) was arrested at Hove (place)

at 1045 (Hour) on 20-Mar-45. (date) and that at the time of his arrest he was wearing (Military Uniform) ~~XXXXXXXXXXXXXXXXXX~~. Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

(W.G. Stevens), Lieut.
D.A.P.M. CMHQ.

London
22-Mar-45.

Appendix A
EXHIBIT

Statement of **EVIDENCE** in the case of
H-11200 Pte. Godfrey, S.E.
No 2 C.I.T.R.

Sir;

At Hove at about 1430 hrs.18 Mar.45 I was on Duty accompanied by Cpl Harrington ,when I visited 6 Hallyburton Road,where I saw the a/m soldier.

I asked to see his pass which he could not produce. I conveyed him to Detachment H.Q.where his Unit was contacted. Upon authority of Lieut Taylor the Duty Officer it was ascertained that he was Out of Bounds.

I warned him of the offence and that a charge would be forwarded to his Officer Commanding. Special Pass No 32756 was issued to him and he was ordered to return to his Unit by the next available train.

Brighton.
18 Mar.45.

A. Scruton Sgt.
(D-77511 Scruton,A.)

Sir;

I have read over and corroborate the a/m statement.

Brighton.
18 Mar.45.

R. Harrington Cpl.
(U-2029 Harrington,R.A.)

REMARKS

CANADIAN ARMY OVERSEAS Nº 32756

SPECIAL PASS issued to:—

Regtl No H-11200 Rank PTE Name GODFREY, S.E.

Unit No 2-C.I.T.R.

The bearer, having committed a breach of Military Discipline, has been ordered to return to his unit in accordance with Overseas Routine Order 3362, para 20(e).

This pass is valid only for the period necessary to permit of immediate return to his unit. ~~Original AF B252 issued to bearer has been taken possession of by~~

Regtl No D-77511 Rank SGT. Name A. SCRUTON

of No. 6 #7-DET. Provost Coy. at 1500 hrs on 18-MAR-45 (date)

at BRIGHTON (place) and will be forwarded to unit concerned together with AF B252 giving particulars of the breach of Military Discipline.

A. Scruton Rank Sgt.

1/49b CMHQ 1000-123 P & S/1339 (4458)

CHARGE

Army Form B 252
(See King's Regulations)

No 2 C.I.T.R. Regiment

Battery / Squadron / Troop or / Company

CHARGE against No. H-11200 Rank Pte.

Name Godfrey, S.E.

Place Hove, Sussex. Date of Offence 18 Mar.45.

OFFENCE W.C.A.S. was Out of Bounds.

A. Scruton. Sgt. i/c
No 7 Detachment.

Names of Witnesses:—

D-77511 Sgt. Scruton, A. No 6 (Area) Coy.
No 7 Detachment.
U-2029 Cpl. Harrington, R.A. Cdn Provost Corps

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

C.I.T.R. RECEIVED 21 MAR 1945 1015

Adjutant.

P.T.O.

CHARGE

Army Form B 252
(See King's Regulations)

No. 2. C.I.T.R. Regiment.

Battery
Squadron
Troop or
Company

CHARGE against No. H-11200 Rank Pte.

Name Godfrey, S.T.

Place Hove. Date of Offence 20 Mar 45.

OFFENCE W.O.A.S. was (1) A.W.L.

(2) Failed to obey an order given by an N.C.O. of the Cdn.Provost Corps in the execution of his duty.

LONDON AREA

Names of Witnesses :—

Sgt. Scruton, A. No. 7. Detachment.
No. 6(Area) Coy.,
L/C. Curran, M. Cdn.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

3 3/44 G.H.Q.P.P. 2003

P.T.O.

Appendix B

Statement of **EVIDENCE** in the case of
H-11200 Pte. Godfrey, S.T.
No. 2. C.I.T.R.

Sir: At Hove at about 1045 hrs. 20 March 45. I was on duty in company with L/Cpl. Curran when I went to No. 6 Hallyburton Road and there I saw the a/m soldier.

Having ordered him to return to his Unit on the 18 Mar 45., I asked to see his pass. He produced the attached Special Pass No.32756 and stated that he had not returned to his Unit.

He was A.W.L. and had failed to obey the order to return to his Unit given by me at 1500 hrs. 18 Mar 45.

I placed him under arrest and conducted him to the Civil Police Station, Brighton, where he was handed over to the Sgt. i/c to be detained.

Brighton.
20 Mar 45.

.....Sgt.
D-77511 Scruton, A.

Sir: I have read over and corroborate the above statement.

Brighton. -
20 Mar 45.

M. Curran
.....L/Cpl.
F-51503 Curran, M.

REMARKS

M.F.B. 155
22M—5-41 (572-8)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment ~~(or unit)~~
H-11200	Private Stanley Ernest GODFREY		2 C I T

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment ~~or appointment~~	
For	AA 15 (1)	4 times	AA 15 (1)	17 times
For	AA 40	1 times	AA 40	2 times
For	AA 11	no times	AA 11	1 times
~~For~~		~~times~~		~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

~~3. The accused is not under sentence at the present time~~

or,

~~The accused at the present time is under sentence for 21 days F.P. beginning on the 15th day of March 45~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 17 days in ~~Air Force~~ military custody, making a total of 17 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 20 years 3 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 8 Dec 39

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

C V S M & Clasp

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ..... and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number H-11200 Rank Pte Unit

Name Stanley Ernest GODFREY of 2 Cdn Inf Trg Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F G C M	25 Aug 43	AA Sec 15 (1)	50 days detention	?
F G C M	29 Dec 44	AA Sec 15 (1)	90 days detention	30 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of Apr 45 Superior Lieut Asst Adj. + CITR

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

LIST OF WITNESSES 2 CITR/13

In the case of H-11200 Pte Stanley Ernest GODFREY C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. Lieut K A JOHNSON
2. D-77511 Sgt SCRUTON, A
3. U-2029 Cpl HARRINGTON, R A
4. F-51503 L/Cpl CURRAN, M

FOR THE DEFENCE

Nil

LIST OF EXHIBITS

In the case of H-11200 Pte Stanley Ernest GODFREY C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

Exhibit "A" - Cert true extract of 2 CITR Pt II D.O. No 64 d/16 Mar 45 showing that the accused was awarded 21 days F.P. on 13 Mar 45.

Exhibit "B" - Cert true extract of 2 CITR Pt II D.O. No 77 d/1 Apr 45 showing that the accused absented himself without leave at 2150 hrs, 17 Mar 45.

Exhibit "C" - Certificate in accordance with P.C. 2797 of 10 Apr 42, showing that the accused was arrested at Hove at 1045 hrs, 20 Mar 45.

Exhibit "D" - Cdn Army Overseas special pass, issued to the accused to permit immediate return to unit.

FOR THE DEFENCE

Nil

REQUEST FOR DEFENDING OFFICER

I, H-11200 Pte Stanley Ernest GODFREY, hereby request that the Convening Officer appoint Lt L N Hamilton to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp,
7 May 45

S.E. Godfrey
H-11200 Pte Stanley E. GODFREY

RECEIPT FOR DOCUMENTS

I, H-11200 Pte Stanley Ernest GODFREY, hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being broughtto Court-Martial.

Laurentide Camp 7 May 45.

S.E. Godfrey

No. H-11200 Name GODFREY S.E. Sqn, Battery, or Company Corps CIC Date of enlistment 8 Dec 39 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/136 (5413)

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 11 Nov 42- Last Entry 20 Feb 40-cases of drunkeness-nil									
Field 17	Aug 40	Pte	✓	A.A. sec 15(1) AWL 3 days	L/S Hogarth Cpl Huslon	7 days det	20 Aug 40	Ltcol G. McCartney	Forf 3 days Pa Forf 7 days pay
Field 18	Jul 41	Pte	✓	A.A. sec 15(1) AWL from 2359 hrs 19 Jul 41 to 0745 hrs 20 Jul 41. Absent 7 hrs 45 mins	Sgt Nichols Cpl Stewart Pte McRae M	7 days C.B.	21 Jul 41	Capt B.A. MacPherson	
Field 1	Aug 41	Pte	✓	AA Sec 15(1) AWL from 2300 hrs 1 Aug 4 1to 0515 hrs 2 Aug 41 Absent 9 hrs 15 mins	Sgt Nichols L/C Durik	7 days FP Forf 9 days Pay FR&I 149(2)	4 Aug 41	Lt-col G.A. Sinclair	Fo rf 1 days pay. Forf 7 days pay.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under discovering with trial	By whom awarded	Remarks
Field	11 Jan 42	Pte		A.A. Sec 40 Improperly dressed when checked by C PO at Piqadilly Circus at 1950 hrs 11 Jan 42	L/C Hannah L/C Ross	3 days C.B.	16 Jan 42	E.C. Cape	
Field	16 May 42	Pte		AA Sec 11 Neglecting to obey Unit Standing Orders, did gamble in Barracks	Capt E.D. Rathbone	7 days C.B. Extra Guards	16 May 42	Maj G Curri e	
Field	31 Jul 42	Pte		A A sec 15(1) AWL 2 days 14 hrs	Sgt Harris L/B Criss	6 days F.P.	4 Sep 42	Maj A.E. Fort	Forf 3 days pay Forf 6 days pay for time in detn

No. H-11200 Name GODFREY S.E. Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PRS/126 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Oct 44	Pte	✓✓	AA Sec 15(1) WOAS AWL from 2359 hrs 1 5 Oct 44 till 2230 hrs 22 Oct 44 Absent-6 days 22 hrs 31 mins. Cost of app. 11s 11d	Doc'y	28 days F.P. cost of app 11s 11d	28 Oct 44	Ltcol R.C. Coleman	7days pay 28 " "
Field	5 Nov 44	Pte	✓✓	AA Sec 15(1) WOAS AWL from 2200 hrs 5 Nov 44 to 1500 hrs 15 Nov 44 Absnet 9 days 17 hrs	Doc'y	28 days F.P. 28 days pay FR&I 149(1)b	23 Nov 44	Ltcol J Runcie	Forf 10 days pay FR&I 149(1)a cost of app. 11s 11d

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Nov 44	Pte		AA Sec 15(1) AWL from 1800 hrs 25 Nov 44 whilst undergoing F.P. till app at 2030 hrs 4 Dec 44. Cost of app 9s 4d Absent 9 days 2 hrs 30 mins	Docy	90 days detn	27 Dec 44	FGCM	Remainder 30 days
Field	2 Mar 45	Pte		A.A. Sec 15 (1) WOAS AWL 6 days 2 hrs 15 mins	Doc'y Cpl Bannerman	21 days FP	13 Mar 45	Maj Mc Ills	Fo rf 28 days Pay

CERTIFIED TRUE COPY CONSISTING OF 4 PAGES

DATE 30 Mar 45

(I.D. Main) A/Adjutant

OFFICER HAVING CUSTODY OF REGIMENTAL BOOKS

No. H-11200 Name GODFREY S.E. Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFW 222) 40/P&S/[illegible]

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 19	Oct 42	Gnr	✓	A.A. SEc 15(1) AWL from 0600 hrs 19 Oct 42 to 0300 hrs 23 Oct 42 ABSENT 3 days 18 hrs 30 mins	L/B Blaybey L/S Harris	19 days F.P.	24 Oct 42	Lt-col G.T. Inch	Forf 4 days pay. Forf 10 days Pay for time in detn.
Field 20	Mar 43	Gnr	✓	A.A. Sec 15(1) AWL from 1900 hrs 20 Mar 43 till 2310 hrs 1 Apr 43 Absent 12 Days, 4 hrs 10 min	Sgt S.A. Robertson	28 days F.P.	5 Apr 43	Lt-col R.W. Armstrong	Forf 13 days pay. Forf 28 days pay for time in detn

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 19	Jul 43	Gnr	✓	A.A. Sec 15(1) AWL from 2300 hrs 19 Jul 43 to 2245 hrs 9 Aug 43. Absent 20 days 23 hrs 45 mins. Cost of Apprehen.£1/6/0	Doc'y L/B Smith	50 days detn	25 Aug 43	FGCM	Forf 50 days pay FR&I 149(2) Forf 16 days Pay FR&I 149(1)c(i) Forf 21 days Pay FR&I 149(1) a Total Forf 87 days Pay
Field 12	Dec 43	Gnr	✓	WOAS AWL from 2200 hrs 12 Dec 43 till 2300 hrs 16 Dec 43 Absent 4 days 1 hr AA Sec 15(1)	Doc'y	14 days F.P. 14 days Pay Cost of app 8s	21 Dec 43	Ltcol G Inch	Forf 19 days pay Cost of app 8s

No. H-11200 Name GODFREY S.E. Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/[illegible]

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Dec 43	Gnr	✓	WOAS AWL from 1200 hrs 26 Dec 43 till 2030 hrs 7 Jan 44 Absent 12 days 8 hrs 30 mins. A.A. Sec 15(1)	27 days pay 27 days F.F. cost of app. 8s	10 Jan 44	Doc'y	Ltcol G.T. Inch	Tot forf 40 days pa Cost of app 8s
Field	22 Mar 44	Gnr	✓	AA Sec 15(LO WOAS AWL from 2200 hrs 22 Mar 44 till 2145 hrs 28 Mar 44 ABSENT 5 days 23 hrs 45 mins Close Arrest 2 days 2 hrs 15 mins	Doc'y Sgt McKenna	28 days detn cost of app. 11s 11d	31 Mar 44	Ltcol W.E. Fleury	Forf 6 dys pay FR&I 149(1) a. Forf 28 days pay FR&I 149 (1)b FORF 3 dys pay FR&I 149 (1)c

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6 Feb 44	Gnr		WOAS AWL from 2200 hrs 6 Feb 44 till 2235 hrs 21 Feb 44 Absent 15 days 35 mins A.A. sec 15(1)	Doc'y	27 days FP 27 " Pay	24 Feb 44	Ltcol GT Inch	Forf 16 days pay FR&I 149(1)a
Field	17 Apr 44	Pte		WOAS AWL from 1330 hrs 17 Apr 44 till 2350 hrs 23 Apr 44 Absent 6 days 10 hrs 20 mins. A.A Sec 15(1)	Doc'y Cpl McColl	28 days F.P. 28 days pay Cost of app. 11s 11d	28 Apr 44	Ltcol WJ Bingham	Forf 7 days pay FR&I 149(1)
Field	17-6-44	Pte		A.A. Sec 40 Failing to report to place of parade	Pte Dumas Pte Allary	Admonished	17-6-44	Capt Conway	

4F-57
Pte Godin J A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 479 Pte GODIN J A 1 Bn 1 CDN Gp

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd AA 15(1)	Guilty	Guilty	
3rd AA 15(1)	Guilty	Guilty	
4th AA 15(1)	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of NIL see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentences being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 7 days, of which 1 7 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one year

(Sgd) ..... Judge Advocate, if any. — 9 Nov 44 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 665. Quashing after promulgation: KR Con 577. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence of the Court but remit 3 months imprisonment

~~I direct that the accused be kept committed to prison or detention barracks until further orders.~~ (1) Ford
(1. AA 57A. Delete if not used.)

(Sgd) ..... Col/Baldwin

Date 9 Nov 44 Commanding ..... Brig

COMMANDER
1 CDN BASE RFT GROUP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G-479 Pte Godin, Joseph Alphonse	11 Nov 44	[signature] A.C.2 Officer Commanding 1 Bn 1 Cdn Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AP 160-5
RECEIVED 29 NOV 1944 DEPT. OF NAT. DEF. CANADA

CFAR 86 (to form of CFAR) 40/1 & 2/1898 (40/10)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened at Brig E H Baldwin Comd 1 C B R Gp dated 9 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 479	Pte	Joseph Alphonse	Godin	1 Bn 1 CDN Gp

PROCEEDINGS REVIEWED 30 Nov 44
JAG H. C. Imah Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the East in (Country) Canada on date(s) 5 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2D 83

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fms KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 52, RP 36, 43-70, 72, 74, 84, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 12.22 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans Nil (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.P. Vanderkloet	O.C. 2 Can M.F.U.
Member	Capt	J.A. Manahan	C.I.C. 2 Can M.F.U.
Member	Lieut	W.M. Grant	C.I.C. 2 Can M.F.U.
~~Judge Advocate~~			
Prosecutor	Lieut	R.E. Logan	C.I.C. 1 Bn 1 C.D.N. Gp
Defending Offr	Lieut	E.J. Leduke	C.I.C. 1 Bn 1 C.D.N. Gp.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Yes (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 here not followed. See DI p 3.)

A8. The accused G 479 Pte Godin J A before arraignment make(s) (no) ~~no~~ plea(s) .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Instrs. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Instrs.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

L122

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p. 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(D) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....
Do you intend to call witnesses on your behalf? Ans .....
Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A63. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 80(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes on Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative pronouncements is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? Ans .....(1)
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(1. *RP 27(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried sepcartely see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 68. As to sentences see AA 44, 128, 142, RP 46-50, 66, 118, 119(A), KR Con 308, 330, 563-564. Overseas 80 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 47(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Conf/ensing Offr see KR Con 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, G.479, Pte. Joseph Alphonse GODIN, 1 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with :

FIRST CHARGE

Sec. 15 (1) ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 1300 hours on 12 June 1944, absented himself without leave until surrendering himself at about 1735 hours, 21 June 1944. (Total absence, 9 days, 4 hours, 35 minutes.)

SECOND CHARGE

Sec. 15 (1) ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 0600 hours on 11 July 1944, absented himself without leave until apprehended at 1440 C.W.L. hours, 29 July 1944. (Total absence, 18 days, 8 hours, 40 minutes.)

THIRD CHARGE

Sec. 15 (1) ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 2359 hours on 3 August 1944, absented himself without leave until apprehended at 2315 hours 19 August 1944. (Total absence, 15 days, 23 hours, 44 minutes)

FOURTH CHARGE

Sec. 15 (1) ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 1610 hours on 8 October 1944, absented himself without leave when in arrest, until apprehended at 0945 hours 13 October 1944. (Total absence, 4 days, 18 hours, 45 mins.)

Vincent McKenna Lt-Col.

(VINCENT McKENNA,)
Officer Commanding,
1 Cdn Base Rft Bn, 1 CBRD

In the Field,
20 October, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
7 Nov 44

E W Halmeny

(E. W. HALMENY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 82, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 193, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C479	Pte		Joseph Alphonse	GODIN	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 7 Nov 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". GWH

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ GWH
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GWH
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ GWH
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	T F DUNDENDALE (R C SIGS)	2 Cdn N E T D

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut	to be detailed by the OC 2 Cdn N E T D	
" "	" " " " " " " "	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J C CAMPBELL (CAC)	2 Cdn Reallocation Centre

~~JUDGE-ADVOCATE.~~ GWH

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

GWHaldenby (Signed personally. RP 105 fn 2.)
(G. W. HALDENBY)

Brigadier (Rank.)

Date 7 Nov 44

Commanding 1 Cdn Base Rft Gp-CAF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAB (In lieu of AFAB) AD/F & S/1647 (4681)

(See overleaf for oaths and notes for use on trial.)

Plea in Mitigation

Befor arriving in Italy in 1943 the ship on which Pte Godin J.A. was travelling was torpedoed and in the confusion the accuse broke his ankle. He was sent to Africa where he was told he would have a sick leave. This leave was not granted and about January 44 he was sent to 1 C.B.R.D. where he was posted to W.N.S.R. This was not agreeable to him as all his friends were with the C.P. Regt. He tried to get a transfer but was not successful and became dissatisfied. He started going absent without leave. I believe if this man were to be transferred to the Carleton & York Regt. with his friends he would prove himself a good soldier

H. J. LeBlanc Lieut
Defending Officer

Summary of Evidence

in the case of

C-479 Pte. Godin, Joseph Alphonse, 1 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army, overseas

The Commanding Officer directs that the evidence be taken under oath.

First Witness for the Prosecution: O-10107 Chl. Roe A.H., Probably Room Clerk, 1 Bn., 1 C.B.R.D having been duly sworn states:—

I am O-10107 Chl. Roe A.H., probably Room Clerk, 1 Bn., 1 Canadian Base Reinforcement Depot and as such produce:-

Part II order X List West Nova Scotia Regt No. 73 dated 20 June 1944 which states that C-479 Pte Godin A. was A.W.L. from 1300 hrs. 12 June 44, returned from A.W.L. 1735 hrs. 21 June 44. Presented and marked Exhibit "A".

Part II order X List West Nova Scotia Reg't No. 119 dated 24 Oct 1944 which states that Part II order No. 73 dated 20 June 44 is amended to read C-479 Pte. Godin J. A. Presented and marked Exhibit "C"

Part II order X List West Nova Scotia Regt No. 83 dated 29 July 1944. which states that C-479 Pte. Godin J. A. was A.W.L. from 0600 hrs 11 July 1944. Presented and marked Exhibit "B"

Page 2 of the Summary of Evidence in the case of G-479 Pte. Godin J. A.

Part II order X Tist West Nova Scotia Reg't No. 104 dated 27 Sept 44 which states that G-479 Pte. Godin J. A. was A.W.L. from 2359 hrs 3 Aug. 1944. It shows accused A.W.L. from 104 Br. Gen. Hosp. Presented and marked Exhibit "D". Part II order X Tist West Nova Scotia Reg't No. 110 dated 5 Oct 44 which states that G-479 Pte. Godin J. A. was apprehended at 2315 hrs 19 Aug 1944. Presented and marked Exhibit "E".

A H Rae

The accused declines to cross-examine the witness.

Page 3 of the Summary of Evidence in the case of G-479 Pte. Godin J.A.

Part II orders X List West Nova Scotia Regiments

No. 73 dated 28 June 44, No. 83 dated 29 July 44

and ~~[illegible]~~ No. 119 dated 24 Oct. 44, referred, to by the witness, produced, read over, shown to the accused, marked Exhibits "A", "C" and "B" respectively and attached to the Summary.

Part II orders X List West Nova Scotia Regiment

No. 106 dated 27 Sept 44, No. 110 dated 5 Oct 44, ~~and Certificate of Arrest dated 13 Oct 1944~~ referred to by the witness, produced, read over, shown to the accused, marked Exhibits "D" "E" and "E" respectively and attached to the Summary.

W. Jas. Lind
Officer taking Summary of Evidence.

Second Witness for the Prosecution

F-42610 Sgt. Kelly F.W., Work Sgt., 1 Bn, 1 C.B.R.D. having been duly sworn, states:-

I am F-42610 Sgt. Kelly F.W., Work Sergeant, for 1 Battalion, 1 Canadian Base Reinforcement Depot. On the 8th of October 1944 I was ordered by the Quartermaster, Capt. D.B. Dickson to move beds down to the ground floor in the Borden Building. At approx. 1330 hrs I went to #3 Bn. Guard Room and drew six (6) prisoners and three (3) escorts of which G-479 Pte. Godin J.A. was one of the prisoners. I returned with the prisoners to the Borden Building to carry out the work. At approx. 1500 hrs. I reported to Capt. D.B. Dickson on the progress of the work. On my return at

approximately 15.10 hrs. I found G-479 Pte. Godin J. A. was missing. I reported this immediately to #1 Bn. Regimental Police also at the gate of Canada Barracks - then returned the remaining prisoners to # 3 Bn. Guard Room reporting the absence of G-479 Pte. Godin J. A. there.

F W Kelly.

The accused declines to cross examine the witness.

Question to the Accused

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but any statement you make or any evidence you give, will be taken down in writing and may be given in evidence

Answer by the Accused

I reserve my defence.

I certify that the foregoing Summary of Evidence consisting of four (4) pages was taken down by me in the presence of the accused, and that rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

W J Jackson Lieut
Officer detailed to take the Summary of Evidence.

In the Field
20 Oct. 1944.

Additional Summary of Evidence

in the case of

G-479 Pte. Godin Joseph Alphonse, 1 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for Prosecution D-10107 Cpl. Rae A.H., Orderly Room Clerk, 1 Bn., 1 C.B.R.D. having been duly sworn states:—

I am D-10107 Cpl. Rae A.H. Orderly Room Clerk, 1 Bn., 1 C.B.R.D. I present West Nova Scotia Reg't X List Part II Order No. 122 dated 28 Oct 1944 which states that G-479 Pte. Godin J.A. was A.W.L. from 0600 hrs 11 July 44, apprehended at 1440 hrs. 29 July 1944. Marked Exhibit "H"

I also present West Nova Scotia Regiment X List Part II Order No. 117 dated 19 Oct. 1944 which states that G-479 Pte. Godin J.A. was apprehended at 0945 hrs. 13 Oct 1944. Marked Exhibit "J"

A.H. Rae

The accused declines to cross examine the witness.

Page 2 of Additional Summary of Evidence in the case of
C - 479 Pte. Godin J. A.

West Nova Scotia Reg't Part II X List Orders No. 122 dated 28 Oct 1944 and No. 117 dated 19 Oct 1944 referred to by the witness, produced, read over shown to the accused, marked exhibits "H" & "J" respectively and attached to the Summary.

W. Jaskins Lieut
Officer taking additional Summary of Evidence

Question to the Accused

Do you wish to make a statement or to give evidence under oath? You are not required to do so but any evidence you give or any statement you make will be taken down in writing and may be given in evidence.

Answer by the Accused

I reserve my defence.

I certify that the foregoing additional Summary of Evidence consisting of 2 pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

W. Jaskins Lieut
Officer taking additional Summary of Evidence.

In The Field
31 Oct. 1944.

5. COURSES

(a) Proceeded on #6 Regimental Instructors Course 26 Jun 44 to (CLTC - Benevento). (Course 26 Jun 44 to 15 Jul 44).
F49761 Sgt Carmichael, B.B.

(b) Proceeded on #9 Water Duties Course 29 May 44 to 4 Jun 44 (School of Hygiene).
F39708 Pte Wentzell, E.E.

6. INTERNAL POSTINGS

(a) Posted from X-3 List to X-4 List (4Bn) dates shown
F41613 CQMS Potter, V.R. 25 Jun 44
F51823 Pte(A/L/Cpl) Forrest, M.J. 23 Jun 44
F97101 Pte Pitchuk, S. 24 Jun 44

(b) Posted from X-4 List (1Bn) to X-3 List dates shown
F30007 Pte Fiander, W.L. 23 Jun 44
F39718 Pte Whynot, V.A. 23 Jun 44
G52501 Pte Estabrooks, P. 21 Jun 44
F55090 Pte McLean, J.E. 21 Jun 44
F40109 Pte Cotie, L.J. 21 Jun 44
F54886 Pte Roberts, S. 21 Jun 44

(c) Posted from X-3 List to X-4 List (1Bn) dates shown
F55486 L/Cpl Waddon, E.M. 25 Jun 44
F68324 Pte White, J.A. 25 Jun 44
F39708 Pte Wentzell, E.E. 17 May 44
F2942 Pte Aikens, H.P. 23 Jun 44
F68219 Pte Christoff, W. 23 Jun 44
F40105 Pte Roberts, M.G. 23 Jun 44
G22807 Pte Lucc, G.J. 24 Jun 44
F43654 Cpl Zwicker, F.P. 24 Jun 44
F40055 Pte Bellman, L. 22 Jun 44
F78921 Pte Millior, G.E. 22 Jun 44
F40558 L/Cpl Cornelius, E.T. 21 Jun 44
F43756 Pte DeMillo, R.S. 21 Jun 44
F96413 Pte Gallant, G. 21 Jun 44
F86656 Pte Knulback, R.S. 21 Jun 44
F60731 Pte Keough, L.R. 21 Jun 44
F78576 Pte McPhee, R.J. 21 Jun 44
F76502 Pte Sangster, A.F. 21 Jun 44
F32670 Pte Ticknor, J.F. 21 Jun 44

(d) Posted from X-4 List (4Bn) to X-4 List (1Bn) 21 Jun 44 Auth- Cdn O2E/ARS/313 d/11 Jun 44
F95489 Pte Burnet, H. F40007 Pte Cormier, J.J.
F43569 Pte Doloroy, G.W. F75671 Pte McGilvray, P.R.
F87178 Pte Parker, R.W.

(e) Posted from X-4 List (4Bn) to X-4 List (1Bn) 26 Jun 44 Auth- Cdn O2E/ARS/313 d/11 Jun 44
F97101 Pte Pitchuk, S.

(f) Posted from X-2 List to X-4 List (1Bn) 12 Jun 44 Released from 7 Cdn F.P. Camp
G479 Pte Godin, A.

This is Exhibit "A" referred to in the Summary of Evidence in the case of S. #19 Pte. Kodish J.B. taken before me this 30th day of October 1944.

Signature Lieut
Appointment of officer taking Summary.

Last Order No. ...72 — 24 Jun 44

X-LIST THE WEST NOVA SCOTIA REGIMENT
Part II Orders Issued by
CANADIAN SECTION, G.H.Q., 2nd ECHELON, A.A.I.

This Order No. .....73 — 28 Jun 44

"A" OFFICERS

1. STRENGTH INCREASE

(a) AMENDMENT Part II Order No.61 para 2(a) of 4 Jun 44, insofar as it refers to the u/n is amended to read "Capt W.S. McCullam".
Capt W.S. McCallum

2. EMBARKATION AND DISEMBARKATION

(a) Having embarked 6 Jun 44 is S.O.S. Cdn Army (UK) on that date, T.O.S. Cdn Army (CMF) 9 Jun 44. Disembarked Italy and T.O.S. X-4 List (1Bn) 22 Jun 44
Lieut J.R. Kirk

3. INTERNAL POSTINGS

(a) Posted from X-4 List (1Bn) to X-3 List 19 Jun 44
Lieut H.L. McFee

(b) Posted from X-4 List (4Bn) to X-4 List (1Bn) 21 Jun 44 Auth- Cdn O2E/ARS/313 d/11 Jun 44
Lieut S.K. Nickerson

"B" OTHER RANKS

4. STRENGTH INCREASE

(a) T.O.S. X-3 List from Cdn Pioneer Coy 21 Jun 44
F56810 Pte Delaney, G.A.

(b) T.O.S. X-4 List (1Bn) from X-4 List C.A.C."D" (5Bn) 10 Jun 44 and transferred to C.I.C. from C.A.C. Auth- CECH/27/CAC Reinf/1 (Org) d/15 Apr 44
F30110 Pte Bowers, G.J. — F29887 Pte Davis, P.H.
F30007 Pte Fiandor, W.L.

(c) T.O.S. X-4 List (1Bn) from X-4 List C.A.C."D" (5Bn) 20 Jun 44 and transferred to C.I.C. from C.A.C. Auth- CECH/44/Trans Con/2 d/27 May 44
F76185 Pte Bush, J.C.

(d) T.O.S. X-4 List (4Bn) from HQ. 1 Cdn Arm'd Bde 17 Jun 44 Auth- Cdn O2E/ARS/341 d/16 Jun 44
F87176 Pte Parker, R.W.

(e) T.O.S. X-3 List from West N.S.R. dates shown

F41588	Pte(A/L/Cpl) Banks, A.L.	18 Jun 44
B59062	Pte Larose, A.	21 Jun 44
F42671	Pte Foster, D.F.	21 Jun 44
F60659	Pte(A/L/Cpl) MacDonald, C.G.	22 Jun 44
F51823	Pte(A/L/Cpl) Forrest, M.J.	21 Jun 44
F41613	CQMS Potter, V.R.	23 Jun 44
F49761	L/Cpl Cameron, C.C.	23 Jun 44
H7132	Pte Fedoronchuk, W.	22 Jun 44

(f) AMENDMENT Part II Order No.71 para 2(b) of 22 Jun 44, insofar as it refers to the u/n is amended to read "12 Jun 44".
F87222 Pte Jodrey, H.

(g) AMENDMENT Part II Order No.64 para 3(d) of 7 Jun 44, insofar as it refers to the u/n is amended to read "L/Cpl (A/L/Sgt)".
F43638 L/Cpl Murree, A.R.

9. PUNISHMENTS (CONT'D)

(c) On 21 Jun 44 awarded 7 days C.B. for an offence under AA.15(1) A.W.L. from 0815 hrs 20 Jun 44 to 2200 hrs 20 Jun 44 (absent 13 hrs and 45 mins). Forf 1 days pay under FR&I.149(1)(a).
F89105 Pte McLeod, F. (X-3 List)

(d) On 21 Jun 44 admonished for an offence under AA.19 drunkenness (4th offence).
F5902 Pte Higby, K. (1Bn)

(e) On 22 Jun 44 awarded 14 days C.B. and a forf of 7 days pay for offences (1) AA.11 (2) AA.40. Forf 7 days pay under FR&I.149(2).
F44864 Pte Allard, C.W.

(f) On 21 Jun 44 awarded 14 days C.B. and a forf of 7 days pay for an offence under AA.15(1) A.W.L. from 2200 hrs 18 Jun 44 to 1700 hrs 20 Jun 44 (absent 1 day, 19 hrs). Forf 2 days pay under FR&I.149(1)(a). Forf 7 days pay under FR&I.149(2). Total forf 9 days pay
F39935 Pte Gidney, W.E.

(g) On 13 Jun 44 tried by a R.G.C.M.

CHARGES: 1. AA.12(1)(a)

FINDINGS: Not Guilty of desertion but is guilty of A.W.L.

SENTENCE: 6 months imprisonment with hard labour

CONFIRMATION: Findings and sentence confirmed by Condr 1 C.B.R.Gp. 15 Jun 44

A.W.L. From 0800 hrs 5 Jun 44 to 1945 hrs 5 Jun 44 (absent 11 hrs and 45 mins)

CLOSE ARREST: Under close arrest from 1945 hrs 5 Jun 44 to date of trial

FORFEITURES: Forf 183 days pay under FR&I.149(1)(b)
Forf 1 days pay under FR&I.149(1)(a)
Forf 7 days pay under FR&I.149(1)(c)(i)
Total Forf 191 days pay

F3373 Pte Allison, A.L. (4Bn)
F96544 Pte Desrocho, J.B. (4Bn)

(h) AMENDMENT Part II Order No.45 para 11(2) of 25 Apr 44, insofar as it refers to the w/n is amended to read "8 days completely concurrent with award of 28 days forf of pay on 9 Mar 44, vide Part II Order No. 36 para 9(b) of 18 Mar 44", and to read "Total Not forf 14 days pay". (CMHQ Pay Obs No.7599 d/12 Jun 44).
F42618 Pte MacMullin, L.L.

10. STRENGTH DECREASE

(a) S.O.S. X-4 List (1Bn) to X-4 List Cape Breton Highrs (1Bn) 24 Jun 44 Auth- CMHQ/43/Post CIC/1 (A7) 20/1 Bn 1 C.B.R.D./1 d/23 Jun 44
F97071 Pte McIntyre, J.F.

6. INTERNAL POSTINGS (CONT'D)

(g) Posted from X-4 List (4Bn) to X-2 List 19 Jun 44, on commitment to [illegible] (awarded 28 days F.P. on 16 Jun 44).
F32874 Pte Collins, J.W.
F31191 Pte Shepherd, J.D.

(h) Posted from X-4 List (4Bn) to X-2 List 19 Jun 44, on commitment to [illegible] (awarded 6 months imprisonment with hard labour on 13 Jun 44).
F3373 Pte Allison, A.L.
F96544 Pte Desrochs, J.R.

(i) Posted from X-4 List (4Bn) to X-4 List (1Bn) 24 Jun 44 Auth- Cdn OMB/ARS/313 d/11 Jun 44
F[illegible]823 Pte(A/L/Cpl) Forrest, M.J.

7. REVERSIONS

(a) Reverts to Pte 16 Jun 44, to draw Regt'l Rate of pay of $1.50 per diem
H6544 Pte(A/L/Cpl) Wolfe, K.E.

8. ABSENT WITHOUT LEAVE

(a) A.W.L. from 1300 hrs 12 Jun 44 Returned from A.W.L. 1735 hrs 21 Jun 44
G479 Pte Godin, A.

(b) A.W.L. from 2030 hrs 30 May 44 Returned from A.W.L. 6 Jun 44 (hour unknown), on admittance to 95 U.S. Evac Hosp.
B52291 Pte Royce, A.

(c) A.W.L. from 0800 hrs 3 Jun 44 Still absent 0800 hrs 25 Jun 44 22nd day).
C[illegible]511 Pte Yado, S.F.

(d) A.W.L. from 2230 hrs 12 Jun 44 Still absent 2230 hrs 20 Jun 44 (8th day).
F29717 Pte Baird, J.S.

(e) A.W.L. from 0800 hrs 2 Jun 44 Apprehended from A.W.L. 2240 hrs 11 Jun 44.
F65610 Pte Langillo, A.H.

(f) A.W.L. from 0800 hrs 3 Jun 44 Apprehended from A.W.L. 2240 hrs 11 Jun 44.
F29950 Pte Taylor, T.

(g) AMENDMENT Part II Order No.68 para 9(a) of 14 Jun 44, insofar as it refers to the a/a is cancelled
B52291 Pte Royce, A.

9. PUNISHMENTS

(a) On 22 Jun 44 placed under stoppages of pay in the amount of $13.55, for an offence under AA.24(2). Placed under stoppages of pay in the amount of $13.55 under FR&I.158(2), to make good loss of equipment.
F43636 Pte Cottreau, R.M. (1Bn)

(b) On 23 Jun 44 awarded 7 days C.B. and a forf of 3 days pay for an offence under AA.40. Forf 3 days pay under FR&I.149(2).
F49707 Pte Cox, L.G. (1Bn)

4. STRENGTH INCREASE (CONT'D)

(d) T.O.S. X-4 List (1Bn) from West N.S.R. 15 Jul 44 Auth - CBCH/46/Cts Mart/7 (48) d/12 Jul 44
F76022 Pte Beeler, E.L.
F32665 Pte McNeil, J.M.
F35589 Pte Lane, F.A.

(e) T.O.S. X-4 List (1Bn) from West N.S.R. 23 Jul 44 Auth - CBCH/43/Post CIC/4(47) d/20 Jul 44
P95936 Pte Smith, C.E.

(f) T.O.S. X-3 List from 17 Cdn Spec Emp Coy 23 Jul 44
F[illegible]941 Pte Farrell, [illegible].

(g) T.O.S. X-3 List from 1 Cdn Spec Inf Coy 23 Jul 44
F86656 Pte Kaulbeck, R.P.

(h) T.O.S. X-4 List (1Bn) from 6 Bn 2 C.B.R.D. 25 Jul 44 Auth - P.O. WLS, d/14 Jul 44
F76235 Pte Kitchin, R.M.

(i) T.O.S. X-4 List (1Bn) from 1 Bn 1 C.B.R.D. 27 Jul 44 Auth - CBCH/43/Post CIC/4(47) d/25 Jul 44
F79567 Pte Lowe, L.R.

(j) T.O.S. X-4 List (1Bn) from West N.S.R. 17 Jul 44 Auth - Can SRE/1153
F49666 Sgt Stone, C.O.

(k) T.O.S. X-3 List from Desertion 17 Jul 44, on admission to Hospital
F54756 Pte McInnis, T.A.

(l) AMENDMENT Part II Order No 73 para 4(g) of 28 Jun 44, is cancelled in its entirety

(m) AMENDMENT Part II Order No 64 para 3(d) of 7 Jun 44, insofar as it refers to the u/n is amended to read "Pte(L/Cpl)"
F43638 L/Cpl Murroe, L.R.

(n) AMENDMENT Part II Order No 70 para 3(a) of 20 Jun 44, insofar as it refers to the u/n is amended to read "21 Jul 44"
F[illegible]5950 Pte Carrigan, L.J.

(o) AMENDMENT Part II Order No 72 para 3(a) of 24 Jun 44, insofar as it refers to the u/n is amended to read "Pte"
F44757 L/Cpl Jordan, P.W.

5. INTERNAL POSTINGS
(a) Posted from X-4 List (1Bn) to X-3 List dates shown

F40750	Cpl(A/Sgt) Farris,	L.S.	24 Jul 44
F78894	Pte Gallant,	C.R.	16 Jul 44
F76185	Pte Bush,	J.C.	20 Jul 44
G22930	Pte Murphy,	T.[illegible].	20 Jul 44
F78277	Pte Cromwell,	J.L.	21 Jul 44
F42560	Sgt Jefferson,	K.M.	22 Jul 44
F42601	Pte Hallett,	D.	3 Jul 44
F57089	Pte Cross,	H.R.	27 Jun 44
F76976	Pte Forgeron,	J.C.	22 Jul 44
G18554	Pte Meillet,	P.	24 Jul 44

This is Exhibit "B" referred to in the affidavit of Lorraine J.A. Schachtiefrau sworn before me this 24th day of October 1944

A Justice of the Peace

Signature of Officer taking Summary

Exhibit "B"

3 copies

Last Order No.....82 25 Jul 44

X-LIST THE WEST NOVA SCOTIA REGIMENT
Part II Orders Issued by
CANADIAN SECTION G.H.Q., 2nd ECHELON, A.A.I.

This Order No.....83 29 Jul 44

"A" OFFICERS

1. STRENGTH INCREASE
(a) T.O.S. X-3 List from West N.S.R. 17 Jul 44
Capt(A/Major) J.K. Rhodes

2. INTERNAL POSTINGS
(a) Posted from X-3 List to X-4 List (1Bn) 25 Jul 44
Lieut G.F. Prat

3. STRENGTH DECREASE
(a) S.O.S. X-3 List to X-9 List 22 Jul 44 Auth - Pending Medboard
Major J.C. Millard

(b) S.O.S. X-4 List (1Bn) to West N.S.R. 22 Jul 44 Auth - Demand No. NCO/299, d/18 Jul 44
Capt .S. McCullam

(c) S.O.S. X-4 List (1Bn) to 1 Cdn Lt.A.A. Regt (CIC) 23 Jul 44 Auth - Demand No. 503 A/22 Jul 44
Lieut R.P. Neil

(d) S.O.S. X-4 List (1Bn) to West N.S.R. (Trng Inc) 25 Jul 44 Auth - TI/69, d/24 Jul 44
Lieut J.S. Mailby
Lieut J.R. Kirk

"B" OTHER RANKS

4. STRENGTH INCREASE
(a) T.O.S. X-3 List from West N.S.R. dates shown

F89916	Pte(A/Cpl)	Beaton,	R.J.	25 Jul 44
F39830	Pte	Bellivesu,	O.J.	23 Jul 44
F39625	PSM	Henning,	T.H.	23 Jul 44
F88750	Pte	MacLaren,	B.E.	23 Jul 44
F55202	Pte	Clarke,	E.H.	8 Jul 44
F59767	Pte	Hachy,	R.J.	24 Jul 44
F40711	Pte	Whitman,	C.M.	15 Jul 44
G60966	Pte	Cooke,	A.E.	1 Jul 44
F97234	Pte	McNeil,	J.W.	22 Jul 44
F88247	Pte	Hart,	J.W.	25 Jul 44
F40093	Pte	Robichaud,	A.J.	24 Jul 44
B117746	Pte	Norton,	G.C.	25 Jul 44
F43640	Pte	Allen,	R.C.	25 Jul 44
G50854	Pte	Lavigne,	J.H.	25 Jul 44
F41621	Pte	Spurr,	L.G.	25 Jul 44
F52355	Pte	MacDonald,	B.T.	25 Jul 44

(b) T.O.S. X-3 List from X-9 List 19 Jul 44
F2951 Pte Canavan, D.H.

(c) T.O.S. X-4 List (1Bn) from 2 Cdn Fd Hygiene Sec 20 Jul 44, and transferred to C.I.C. from R.C.A.S.C. Auth - CECH/44/Trans Gen/7 (A7) d/12 Jul 44
F86872 Pte Titus, E.R.

5. INTERNAL POSTINGS (CONT'D)
(o) AMENDMENT Part II Order No.82 para 4(a) of 25 Jul 44, insofar as it refers to the u/n is cancelled
K38635 Pte Butt, D.

(p) AMENDMENT Part II Order No.75 para 2(b) of 3 Jul 44, insofar as it refers to the u/n is amended by deleting "(A/L/Cpl)"
F79303 Pte(A/L/Cpl) Dukeshire, G.N.

(q) Posted to X-5 List on proceeding on Course Driver Operators 23 Jul 44, to 5Bn 2 C.B.R.D. (23 Jul 44 to 17 Aug 44)
A118226 Pte Arpan, H.J.
F39622 Pte Hebb, H.B.

6. COURSES
(a) Returned from Course CMTC Benevento 22 Jul 44, (No.12 Water Duties) (7 Jul 44 to 23 Jul 44)
G22807 Pte Luce, J.G.

7. ABSENT WITHOUT LEAVE
(a) A.W.L. from 0600 hrs 11 Jul 44. Still absent 0600 hrs 19 Jul 44 (8th day)
G479 Pte Godin, J.A.

(b) A.W.L. from 0800 hrs 13 Jul 44. Still absent 0800 hrs 21 Jul 44 (8th day)
F84709 Pte MacDonald, F.

(c) A.W.L. from 0600 hrs 4 Jul 44. Returned from A.W.L. 2240 hrs 19 Jul 44
D81175 Pte Peterson, C.

(d) A.W.L. from 0730 hrs 19 Jul 44. Returned from A.W.L. 2230 hrs 23 Jul 44
F11105 Pte Morrison, W.H.

8. PROMOTIONS
(a) AMENDMENT Part II Order No.80 para 5(a) of 18 Jul 44, insofar as it refers to the u/n is amended to read "F43638 Pte(A/Cpl) Murree, A.R"
F40083 Pte(A/L/Sgt) Murree, R.W.

9. REVERSIONS
(a) Reverts to Cpl 22 Jul 44
F39649 Cpl(L/Sgt) Lowe, W.L.

(b) Reverts to A/Cpl 25 Jul 44, on being S.O.S.
F43638 Pte(A/Sgt) Murree, A.R.

10. TRADESMEN'S QUALIFICATIONS
(a) The Dvr Mech qualifications held by the u/n personnel are redesignated as Dvr Mech MV"C"
G50288 Pte Bannister, C.F.
F49707 Pte Cox, L.G.
F86531 Pte Snyder, D.K.
F41630 Cpl Wambolt, M.L.
F50235 Pte Burke, F.J.
F5059 Pte Wade, E.G.
F54705 Pte Morrison, A.A.

(b) Qualified as Clerk"C" 21 Jul 44 Auth- T.T.B. Report, d/21 Jul 44
G23300 Pte May, J.F.

11. TRADESMEN'S RATES OF PAY
(a) Granted tradesmen's rates of pay Clerk"C" 21 Jul 44
G23300 Pte May, J.F.

5. INTERNAL POSTINGS (CONT'D)

(b) Posted from X-4 List (1Bn) to X-10 List 22 Jul 44, on attachment to 4Bn 1 C.B.R.Gp. f.a.p. Auth- 1 Ech Attach Order No.161
F66132 Pte MacDonald, J.H.

(c) Posted from X-3 List to X-4 List (1Bn) dates shown

G23300	Pte	May, J.F.	17 May 44	
F56350	Pte	Cordeau, E.E.	25 Jul 44	
F97106	Pte	Ashade, J.B.M.	23 Jul 44	
F66531	Pte	Snyder, D.K.	23 Jul 44	
G22930	Pte	Murphy, T.A.	23 Jul 44	
F54651	Pte	McKay, H.F.	25 Jul 44	
A61044	Pte	Watson, W.A.	25 Jul 44	
F39552	Pte	Banks, J.I.	25 Jul 44	
F43568	Pte	Daurio, D.F.	25 Jul 44	
F41630	Cpl	Wambolt, M.L.	25 Jul 44	Dvr Mech MV"C"

(d) Posted from X-2 List to X-3 List 24 Jul 44
F54795 Pte MacNeil, F.

(e) Posted from X-4 List (1Bn) to X-5 List 22 Jul 44, on proceeding on Course to 1 Cdn Base School of Cookery
F79424 Pte Ollerton, J.G.

(f) Posted from X-4 List (1Bn) to X-5 List 22 Jul 44, on proceeding on course CMTC Benevento (Demonstration Platoon)

F40439	Pte	Baker, J.A.	F40007	Pte	Cormier, J.J.
F44650	Pte	Kennedy, A.T.	F40095	Pte	Waye, H.S.(M.M.)

(g) Posted from X-2 List to X-4 List (1Bn) 14 Jul 44. Released from NBW Mil Pris and Detn Bks
H102597 Pte Shiaro, C.

(h) Posted from X-3 List to X-2 List 23 Jul 44, admitted to 1 Cdn Div F.P. Camp
F49827 Pte Skilton, H.T.

(i) Posted from X-4 List (1Bn) to X-2 List 19 Jul 44, on committment to 2 Cdn F.P. Camp (awarded 28 days F.P. on 18 Jul 44)
D63263 Pte Larouche, J.
F35478 Pte Reekie, W.E.

(j) Posted from X-2 List to X-3 List 21 Jul 44
D63263 Pte Larouche, J.

(k) Posted from X-2 List to X-4 List (1Bn) 15 Jul 44, Released from 25 F.P. Camp
G18819 Pte Babin, A.

(l) Removed from 1 Cdn Div F.P. Camp 21 Jul 44, to 2 Cdn F.P. Camp (X-2 List)
F5092 Pte Higby, K.

(m) AMENDMENT Part II Order No.75 para 2(b) of 3 Jul 44, insofar as it refers to the u/n is amended to read "Pte"
F44757 L/Cpl Jordan, P.W.

(n) AMENDMENT Part II Order No.74 para 3(e) of 1 Jul 44, insofar as it refers to the u/n is amended to read "Pte (A/Cpl)"
F43638 L/Cpl(A/L/Sgt) Murree, A.R.

13. PUNISHMENTS (CONT'D)

(h) On 24 Jul 44, awarded 14 days C.B. and a forf of 28 days pay for offences under,(1) AA.40, (2) AA.10(3), (3) AA.22, (4) AA.40, (5) AA.40, (6) AA.11 and (7) AA.15(1). A.W.L. from 0600 hrs 4 Jul 44 to 2240 hrs 19 Jul 44 (absent 15 days 16 hrs and 40 mins). Forf 16 days pay under FR&I.149(1)(a). Forf 28 days pay under FR&I.149 (2). Total forf 44 days pay
D81175 Pte Peterson, C. (1Bn)

(i) On 19 Jul 44, awarded 7 days C.B. and a forf of 7 days pay for an offence under AA.40. Forf 7 days pay under FR&I.149(2)
F39842 Pte Sanderson, E.E. (1Bn)

(j) On 21 Jul 44, awarded 14 days F.P. and a forf of 14 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 15 Jul 44 to 1300 hrs 19 Jul 44 (absent 4 days 5 hrs). Forf 5 days pay under FR&I. 149(1)(a). Forf 14 days pay under FR&I.149(2). Total forf 19 days pay
F40364 Pte Smith, D.A.

(k) On 20 Jul 44, awarded 28 days F.P. and a forf of 28 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 13 Jul 44 to 2015 hrs 15 Jul 44 (absent 2 days 12 hrs and 15 mins). Forf 3 days pay under FR&I.149(1)(a). Forf 28 days pay under FR&I.149(2). Total forf 31 days pay
F88922 Pte Quinn, W.A. (1Bn)

(l) On 16 Jul 44, awarded a forf of 5 days pay for an offence under AA.15(1). A.W.L. from 1800 hrs 14 Jul 44 to 2130 hrs 15 Jul 44 (absent 1 day 3 hrs and 30 mins). Forf 2 days pay under FR&I.149 (1)(a). Forf 5 days pay under FR&I.149(2). Total forf 7 days pay
F55202 Pte Clarke, E.M. (X-3 List)

(m) On 19 Jul 44, awarded a forf of 10 days pay for an offence under AA.15(1). A.W.L. from 2230 hrs 16 Jul 44 to 0010 hrs 19 Jul 44 (absent 2 days 1 hour and 40 mins). Forf 3 days pay under FR&I. 149(1)(a). Forf 10 days pay under FR&I.149(2). Total forf 13 days pay
F30979 Pte Paul, J.P. (X-3 List)

(n) On 20 Jul 44, awarded a forf of 28 days pay for offences under (1) AA.15(1). A.W.L. from 1830 hrs 17 Jul 44 to 1530 hrs 19 Jul 44 (absent 1 day, 21 hrs). (2) an offence under AA.18(3). and (3) an offence under AA.24(2). Forf 2 days pay under FR&I.149(1)(a). Forf 28 days pay under FR&I.149(2). Total forf 30 days pay
F55265 Pte Rose, T.B. (X-3 List)

(o) On 20 Jul 44, awarded a forf of 3 days pay for an offence under AA.15(1). A.W.L. from 1500 hrs 19 Jul 44 to 1530 hrs 19 Jul 44 (absent 30 mins). Forf 3 days pay under FR&I.149(2)
G60966 Pte Cooke, A.E. (X-3 List)

(p) On 18 Jul 44, awarded 28 days F.P. and a forf of 28 days pay for an offence under AA.40. Forf 28 days pay under FR&I.149(2)
D63263 Pte Larouche, J. (1Bn)

12. PAY AND ALLOWANCE

(a) Granted a daily Regt'l Rate of pay of $1.40 20 Mar 44, having completed 4 months service with efficient and good conduct Auth- G.O.486/42.
F39842 Pte Sanderson, E.E.

(b) Granted a daily Regt'l Rate of pay of $1.50 20 May 44, having completed 6 months proficient service Auth- G.O.486/42.
F39842 Pte Sanderson, E.E.

13. PUNISHMENTS

(a) On 20 Jul 44, awarded 7 days C.B. and a forf of 7 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 19 Jul 44 to 1600 hrs 19 Jul 44 (absent 8 hrs). Forf 1 days pay under FR&I.149(1)(a). Forf 7 days pay under FR&I.149(2). Total forf 8 days pay
F55046 Pte LeFort, J.A. (1Bn)

(b) On 20 Jul 44, awarded 14 days C.B. and a forf of 7 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 17 Jul 44 to 1300 hrs 19 Jul 44 (absent 2 days 5 hours). Forf 3 days pay under FR&I.149 (1)(a). Forf 7 days pay under FR&I.149(2). Total forf 10 days pay
F55065 Pte Gillis, A.R. (1Bn)

(c) On 20 Jul 44, awarded 14 days C.B. and a forf of 7 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 17 Jul 44 to 1600 hrs 19 Jul 44 (absent 2 days 8 hours). Forf 3 days pay under FR&I.149(1)(a). Forf 7 days pay under FR&I.149(2). Total forf 10 days pay
F89105 Pte McLeod, F. (1Bn)

(d) On 20 Jul 44, awarded a forf of 7 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 19 Jul 44 to 1600 hrs 19 Jul 44 (absent 8 hours). Forf 1 days pay under FR&I.149(1)(a). Forf 7 days pay under FR&I.149(2). Total forf 8 days pay
F55180 Pte Odo, A. (1Bn)
F51375 Pte Graham, J.A. (1Bn)

(e) On 22 Jul 44, awarded 14 days C.B. and a forf of 7 days pay for 2 offences (1) under AA.15(1) A.W.L. from 1300 hrs 21 Jul 44 to 1515 hrs 21 Jul 44 (absent 2 hrs 15 mins). and (2) an offence under AA. 11. Forf 7 days pay under FR&I.149(2).
F75908 Pte McNeil, G.F. (1Bn)
F54727 Pte McNeil, B. (1Bn)

(f) On 22 Jul 44, awarded 14 days C.B. and a forf of 7 days pay for 2 offences (1) under A.A.15(1). A.W.L. from 1300 hrs 21 Jul 44 to 1515 hrs 21 Jul 44 (absent 2 hrs and 15 mins), and (2) an offence under AA.11. Forf 7 days pay under FR&I.149(2). (5 days concurrent with award of 7 days pay on 20 Jul 44, vide Part II Order No.83 para 13(g) of 29 Jul 44) Total net forf 2 days pay
P40105 Pte Roberts, M.G. (1Bn)

(g) On 20 Jul 44, awarded 14 days C.B. and a forf of 7 days pay for an offence under AA.15(1). A.W.L. from 0800 hrs 17 Jul 44 to 1600 hrs 19 Jul 44 (absent 2 days, 8 hrs). Forf 3 days pay under FR&I.149 (1)(a). Forf 7 days pay under FR&I.149(2). Total forf 10 days pay
P40105 Pte Roberts, M.G. (1Bn)

15. STRENGTH DECREASE (CONT'D)

(f) S.O.S. X-3 List to X-8 List 25 Jul 44 Auth- Evac Cert d/19 Jul 44
F40375 Pte Hagens, D.

(g) S.O.S. X-3 List to West N.S.R. dates shown

F29625	Pte	Smiley, L.E.	24 Jul 44	
F54705	Pte	Morrison, A.A.	24 Jul 44	Dvr Mech MV"C"
H66653	Pte	Ball, F.G.	22 Jul 44	
F40103	Pte	Garnier, A.F.	22 Jul 44	
F55265	Pte	Rose, T.B.	22 Jul 44	
F40637	Pte	Brannen, J.W.	18 Jul 44	
F54754	Cpl	Gilday, J.	18 Jul 44	
F82438	Pte	Laughlin, J.T.W.	18 Jul 44	
D72204	Cpl	Ellis, C.	18 Jul 44	
F35074	Cpl	Lees, E.A.R.	18 Jul 44	
F97234	Pte	McNeil, J.W.	18 Jul 44	
F40862	Pte	Osbourne, A.	23 Jul 44	
F42640	Pte	Simpson, L.B.	23 Jul 44	
F39786	Cpl	MacDonald, H.J.	23 Jul 44	Stmn Tech"C"
F3977	Pte	MacQueen, A.A.	23 Jul 44	
F55202	Pte	Clarke, E.M.	21 Jul 44	
F10234	Pte	Gillis, J.M.	23 Jul 44	
F40522	Cpl	Bennett, M.R.	25 Jul 44	
F40182	Pte	Cole, O.	25 Jul 44	
F60161	Pte	Barriault, A.	25 Jul 44	
F40403	Cpl	Schofield, H.H.	25 Jul 44	
F32618	Pte	Williams, G.D.	25 Jul 44	

(h) S.O.S. X-4 List (1Bn) to West N.S.R. 25 Jul 44 Auth- ABS/120, d/22 Jul 44

F97106	Pte	Adshade, J.B.M.	F57633	Pte	Boone, W.A.
A22896	Pte	Bennett, J.P.	F57320	Pte	Bourgeois, J.W.
F45587	Pte	Campbell, H.E.	F32874	Pte	Collins, J.W.
F40771	Pte	Cook, K.E.	F79303	Pte	Dukeshire, G.N.
F78465	Pte	Geddes, J.J.	F34802	Pte	Hanshaw, K.J.L.
F45577	Pte	Holmes, H.L.	A117703	Pte	Hong, G.
B59062	Pte	Larose, A.	B80212	Pte	Mansbridge, P.
F43638	Pte(A/Cpl)	Murree, A.R.	F57719	Pte	Marriott, J.A.
F44763	Pte	McCormack, W.A.	F78553	Pte	McCallin, A.
F40351	Pte	MacLeod, J.W.	G22640	Pte	Newman, J.E.
F31191	Pte	Shepherd, J.D.	F36251	Pte	Show, G.A.
F40196	Pte	Silver, H.M.	F86872	Pte	Titus, E.R.
F52254	Pte	Wilcox, P.V.			

(i) AMENDMENT Part II Order No.60 para 4(e) of 29 May 44, insofar as it refers to the u/n is amended by deleting "(A/L/Cpl)"
F79303 Pte(A/L/Cpl) Dukeshire, G.N.

Certified Copy

(J.L. Hayes) Captain,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI.

(J.E. Campbell) Captain
for Officer i/c.,
Canadian Section G.H.Q., 2nd Echelon, A.A.I.

/EVT.

13. PUNISHMENTS (CONT'D)

(q) On 18 Jul 44, awarded 28 days F.P. and a forf of 28 days pay for offences under (1) AA.22. and (2) an offence under AA.40. Forf 28 days pay under FR&I.149(2)
F35478 Pte Reekie, W.E. (1Bn)

(r) On 18 Jul 44, awarded a forf of 14 days pay for an offence under AA.40. Forf 14 days pay under FR&I.149(2)
F55428 Pte McIntyre, P. (1Bn)

(s) Released from 25 F.P. Camp 15 Jul 44, 61 days remission of sentence earned under Rules for Mil Pris and Detn Bks
G18819 Pte Babin, A. (X-2 List)

(t) Released from 2 Cdn F.P. Camp 24 Jul 44, 4 days remission of sentence earned under Rules for Mil Pris and Detn Bks
F65610 Pte Langille, A.H.

(u) Released from 2 Cdn F.P. Camp 6 Jul 44, sentence having expired, 60 days remission of sentence earned under Rules for Mil Pris and Detn Bks
G22912 Pte Robichaud, J.J. (X-3 List)

(v) Released from "B" Mil Pris and Detn Bks 14 Jul 44, sentence of 12 months imprisonment with hard labour, awarded by a F.G.C.M. on 21 Jun 44, suspended on 14 Jul 44 by Officer i/c Cdn Sec G.H.Q. 1 Ech.
H102597 Pte Shiaro, C. (X-2 List)

14. NEXT OF KIN

(a) Change of N-of-K from Mrs. Katie Doncaster (Mother), to Mr. Allan Doncaster (Father), Huntington P.O., Cape Breton, Nova Scotia, Canada
F32787 Pte Doncaster, S.E.

15. STRENGTH DECREASE

(a) S.O.S. X-4 List (1Bn) to X-9 List 19 Jul 44 Auth- P.O.WIS/392, d/15 Jul 44
F86248 Pte Diggs, C.S.
F40562 Pte Gillmore, I.B. Carpenter"C"
F40632 Pte Smith, W.B.

(b) S.O.S. X-4 List (1Bn) to 11 C.I.B. Sp Coy (PLF) 20 Jul 44 Auth- 2 Ech/478, d/19 Jul 44
G50288 Pte Bannister, C.F. Dvr Mech MV"C"
F50235 Pte Burke, F.J. Dvr Mech MV"C"
F49707 Pte Cox, L.G. Dvr Mech MV"C"
F5059 Pte Wade, E.C. Dvr Mech MV"C"
F59875 Pte Yorston, M.H.

(c) S.O.S. X-3 List to X-9 List 25 Jul 44 Auth- Pending Reboard
F2951 Pte Canavan, D.H.
F43582 Pte Langille, G.K.

(d) S.O.S. X-3 List to X-8 List 21 Jul 44 Auth- EVAC CERT d/21 Jul 44
A49812 Pte McMullen, J.T. F78713 Pte Cloroy, J.S.

(e) S.O.S. X-4 List (1Bn) to X-9 List 21 Jul 44 Auth- P.O.WIS/410, d/18 Jul 44
F43756 Pte DeMille, R.S.

5. INTERNAL POSTINGS

(a) Removed from 1 Cdn Div F.P. Camp to 2 Cdn F.P. Camp 16 Oct 44.

F86890	Pte	BISNOR	B.J.
F89105	Pte	McLEOD	F.
F59904	Pte	MacKINNON	J.A.
F32743	Pte	MacINNIS	D.J.
F40981	Pte	DAVIS	R.R.
F40307	Pte	MUNROE	T.R.
F54756	Pte	McINNIS	T.A.
F32282	Pte	McKINNON	J.J.
F5152	Pte	VIDITO	R.E.
C101465	Pte	SUMMERS	G.G.
F95526	Pte	McLAUGHLIN	R.M.
F88234	Pte	DEVEAUX	L.
F89809	Pte	CARRIGAN	H.

(b) Posted from X-3 List to X-4 List (4 Bn) 20 Oct 44.

L59911	Pte	DANYLUK	M.	Dr Mech RV "C"

(c) Posted from X-4 List (1 Bn) to X-4 List (4 Bn) 21 Oct 44. Rmk: 4 Bn/475 d/16 Oct 44.

F56347	Pte	CLARKE	N.C.
F45712	Pte	FAHEY	J.T.
F88249	Pte	MORRISON	V.E.
F2646	Pte	McKINNON	A.
F55180	Pte	ODO	A.
F89666	Pte	ROCKWELL	W.E.
F30024	Pte	SCHOFIELD	J.H.
F36251	Pte	SHAW	G.A.
F32618	Pte	WILLIAMS	C.D.
F66712	Pte	WILLIAMS	C.F.

(d) Posted from X-2 List to X-4 List (1 Bn) 21 Oct 44. Released from 2 Cdn F.P. Camp

G1520	Pte	LEBLANC	J.

(e) Posted from X-3 List to X-4 List (4 Bn) 19 Oct 44.

F49879	Pte	BOOMER	R.C.	
F96558	Pte	DESROCHES	N.J.	
F39631	Pte	HUFMAN	H.L.	Tech Mech "C"
G22807	Pte	LUCE	G.J.	
F36472	Pte	PATRIQUIN	A.H.	
F43854	Cpl	PEELER	R.E.	
F60044	Pte	(A/Cpl) FERRY	E.J.	
F60460	Pte	(A/Cpl) PETERS	H.A.	
F39939	CSM	ZWICKER	G.E.	

(f) Posted from X-3 List to X-4 List (4 Bn) 18 Oct 44.

F40038	Pte	(A/Cpl) HUNTER	T.R.
F51136	Pte	RICHARDSON	R.W.

(g) Posted from X-4 List (4 Bn) to X-3 List 18 Oct 44.

F77212	Pte	STEVENS	T.R.

This is Exhibit "C" referred to in the Summary of Evidence in the case of C-479 Pte. Godin J. O. taken before me this 20th day of October 1944.

W. Jackson Lieut
Signature of Officer taking Summary

Last Order	X LIST THE WEST NOVA SCOTIA REGIMENT	This Order
No.....118	Part II Orders Issued By	No.....119
21 Oct 44.	CANADIAN SECTION G.H.Q., 2nd ECHELON - R.A.I.	24 Oct 44.

"A" OFFICERS

1. INTERNAL POSTINGS
(a) Posted from X-3 List to X-4 List (1 Bn) 21 Oct 44.
Lieut. W.T. HOLLINGER

2. COURSES
(a) Proceeded on course, No 17 Mine Warfare 21 Oct 44 at S.M.E. Camp. (22 Oct 44 to 1 Nov 44)
Capt. G.F. JOHNSTON (1 Bn)

3. STRENGTH INCREASE
(a) TOS X-4 List (1 Bn) to West NSR 22 Oct 44. Auth: Rt Demand/1194 d/22 Oct 44.
Lieut. W.T. HOLLINGER

"B" OTHER RANKS

STRENGTH INCREASE
(a) TOS X-3 List from West NSR

F43919	Pte	BEELER	A.R.	19 Oct 44.
F45809	Pte	MacDONALD	W.A.	20 Oct 44.
F42671	Pte	FOSTER	D.F.	19 Oct 44.
F56176	Pte	PHILLIPS	F.H.	19 Oct 44.
B134530	Pte	SMITH	C.R.	18 Oct 44.
F91782	Pte	MASON	W.J.	21 Oct 44.

(b) TOS X-3 List from X-5 List 21 Oct 44.

F40613	Cpl	DUKES THE	R.E.	Dr Mech [illegible] "C"
F39688	Pte	ROY	J.T.	

(c) TOS X-4 List (1 Bn) from RCASC X-4 List Sec "A" (7 Bn) 20 Oct 44 on trans from RCASC to CIC. Auth: CECL/44/Trans Gen/15 (A7) d/ 15 Oct 44.

F5507	Pte	MacCALLUM	R.R.	

(d) TOS X-2 List from West NSR 15 Oct 44 on commitment to 1 Cdn Div F.P. Camp. Awarded punishments shown, dates shown.

F[illegible]809	Pte	CARRIGAN	H.	9 months detn	10 Oct 44.
F[illegible]8234	Pte	DUMEAUX	L.	1 year's detn	10 Oct 44.
F89105	Pte	McLEOD	F.	90 days detn.	10 Oct 44.
C101465	Pte	BURTERS	G.G.	2 years imprisonment	10 Oct 44.
F5152	Pte	VIDITO	R.E.	6 months detn.	9 Oct 44.

(e) TOS X-4 List (1 Bn) on app from desertion 2030 hrs 20 Oct 44.

B37980	Pte	EDWARDS	A.E.	

(f) TOS X-4 List (1 Bn) from RCASC X-4 List (8 Bn) 20 Oct 44 on trans from RCASC to CIC. Auth: CECL/44/Trans Gen/15 (A7) d/15 Oct 44.

F65320	Pte	[illegible]	H.D.	
G90148	Pte	SCOTT	[illegible].R.	
F[illegible]31	Pte	DU[illegible]	[illegible]	

10. PUNISHMENTS
(a) On 20 Oct 44 awarded 1 days F.P. and forf of 1 days pay for an offence under A.A. Sec 15 (1). AWL from 1600 hrs 5 Oct 44 to 2120 hrs 12 Oct 44 (Absent 7 days 5 hrs 20 min) In close arrest from 2120 hrs 12 Oct 44 to date of trial. Forf 8 days pay FR&I 149 (1)(a). Forf 7 days pay FR&I 149 (1)(c)(ii). Forf 1 days pay FR&I 149 (2). Total forf of 16 days pay
F75908 Pte McNEIL G.F. (4 Bn)

(b) On 18 Oct 44 awarded forf of 7 days pay for an offence under A.A. Sec 15 (1). AWL from 0800 hrs 6 Oct 44 to 0730 hrs 13 Oct 44. (Absent 6 days 23 hrs 30 min) Forf 7 days pay FR&I 149 (1)(a) Forf 7 days pay FR&I 149 (2). Total forf of 14 days pay.
F35472 Pte PATRIQUIN A.H. 1 COD

(c) Released 2 Cdn F.P. Camp 21 Oct 44. 62 days remission earned under Rules for Mil Prisons and Detn Bks.
G1520 Pte LEBLANC J.

11. HONOURS AND AWARDS
(a) Awarded 1939-43 Star.
G18382 A/Col BLACKETT G.F.

12. STRENGTH DECREASE
(a) AMENDMENT Part II Order No 23-A para 4 (a) d/21 Oct 44 insofar as it concerns the undermentioned is amended to read "Pte (A/Col)"
F48825 Pte SHUTTLEWORTH G.F.

[signature]
(J.L. Hayes) Captain
For O.Officer i/c
Canadian Section G.H.Q., 2nd Echelon A.A.I.

/AAW/

Certified true Copy.
[signature]
Officer having Custody Regt'l Books.

6. INTERNAL POSTINGS (CONT'D)

(h) Posted from X-3 List to X-4 List (1 Bn)

F43640	Pte	ALLEN	R.C.	20 Oct 44.
G18382	Cpl	BLACKETT	G.F.	20 Oct 44.
D117447	Pte	CAMPBELL	K.	20 Oct 44.
G19060	Pte	GIBERSON	C.G.	20 Oct 44.
F59869	Pte	HUGHES	B.	20 Oct 44.
F49994	Pte	LOCKHART	H.L.	16 Oct 44.
F57948	Pte	MacKAY	J.H.	20 Oct 44.
F51159	Pte	REGAN	H.T.	7 Oct 44.

(i) Posted from X-2 List to X-3 List 10 Oct 44.
F40024 Pte MacMILLAN W.

7. ABSENT WITHOUT LEAVE

(a) AWL from 1600 hrs 5 Oct 44. Ret from AWL 2120 hrs 12 Oct 44.
F75908 Pte McNEIL G.F. (4 Bn)

(b) AWL from 0745 hrs 15 Oct 44. Still absent 0745 hrs 16 Oct 44.
G22930 Pte MURPHY T.A. (4 Bn) (1st day)

(c) AWL from 2100 hrs 1 Oct 44. Ret from AWL 2230 hrs 4 Oct 44.
F88922 Pte QUINN W.A. 14 OGH

(d) AWL from 2230 hrs 7 Oct 44. Ret from AWL 1930 hrs 16 Oct 44.
F88922 Pte QUINN W.A. 9 CD (Br)

(e) AWL from 2359 hrs 7 Oct 44. App at 1130 hrs 13 Oct 44.
F51159 Pte REGAN H.T. (1 Bn)

(f) AWL from 0800 hrs 6 Oct 44. Ret from AWL 0730 hrs 13 Oct 44.
F36472 Pte PATRIQUIN A.H. 1 CCD

(g) AWL from 0800 hrs 3 Oct 44. Ret from AWL 1600 hrs 22 Oct 44.
F30979 Pte PAUL V.P. (1 Bn)

(h) AMENDMENT Part II Order No 116 para 4 (e) d/17 Oct 44 is cancelled.
F75908 Pte McNEIL G.F.

(i) AMENDMENT Part II Order No 73 para 8 (a) d/28 Jun 44 is amended to read "G479 Pte Godin, J.A."
G479 Pte GODIN A.

8. PROMOTIONS

(a) AMENDMENT Part II Order No 87 para 6 (b) d/8 Aug 44 is cancelled.
F44830 Pte (A/Cpl) TAYLOR J.H.

9. REVERSIONS

(a) AMENDMENT Part II Order No 23-A para 5 (c) d/21 Oct 43 insofar as it concerns the undermentioned is cancelled.
F40825 A/Cpl) SCUTTLEWORTH T.P.

(b) AMENDMENT Part II Order No 104 para 5 (d) d/20 Sep 44 is amended to read "Part II Order No 100 para 5 (e) d/10 Sep 44 insofar as it concerns the undermentioned is cancelled."
F54989 Cpl (A/Sgt) MacLEOD J.A.

4. INTERNAL POSTINGS (CONT'D)

(f) Posted from X-3 List to X-4 List (4 Bn)

F57055	Pte	AULENBACK	H.B.	21 Sep 44.
F39944	Pte	BROWN	R.E.	23 Sep 44.
F32505	Pte	CAMERON	E.R.	21 Sep 44.
F95181	Cpl	CARROLL	D.K.	23 Sep 44.
F79320	Pte	D'ENTREMONT	M.E.	23 Sep 44.
F39649	Cpl	LOWE	W.L.	23 Sep 44.
F40326	Pte	McDONNELL	D.P.	24 Sep 44.
F39678	Sgt	OICKLE	V.A.	23 Sep 44.
F33428	Pte	POWELL	S.J.	23 Sep 44.
F60315	Pte	VAN IDERSTINE	C.O.	23 Sep 44.

5. ABSENT WITHOUT LEAVE

(a) AWL from 2359 hrs 8 Sep 44. Still absent 2359 hrs 9 Sep 44
F55202 Pte CLARKE E.M. (1st day)

(b) AWL from 2359 hrs 8 Sep 44. Ret 1030 hrs 11 Sep 44.
F55202 Pte CLARKE E.M.

(c) AWL from 2359 hrs 3 Aug 44. Still Absent 2359 hrs 11 Aug 44.
G479 Pte GODIN J.A. 104 Gen(Br) (8th day)

(d) AWL from 2359 hrs 3 Aug 44. Still absent 2359 hrs 25 Aug 44.
G479 Pte GODIN J.A. 104 Gen (Br) (22nd day)

(e) AWL from 0600 hrs 27 Aug 44. App 2230 hrs 20 Sep 44 by 230 Provost Coy CMP
F35514 Pte BOUTILIER C.C. (4 Bn)

(f) AWL from 0800 hrs 11 Sep 44. Still absent 0800 hrs 19 Sep 44.
F55397 Pte WHITEHOUSE W.J. (4 Bn) (8th day)

(g) AWL from 1600 hrs 16 Sep 44. Still absent 1600 hrs 24 Sep 44.
F88247 Pte HART P.W. (4 Bn) (8th day)
D46987 Pte MARBLE F.J. (2 Bn)

(h) AWL from 0800 hrs 12 Jul 44. Still absent 0800 hrs 20 Jul 44.
B37980 Pte EDWARDS A.E. (1 Bn) (8th day)

(i) AWL from 0800 hrs 12 Jul 44. Still absent 0800 hrs 3 Aug 44.
B37980 Pte EDWARDS A.E. (1 Bn) (22nd day)

6. REVERSIONS

(a) AMENDMENT Part II Order No. 40-A para 8 (a) d/25 Dec 43 insofar as it concerns the undermentioned is amended to read "To draw daily regt'l rate of $1.50"
F60350 Pte BROTHERS W.A.

(b) AMENDMENT Part II Order No. 47 para 8 (a) d/4 May 44 insofar as it concerns the undermentioned is amended to read "To draw daily regt'l rate of $1.50"
F60188 Pte MacDONALD A.F.

6. INTERNAL POSTINGS (CONT'D)
(h) Posted from X-3 List to X-4 List (1 Bn)

F43640	Pte	ALLEN	R.C.	20 Oct 44.
G18382	Cpl	BLACKETT	G.F.	20 Oct 44.
D117447	Pte	CAMPBELL	K.	20 Oct 44.
G19060	Pte	GIBERSON	C.G.	20 Oct 44.
F59869	Pte	HUGHES	B.	20 Oct 44.
F49994	Pte	LOCKHART	E.L.	16 Oct 44.
F57948	Pte	MacKAY	J.M.	20 Oct 44.
F51159	Pte	REGAN	H.T.	7 Oct 44.

(i) Posted from X-2 List to X-3 List 10 Oct 44.
F40024 Pte MacMILLAN W.

7. ABSENT WITHOUT LEAVE
(a) AWL from 1600 hrs 5 Oct 44. Ret from AWL 2120 hrs 12 Oct 44.
F75908 Pte McNEIL G.F. (4 Bn)

(b) AWL from 0745 hrs 15 Oct 44. Still absent 0745 hrs 16 Oct 44.
G22930 Pte MURPHY T.A. (4 Bn) (1st day)

(c) AWL from 2100 hrs 1 Oct 44. Ret from AWL 2230 hrs 4 Oct 44.
F88922 Pte QUINN W.A. 14 CGH

(d) AWL from 2230 hrs 7 Oct 44. Ret from AWL 1930 hrs 16 Oct 44.
F88922 Pte QUINN W.A. 5 CD (Br)

(e) AWL from 2359 hrs 7 Oct 44. Ap[illegible] 1130 hrs 13 Oct 44.
F51159 Pte REGAN H.T. (1 Bn)

(f) AWL from 0800 hrs 6 Oct 44. Ret from AWL 0730 hrs 13 Oct 44.
F36472 Pte PATRIQUIN A.H. 1 CCD

(g) AWL from 0800 hrs 3 Oct 44. Ret from AWL 1600 hrs 22 Oct 44.
F30979 Pte PAUL J.P. (1 Bn)

(h) AMENDMENT Part II Order No 116 para 4 (e) d/17 Oct 44 is cancelled.
F75908 Pte McNEIL G.F.

(i) AMENDMENT Part II Order No 73 para 8 (a) d/28 Jun 44 is amended to read "G479 Pte Godin, J.A."
G479 Pte GODIN A.

8. PROMOTIONS
(a) AMENDMENT Part II Order No 87 para 6 (b) d/8 Aug 44 is cancelled.
F44830 Pte (A/Cpl) TAYLOR J.H.

9. REVERSIONS
(a) AMENDMENT Part II Order No 23-A para 5 (c) d/21 Oct 43 insofar as it concerns the undermentioned is cancelled.
F49825 A/Cpl) SHUTTLEWORTH T.F.

(b) AMENDMENT Part II Order No 104 para 5 (d) d/20 Sep 44 is amended to read "Part II Order No 100 para 5 (c) d/10 Sep 44 insofar as it concerns the undermentioned is cancelled."
F54989 Cpl (A/Sgt) MacLEOD J.A.

10. PUNISHMENTS
(a) On 20 Oct 44 awarded 1 days F.P. and forf of 1 days pay for an offence under A.A. Sec 15 (1). AWL from 1600 hrs 5 Oct 44 to 2120 hrs 12 Oct 44 (Absent 7 days 5 hrs 20 min) In close arrest from 2120 hrs 12 Oct 44 to date of trial. Forf 8 days pay FR&I 149 (1)(a). Forf 7 days pay FR&I 149 (1)(c)(ii). Forf 1 days pay FR&I 149 (2). Total forf of 16 days pay
F75908 Pte McNEIL G.F. (4 Bn)

(b) On 18 Oct 44 awarded forf of 7 days pay for an offence under A.A. Sec 15 (1). AWL from 0800 hrs 6 Oct 44 to 0730 hrs 13 Oct 44. (Absent 6 days 23 hrs 30 min) Forf 7 days pay FR&I 149 (1)(a) Forf 7 days pay FR&I 149 (2). Total forf of 14 days pay.
F36472 Pte PATRIQUIN A.H. 1 COD

(c) Released 2 Cdn F.P. Camp 21 Oct 44. 62 days remission earned under Rules for Mil Prisons and Detn Bks.
G1520 Pte LEBLANC J.

11. HONOURS AND AWARDS
(a) Awarded 1939-43 Star.
G18382 A/Cpl BLACKETT G.F.

12. STRENGTH DECREASE
(a) AMENDMENT Part II Order No 23-A para 4 (a) d/21 Oct 44 insofar as it concerns the undermentioned is amended to read "Pte (A/Cpl)"
F46825 Pte SHUTTLEWORTH G.F.

(J.C. Hayes) Captain
for Officer i/c
Canadian Section G.H.Q., 2nd Echelon A.A.I.

AAW

Certified true Copy
Wm Rinn Lieut
Officer having Custody Regt'l Books

4. INTERNAL POSTINGS (CONT'D)

(f) Posted from X-3 List to X-4 List (4 Bn)

F57055	Pte	AULENBACK	H.B.	21 Sep 44.
F39944	Pte	BROWN	R.E.	23 Sep 44.
F32505	Pte	CAMERON	E.R.	21 Sep 44.
F95181	Cpl	CARROLL	D.K.	23 Sep 44.
F79320	Pte	D'ENTREMONT	M.E.	23 Sep 44.
F39649	Cpl	LOWE	W.L.	23 Sep 44.
F40326	Pte	McDONNELL	D.P.	23 Sep 44.
F39678	Sgt	OICKLE	V.A.	23 Sep 44.
F33428	Pte	POWELL	S.J.	23 Sep 44.
F60315	Pte	VAN IDERSTINE	G.O.	23 Sep 44.

5. ABSENT WITHOUT LEAVE

(a) AWL from 2359 hrs 8 Sep 44. Still absent 2359 hrs 9 Sep 44
F55202 Pte CLARKE E.M. (1st day)

(b) AWL from 2359 hrs 8 Sep 44. Rst 1030 hrs 11 Sep 44.
F55202 Pte CLARKE E.M.

(c) AWL from 2359 hrs 3 Aug 44. Still Absent 2359 hrs 11 Aug 44.
G479 Pte GODIN J.A. 104 Gen(Br) (8th day)

(d) AWL from 2359 hrs 3 Aug 44. Still absent 2359 hrs 25 Aug 44.
G479 Pte GODIN J.A. 104 Gen (Br) (22nd day)

(e) AWL from 0600 hrs 27 Aug 44. App 2230 hrs 20 Sep 44 by 230 Provost Coy CMP
F35514 Pte BOUTILIER C.C. (4 Bn)

(f) AWL from 0800 hrs 11 Sep 44. Still absent 0800 hrs 19 Sep 44.
F55397 Pte WHITEHOUSE W.J. (4 Bn) (8th day)

(g) AWL from 1600 hrs 16 Sep 44. Still absent 1600 hrs 24 Sep 44.
F88247 Pte HART F.W. (4 Bn) (8th day)
D46987 Pte MARBLE F.J. (1 Bn)

(h) AWL from 0800 hrs 12 Jul 44. Still absent 0800 hrs 20 Jul 44.
B37980 Pte EDWARDS A.E. (1 Bn) (8th day)

(i) AWL from 0800 hrs 12 Jul 44. Still absent 0800 hrs 3 Aug 44.
B37980 Pte EDWARDS A.E. (1 Bn) (22nd day)

6. REVERSIONS

(a) AMENDMENT Part II Order No. 40-A para 8 (a) d/25 Dec 43 insofar as it concerns the undermentioned is amended to read "To draw daily regt'l rate of $1.50"
F60350 Pte BROTHERS W.A.

(b) AMENDMENT Part II Order No. 47 para 8 (a) d/4 May 44 insofar as it concerns the undermentioned is amended to read "To draw daily regt'l rate of $1.50"
F60188 Pte MacDONALD A.F.

This is Exhibit "D" referred to in the Affidavit of Lindsay in the case of C-479 vs. Harding J.G. sworn before me this 20th day of October 1944.

Signature of Officer taking Summary

Exhibit "D"

W. V. S.R.

Last Order ..... 105 24 Sep 44.

X LIST [illegible] WEST NOV. SCOTIA REGIMENT
Part II Orders Issued By
[illegible] DIVISION C.A.S., 2nd BOWLING, ...I.

This Order No. .....106 27 Sep 44.

"A" OFFICERS

1. [illegible]
(a) 308 X-4 List (4 Sa) to West NSR 17 Sep 44. Auth: AFS/1 CD/158 d/14 Sep 44.
Lieut. (Capt.) R.S. [illegible]TON
Lieut. [illegible]E
Lieut. [illegible]

(b) 308 X-4 List (4 Sa) to West NSR 17 Sep 44. Auth: 1 CD/158 d/17 Sep 44.
Capt. R.S. [illegible]TON
Lieut. [illegible]E
Lieut. [illegible]
Lieut. [illegible]

(c) 308 X-4 List (1 Sa) to X-4 List Gen List "B" 20 Sep 44. Auth: CDS/48/Coast/1/12/...(IS) d/21 Sep 44.
Major [illegible] RUSSELL

(d) 308 X-4 List (4 Sa) to West NSR 21 Sep 44. Auth: AFS/1 CD/213, d/20 Sep 44.
Lieut. J.R. [illegible]RID
Lieut. M.F. [illegible]KEEFE

(e) 308 X-4 List (4 Sa) to West NSR 19 Sep 44. Auth: AS/2905 d/19 Sep 44.
Capt. (Major) F.F. [illegible]

"B" OTHER RANKS

2. [illegible]
(a) [illegible] List (4 Sa) from C.B. Fishers X-4 List (4 Sa) 21 Sep 44. Auth: 2nd C2E/...3/2P d/21 Sep 44.
M60369 Pte [illegible]T [illegible].C.

3. [illegible]
(a) Posted from X-2 List to X-2 List 20 Sep 44. Re-admitted P Can P.P. Camp
P30047 Pte [illegible]OLLAND R.C.

(b) Posted from X-2 List to X-3 List 22 Sep 44.
P30047 Pte [illegible]OLLAND R.C.

(c) Posted from X-2 List to X-4 List (4 Sa) 21 Sep 44.
M60449 Pte [illegible]MPBELL L.F. Dr Mess HY "C"
P4883 Pte [illegible]ENDTION F.

(d) Posted from X-2 List to X-4 List (4 Sa) 25 Sep 44. Released. 2 Can P.P. Camp.
P42592 Pte FLODEN R.I.

(e) AMENDMENT Part II Order No. 102 para 4 (c) d/15 Sep 44 transfer as it concerns the undermentioned is cancelled.
D46987 Pte [illegible]WELS F.F.

9. STRENGTH DECREASE (Cont'd)

(e) SOS X-4 List (4 Bn) to West NSR 21 Sep 44. Auth: 1 CD/213 d/20 Sep 44.

F2942	Pte	AIKENS	H.P.	
F40046	Pte	BURKE	L.J.	Dr Mech MV "C"
F44811	Pte	CLARK	W.F.	Dr Mech MV "C"
F85632	Pte	DIKENS	G.W.	Dr Mech MV "C"
F32787	Pte	DONCASTER	S.E.	
F86027	Pte	ELLIOTT	G.L.	
F42677	Cpl	FOX	J.C.	
F3592	Pte	FRIZZELL	O.F.	Dr Mech MV "C"
G22518	Pte	GIONET	J.G.	Shoemaker "C"
F40537	Pte	GOULD	W.A.	
F41031	Pte	GRAVES	[illegible]	
F76551	Pte	HAYES	T.J.	Dr Mech MV "C"
F51708	Pte	HILTZ	R.K.	
G22389	Pte	JAGOE	I.L.	
F29882	Pte	LEGOFFIC	F.J.	Dr Mech MV "C"
F50075	Pte	LAMY	M.O.	
F89052	Pte	MANSFIELD	R.G.	
F56370	Pte	LYNDS	M.C.	
F40388	Cpl	MARTIN	L.W.	
F34774	Pte	MASTERS	W.J.	
F40716	Pte	MORSE	H.B.	Dr Mech MV "C"
F56937	Pte	MILLETT	G.A.	
F65906	Pte	MOONEY	R.A.	Dr Mech MV "C"
F79335	Pte	MacDONALD	J.G.	Dr Mech MV "C"
F56040	Pte	MacKENZIE	R.K.	Dr Mech MV "C"
D143223	Pte	McINTYRE	A.L.	
F55090	Pte	McLEAN	J.E.	
F39670	Cpl	NEWMAN	J.A.	Dr Mech MV "C"
F40621	Pte	NICKERSON	L.M.	
F40623	Pte	NICKERSON	V.A.	
F96041	Pte	NICKERSON	C.W.	
F45838	Pte	O'CONNOR	J.G.	
F42675	Pte	POTHIER	C.B.	
F49685	Pte	RHODENIZER	G.R.	
F95649	Pte	RHODES	N.C.	
G60956	Pte	RICHARD	G.J.	
F41640	Pte	SCRAGG	L.J.	
F33111	Pte	SHEPPARD	G.A.	
H102597	Pte	SHIARO	C.[illegible]	
F50369	Pte	STEWART	J.C.	
F45069	Pte	SUTHERLAND	D.J.W.	
B52478	Pte	TOPPING	J.G.	Tech Stmn "C"
F39702	Pte	VEINOTTE	D.E.	Dr Mech MV "C"
F40634	Pte	WALL	W.A.	
F97395	Pte	WHITE	R.A.	
F86216	Pte	WILLIAMS	R.A.	
F15366	Pte	WOOD	R.P.	

(f) AMENDMENT Part II Order No. 104 para 8 (a) d/20 Sep 44 insofar as it concerns the undermentioned is cancelled.

F40546	Pte	GLENNIE	T.M.
F40125	Pte	MURTHY	G.P.

Certified Copt

(J.L. Hayes) Captain,
for Officer i/c.,
Cdn SecGHQ 2 Ech AAI.

(J.E. Campbell) Captain
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon AAI

6. REVERSIONS (Cont'd)
(c) Reverts to Cpl 21 Sep 44.
F40388 Cpl (A/Sgt) [illegible] L.W. (4 Bn)

(d) Reverts to Pte 21 Sep 44. To draw daily regt'l rate of $1.50
F86216 Pte (L/Cpl) WILLIAMS R.A.

(e) Relinquishes appointment of L/Cpl 21 Sep 44. To draw daily regt'l rate of $1.50. Auth: R.O. 4668
H102597 L/Cpl SHERRO G.

(f) Relinquishes appointment of L/Cpl 25 Sep 44. To draw daily regt'l rate of $1.50. Auth: R.O. 4668
F39718 L/Cpl [illegible] V.A.

7. PUNISHMENTS
(a) On 20 Sep 44 admonished for an offence under A.A. Sec 19 (Drunkenness 1st Offence)
F39935 Pte GIDNEY W.E.

(b) On 21 Sep 44 awarded forf of 28 days pay for an offence under A.A. Sec 15 (1). AWL from 0800 hrs 15 Sep 44 to 0600 hrs 21 Sep 44. (Absent 5 days 22 hrs) Forf 6 days pay FR&I 149 (1)(n). Forf 28 days pay under FR&I 149 (2). 1 day of award concurrent with forf for AWL. Total forf of 33 days pay.
F50369 Pte STUART J.C. (4 Bn)

(c) Released 2 Cdn F.P. Camp 25 Sep 44. 30 days remission earned under Rules for Mil Prisons and Detn Bks.
F42592 Pte FLODEN E.L.

8. HONOURS AND AWARDS
(a) Awarded 1939-43 Star
G28972 L/Cpl [illegible] R.R. now Pte

9. STRENGTH DECREASE
(a) SOS X-3 List to 6 Cdn Base Rft Bn 2 CBRD 19 Sep 44. Auth: CECH /A2/1259 d/28 Jul 44.
F40551 Pte BOND E.R. Corp [illegible]

7 (b) SOS X-3 List as a deserter 14 Sep 44 having been declared illegally absent by a Ct of Inq from 2359 hrs 3 Aug 44. Deficiencies of kit to the value of £2-16s-5d.
G479 Pte GODIN J.A.

(c) SOS X-3 List to X-9 List 24 Sep 44. Auth: Pending Reboard
F39871 Pte [illegible] V.G.

(d) SOS X-4 List (4 Bn) to X-9 List 21 Sep 44. Auth: Cdn O2T/ARS/2950 d/21 Sep 44.
F59841 Pte MacDONALD N.

W. V. S. R.

Exhibit "E"

This is Exhibit "E" referred to in the summary of evidence in the case of G-479 Pte. Godin J.A. taken before me this 20th day of October 1944.

W. Jackson Lieut
Signature of Officer taking summary

[illegible] LIST [illegible] GOODIN [illegible] No....110
[illegible] 5 Oct 44.

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3. [illegible]
(a) [illegible] Part II Order No 10[illegible] para 5 (d) d/27 Sep 44 is cancelled.
[illegible]

(b) [illegible] From [illegible] Hrs 3 Apr 44 [illegible] 2315 hrs 19 Aug 44.
[illegible] Pte [illegible] [illegible]

4. [illegible]
(a) [illegible] 33 [illegible] Prison [illegible] Bks 30 Sep 44, sentence having expired. 112 days remission earned under rules for [illegible] Prisons and Detn Bks.
F50395 Pte [illegible] [illegible]

(b) [illegible] Part II Order No 60 para 10 (b) d/29 May 44 is amended as follows:
4 days PRAI 149 (1)(a)(completely concurrent with award of 5 Apr 44 vide Part II Order No 44 d/15 Apr 44.
44 days PRAI 149 (1)(c)(ii)(23 days concurrent with award of 5 Apr 44 vide Part II Order No 44 d/15 Apr 44.
28 days PRAI 149 (2).
49 days not forf
F50049 Pte [illegible] [illegible]

5. [illegible]
(a) [illegible]
F50395 Pte [illegible] [illegible]
F40005 Pte [illegible] [illegible]
F[illegible]05 Pte [illegible] [illegible]

6. [illegible]
(a) [illegible] Part II Order No 10[illegible] para 9 (b) d/27 Sep 44 is cancelled.
G479 Pte [illegible] [illegible]

(b) [illegible] List to [illegible] List 1 Oct 44. [illegible] Cert.
F[illegible]115 Pte [illegible] [illegible]

Certified Copy
J. Hayes
(J.L. Hayes) Captain,
for Officer i/c.,
CdnSec GHQ 2 Ech AAI.

W H Laughlin Lt
([illegible] Laughlin) Lieut.
for Officer i/c
Canadian Section [illegible], 2nd Echelon [illegible]

6. ABSENT WITHOUT LEAVE
(a) AWL from 0800 hrs 25 Oct 44. Still absent 0800 hrs 26 Oct 44.
F42618 Pte MacMULLIN L.L. (1 Bn) (1st day)

(b) AWL from 0800 hrs 14 Oct 44. Ret ffrom AWL 2000hrs 24 Oct 44.
F5409 Pte B'RRON L.D. (4 Bn)
F39640 Pte LANGILLE C.B. (4 Bn)

(c) AWL from 0600 hrs 11 Jul 44. App at 1440 hrs 29 Jul 44.
0479 Pte GODIN J.A. (1 Bn)

7. PROMOTION
(a) CANCELLED Part II Order No 105 para 7 (a) d/24 Sep 44 is amended to read "Rect'l rate of $1.50 per diem"
P40171 Pte (A/Cpl) DEADMAN F.A.

8. PUNISHMENTS
(a) On 25 Oct 44 awarded 28 days F.P. and forf of 28 days pay for:
(1) Offence under AA 8 (2).
(2) Offence under AA 11.
Forf 28 days pay FR&I 149 (2).(9 days of award concurrent with award of 28 days forf of pay of 4 Oct 44 vide Part II Order No 81/44) Net total forf of 19 days pay.
F54795 Pte MacNEIL F. (4 Bn)

(b) On 25 Oct 44 awarded 7 days F.P. and forf of 28 days pay for an offence under AA 15 (1). AWL from 0800 hrs 14 Oct 44 to 2300 hrs 24 Oct 44.(Absent 10 days 12 hrs) Forf 11 days pay FR&I 149 (1)(a). Forf 28 days pay FR&I 149 (2). Total forf of 39 days pay.
F5409 Pte B'RRON L.D. (4 Bn)
F39640 Pte LANGILLE C.B. (4 Bn)

9. STRENGTH DESCRIBED
(a) SOS X-3 List to X-8 List 25 Oct 44. Auth: AFW 5169 d/26 Oct 44.
F57051 Pte BURNET S.
F55625 Pte COMER J.E.
F59641 Pte MacDONALD I.J.
F33324 Pte MUSGRAVE L.T.
F31349 Pte FYE W.L.
F 6016 Pte TIBBETTS G.E.
F52636 Pte WHITEHEAD R.B.

(b) SOS X-2 List to 16 Cdn Spec Cap Coy 22 Oct 44. Released 26 P.F. Camp.
F56780 Pte DE YOUNG R.J.

(c) SOS X-3 List to X-9 List 18 Oct 44. Auth: Pending Aubound.
F57062 Pte MacGILLIVARY D.S.

(d) SOS X-4 List (4 Bn) to X-9 List 25 Oct 44. Auth: Cdn O2S/AMS 3625 d/21 Oct 44.
F66390 Pte McKINNON P.W.

(J.L. Hayes) Captain
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon SAI

Certified True Copy. Witness having Custody of Records

This is Exhibit "H" referred to in the additional Summary of Evidence in the case of C-479 Pte. Godin J.A. taken before me this 31st day of October 1944.

[illegible] Lieut
Signature of Officer taking additional Summary

Last Order No.....121	X LIST THE WEST NOVA SCOTIA REGIMENT Part II Orders Issued By	This Order No.....122
27 Oct 44.	CANADIAN SECTION G.H.Q., 2nd ECHELON - A.A.I.	28 Oct 44.

"A" OFFICERS

1. STRENGTH INCREASE
(a) TOS X-4 List (4 Bn) from Westmr R X-4 List (4 Bn) 24 Oct 44.
Auth: Cdn 02E/ARS/3611 d/24 Oct 44.
Capt. F. PEACOCK
Lieut. D.J. BELLIVEAU

2. STRENGTH DECREASE
(a) SOS X-3 List to X-8 List 25 Oct 44. Auth: AFW 5169 d/26 Oct 44.
Lieut. H.L. McFEE
Capt. (A/Major) A. NICHOLSON
Capt. S.D. SMITH

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) TOS X-3 List from 3 Cdn Base Rft Bn 26 Oct 44.
F44992 Pte ROBERTSON L.E.

(b) TOS X-3 List from West NSR 25 Oct 44.
F40862 Pte OSBOURNE A.

4. INTERNAL POSTINGS
(a) Posted from X-3 List to X-4 List (4 Bn) 24 Oct 44.
F41554 Cpl (A/Sgt) BEELER A.R.
F40925 Pte COMEAU J.T. Dr Mech MV "C"
A50455 Pte HUMBLE R.G.

(b) Posted from X-2 List to X-4 List (4 Bn) 24 Oct 44. Released 1 Cdn Div F.P. Camp
F78556 Pte McNEIL J.D.

(c) Posted from X-4 List (1 Bn) to X-3 List 25 Oct 44.
F77929 Pte ARSENAULT J.J.
G2150 Pte HARRISON C.T.

(d) Posted from X-3 List to X-4 List (1 Bn) 26 Oct 44.
B144417 Pte McBAY N.D.

(e) Posted from X-3 List to X-4 List (4 Bn) 26 Oct 44.
F44629 Pte CARDIFF R.A.

(f) Posted from X-4 List (4 Bn) to X-3 List 25 Oct 44.
F39939 CSM ZWICKER G.E.

5. EMBARKATION AND DISEMBARKATION
(a) Embarked North Africa 23 Oct 44. Disembarked Italy 25 Oct 44.
F42650 Pte THIBIDEAU A.J. (X-3)

2. INTERNAL POSTINGS (CONT'D)

(e) Posted from X-3 list to X-4 list (1 Bn) 30 Sep 44.
F42610 Pte MacMULLIN L.L.

(f) Posted from X-3 list to X-4 list (1 Bn) 17 Oct 44.

D13291[illegible]	Pte	ABBOTT	P.
F7618[illegible]	Pte	BUSH	J.C.
B138137	Pte	CHARRON	R.
F39804	Pte	CORBIN	M.E.
F2645	Pte	McKINNON	A.
F40[illegible]	Pte	McNAMARA	A.E.
B14[illegible]	Pte	POWLEY	L.R.
F[illegible]	Pte	ROCKWELL	W.E.
F3[illegible]	Pte	SCHOFIELD	J.H.
F3[illegible]	Pte	SHAW	G.A.
F[illegible]	Pte	STRONACK	R.L.
F[illegible]	Pte	TITUS	E.R.
F[illegible]	Pte	WILLIAMS	C.F.

3. ABSENT WITHOUT LEAVE

(a) AWL from 0900 hrs 3 Oct 44. Ret from AWL 0930 hrs 1[illegible] Oct 44.
G22930 Pte MURPHY T.A. (4 Bn)

(b) AWL from 1500 hrs 8 Oct 44. App 0945 hrs 13 Oct 44.
G479 Pte GODIN J.A. (1 Bn)

(c) AWL from 0800 hrs 3 Oct 44. Ret from AWL 0105 hrs 16 Oct 44.
F[illegible] Pte JOHNSON A.C. (1 Bn)

(d) AWL from 0800 hrs 6 Oct 44. Still absent 0800 hrs 7 Oct 44.
F36472 Pte PATRIQUIN A.H. 1 CCD (1st day)

(e) AWL from 0800 hrs 7 Oct 44. Still absent 0800 hrs 15 Oct 44.
F40[illegible] Pte BROWN E.E. (4 Bn) (8th day)
F60[illegible] Pte PATEY J.R. (4 Bn)

(f) AWL from 0800 hrs 6 Oct 44. Still absent 0800 hrs 14 Oct 44.
F36472 Pte PATRIQUIN A.H. 1 CCD (8th day)

(g) AWL from 2359 hrs 30 Sep 44. Still absent 2359 hrs [illegible] Oct 44.
F42610 Pte MacMULLIN L.L. (1 Bn) (8th day)

(h) AWL from 2359 hrs 30 Sep 44. Ret from AWL 0900 hrs 10 Oct 44.
F42610 Pte MacMULLIN L.L. (1 Bn)

4. REVERSIONS

(a) Reverts to Pte 27 Aug 44. To draw daily regt'l rate of $1.50
F40[illegible] Pte (A/Sgt) McNAMARA A.E. (4 Bn)

5. TRADESMEN'S RATES OF PAY

(a) Granted tradesmen's rates of pay Dr Mech MV "C" 9 Oct 44.
F5[illegible] Pte SMITH A.R.

CERTIFIED COPY. J.L. Hayes
(J.L. Hayes)Captain,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI.

Last Order No....116 17 Oct 44. | X LIBT THE WEST NOVA SCOTIA REGIMENT Part II Orders Issued By CA ADJ.GEN SECTION G.H.Q., 2nd ECHELON - A.A.I. | This Order No....117 19 Oct 44.

"A" OFFICERS
NIL

"B" OTHER RANKS

1. STRENGTH & CHANGES
(a) TOS X-3 list from West NSR
F44152 Pte BLAKE J.M. 15 Oct 44.
G50165 Pte COOKE A.E. 14 Oct 44.
F27210 Pte D'ENTREMONT C.E. 14 Oct 44.
G5431 Pte HOUSTON R.A. 14 Oct 44.
F27125 Pte PIGGOTT S. 13 Oct 44.
F41163 Cpl (A/Sgt) BEHLER A.R. 14 Oct 44.
F27102 Pte MACKEY L. 19 Sep 44.

(b) TOS X-3 list from 1 Cdn Base Rft Bn 3 CERD 15 Oct 44.
F41592 Pte ALLEN J.W.

(c) TOS X-3 list from West NSR 12 Oct 44 on committal to 1 Cdn Div P.P. Camp. Awarded 6 months detn 5 Oct 44.
F40901 Pte DAVIS R.R.

(d) TOS X-3 list from West NSR 10 Oct 44 on committal to 1 Cdn Div P.P. Camp. Awarded 120 days detn 3 Oct 44.
F30743 Pte MacINNIS D.J.

(e) TOS X-3 list (1 Bn) from West NSR 3 Oct 44 A the CSC/A6/2 L/S (AL) 4/37 Oct 44.
F56342 Pte CLARK H.C.
F68285 Pte CHRISTY [illegible]
F55100 Pte ODO A.
F32012 Pte WILLIAMS C.D.

(f) AMP A 3 Part II Order No 108 para 3 (a) d/2 Oct 44 insofar as it concerns the undermentioned is cancelled.
F29712 Sgt SPIERLEY L.V.

2. INTERNAL POSTINGS
(a) Posted from X-3 List to X-4 List (4 Bn) 14 Oct 44.
F66218 Pte SHELTON R.R.
F60730 Pte REILLY W.G.
D117515 Pte O'CONNOR E.F.

(b) Posted from X-4 List (1 Bn) to X-3 List 16 Oct 44.
D117467 Pte CAMPBELL R.

(c) Posted from X-3 List to X-4 List (4 Bn) 15 Oct 44.
F2005 Pte ROBERTSON A.A.

(d) Posted from X-4 List (4 Bn) to X-3 List 15 Oct 44.
F65151 Pte WILLIAMS H.F.

10. STRENGTH DECREASE (CONT'D)

(b) S.O.S. X-3 List to X-9 List 21 Jun 44 Auth- Pending Roboard
P43582 Pte Langille, G.K.
B40623 Pte Nickerson, V.A.

(c) S.O.S. X-3 List to X-9 List 19 Jun 44 Auth- Pending Roboard
P49827 Pte Skilton, H.T.

(d) S.O.S. X-4 List (1Bn) to 1 Cdn Special Service Bn 23 Jun 44 Auth- Cdn 56/6/Spec Serv Bn/1 (AAG) d/10 Jun 44
H19733 Pte Kennedy, A.H.

J.E. Campbell

(J.E. Campbell) Lieutenant
for Officer i/c.,
Canadian Section G.H.Q., 2nd Echelon, AAI.

/EVT

Certified True Copy.

W. Joachim Lind
Officer having Custody of Regtl Books.

This is Exhibit "J" referred to in the Additional Summary of Evidence in the case of C-479 Pte. Godin J. A. taken before me this 31st day of October 1944.

[illegible]
Signature of Officer taking Additional Summary

ARMY FORM B 2[illegible].

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G. 479	Pte.	GODIN, J.A.	1 C.B.R.Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—If a trial by field general court-martial this summary may be completed from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not tendered to the prosecution.

† See para. 677, K.R., 1940.

* The summary herein stated should comprise all such entries as may be of service to the court in awarding punishment, including entries relating to the character of the accused, but not any recognition of special acts of gallantry or distinguished conduct.

Interpretation.—If the sheet is in accordance with the entries the words "in accordance with the particulars stated separately and initialled" should be inserted.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15 (1)	2 times	6 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ N/A

~~Instances mentioned in the civil~~ N/A ~~of this record~~

2. The accused has not been previously convicted, *or*

~~The accused was convicted by a court martial on~~ N/A ~~for~~ ~~and the record of~~ ~~conviction~~ ~~is attached~~ ~~hereto~~ ~~marked~~ ~~"~~ ~~".~~

~~The accused was convicted by a court martial on~~ N/A ~~for~~ ~~and sentenced to~~ ~~and the record of conviction is attached hereto marked "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G479 Rank Private Name Godin [illegible] of [illegible] Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		WR		
		WR		
		WR		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of October 1944

[illegible]
Officer in Custody of Regt'l Books.

—The accused has served as a [illegible] WR [illegible] without reduction, to the present date.

Date of Promotion.

In the rank of ..... years .....

In the rank of ..... years .....

In the rank of ..... years .....

(Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such courses as are available and the paragraphs concerned amended accordingly.) WR

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined No. S.479 Rank PTE

Name S. Adin. J. A. of 1 Bn 1 E B RD. and in my opinion he is

fit/~~unfit~~ to undergo trial by Court Martial.

In the Field
Date Nov. 8th/44.

[signature]
(Medical Officer)

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 21.04.44

J.A Yorke

CHARGE SHEET

STATEMENT BY THE ACCUSED

Additional I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 1.11.49 hrs. J. a Godin

CHARGE SHEET

MFM 6
(AFB 122)
40/P&S/1.38 (3438)

No. G479 Name GODIN, J.A. Sqn, Battery, or Company Corps CIC Date of enlistment GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		AA.Sec.15(1)AWL 1 day, 8 hrs. 51 mins.		7 days CB	23/2/43.	O.C.	
Field		Pte.		AA.Sec.15(1)AWL 1 day, 16 hrs. 6 mins.		7 days CB	5/4/43.	O.C.	
Field		Pte.		AA.Sec.15(1)AWL 1 day, 6 hrs.31 mins.		14 days CB	2/4/43.	O.C.	
Field		Pte.		AA.Sec.15(1)AWL 1 day,12 hrs.20 mins.		4 days F.P.	2/8/43.	O.C.	
Field		Pte.		AA.Sec.15(1)AWL 7 days,2 hrs.45 mins.		21 days F.P.	28/3/44.	O.C.	
Field		Pte.		AA.Sec.15(1)AWL 23 days,23 hrs.55 mins.		28 days F.P.	20/5/44.	O.C.	
				Certified true extract from documents in my possession: (Signed) J.L.Hayes, Capt. for Officer i/c, Cdn Sec, GHQ, 2nd Ech, AAi.					

(OVER)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY FROM REGTL. BOOKS		Wharton Lieut (Officer in Custody of Regtl Books)			

5V-58

Pte. Godin, Jr.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : G479 Pte Joseph Alphonse GODIN - 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	GUILTY	GUILTY	
2nd AA Sec 15 (1)	"	"	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 752, and re loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which. NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo a detention for a period of one Hundred Twenty (120) days and to be put under stoppages of pay and allowances to the extent of Ten Shillings (10/-) per day during the period of his detention.

(Sgd) [illegible] President. (RP 45, 50.)

Judge Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 33, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brigadier,

Date 31 Oct 45. Commanding "C" Group, Cdn. Reinforcement Units

Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused. Date. Signature of Offr.

G479 Pte Godin 12 Nov 45 [illegible]

~~Joseph~~ J. P.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 NOV 45 CMHQ

RECORDED AT CMHQ IN AB 160 P 51-58

CFA96 (In lieu of AFA8) 40/P & B/1698 (8/44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig E.C. PLOW, CBE DSO Comd "C" Gp CRU dated 19 Oct 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G479	Pte		Joseph Alphonse	GODIN	1 CGRU

PROCEEDINGS REVIEWED 31 Nov 45 L.J. Brode Maj. REVIEWING OFFICER JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Field (Country) ENGLAND on (date(s)) 23 OCT 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(a) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ?~~ Ans .....

~~The Interpreter is sworn.~~(1) Do you object to M WILLIE DES RIVIERES as shorthand writer ? Ans NO SIR. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	D.L. REDMAN VD	HQ CRU
Member	MAJOR	G.W. THOMPSON	1 CGRU
Member	CAPT	V. MORIN	1 CGRU
~~Judge Advocate~~			
Prosecutor	LIEUT	R.S. SKINNER	1 CGRU
Defending Offr	LIEUT	Z. MILLER	1 CGRU

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans N O - S T A T E M E N T.[5]
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....[1]
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....
Do you intend to call witnesses on your behalf? Ans .....
Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[1]
(1. *AA 54(3) (6). RP 45, 120(A).* 2. *AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? Ans NO - STATEMENT[1]
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (~~copies~~) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans I'D LIKE TO SAY MY NOTE-ATT[2]
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 108, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 58(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CASE OF G479 Pte GODIN J. A.

(i) LIST OF WITNESSES FOR PROSECUTION

NIL

(ii) LIST OF WITNESSES FOR DEFENCE

NIL

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Extract of No. 1 CRD Part II Order No. 202 concerning the absence without leave of G479 Pte Godin J.A. at 1500 hrs 1 Aug 45 (Marked Exhibit "A")

(b) Certified True Extract of No. 1 CRD Part II Order No. 211 concerning the return from absence without leave of G479 Pte Godin J.A. at 1115 hrs 31 Aug 45. (Marked Exhibit "B")

(c) Expense Voucher dated 31 Aug 45 concerning the cost of returning G479 Pte Godin J.A. to London from Swindon in the amount of £0-18-0 (Marked Exhibit "C")

(d) Certified True Extract from Declaration of a Court of Inquiry dated 4 Sep 45 concerning the escape from Unit Guard Room, No. 1 CGRU of G479 Pte Godin J.A. at 0730 hrs 4 Sep 45 (Marked Exhibit "D")

(e) Certified True Extract from the Daily Guard Room Report, No. 1 CGRU dated 20 Sep 45 concerning the return of G479 Pte Godin J.A. at 1610 hrs 20 Sep 45. (Marked Exhibit "E")

(iv) LIST OF EXHIBITS FOR DEFENCE

NIL

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charges under which I am being brought to Court Martial.

.....J.A. Godin.....
(G479 Pte Godin J.A.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of N/A
if he is available.

.....J.A. Godin.....
(G479 Pte Godin J.A.)

Signed at Field

this 12 day of Oct 45.

CHARGE SHEET

The Accused, No. G479 Pte Joseph Alphonse GODIN, Canadian Infantry Corps, on the strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1500 hrs 1 Aug 45 until apprehended by the Canadian Provost Corps at Swindon at 1115 hrs 31 Aug 45, thereby incurring costs of apprehension in the amount of £0-18-0

(Absent 29 days 20 hrs 15 mins)

SECOND CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 1 Canadian General Reinforcement Unit, absented himself without leave at 0730 hrs 4 Sep 45 whilst in confinement in the Unit Guard Room, No. 1 Cdn Gen Rft Unit, until surrendering himself to the Unit Guard Room at No. 1 Cdn Gen Rft Unit at 1810 hrs 20 Sep 45.

(Absent 16 days, 10 hrs, 40 mins)

Elarlington Lt Col
A/Comd. No. 1 Canadian General
Reinforcement Unit
Canadian Army Overseas

FIELD

17 Oct 45

To be tried by Field General Court Martial

E L Pare Brigadier
Commanding 4th Group, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants
19 Oct 45

M7 98

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure four (c) (d) (e) (f) and (g) have been complied with.

J.F. Hodgins Capt
.....
(J.F. HODGINS) CAPT
Officer detailed to take the Summary of Evidence.

In the Field
11 Oct 45.

EXAMINED

SUMMARY OF EVIDENCE

in the case of

G-479 Pte Joseph Alphonse GODIN, C.I.C., on the strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:

(1) CERTIFIED TRUE EXTRACT of No. 1 Canadian Reception Depot Part II Orders No. 202 dated 7 Aug 45 which shows in Section "B", Para 7, Sub-para (b) G479 Pte Godin J. A. to be Absent Without Leave from 1500 hrs 1 Aug 45. (Marked Exhibit "A")

(2) CERTIFIED TRUE EXTRACT of No. 1 Canadian General Reinforcement Unit Part II Order No. 211 dated 5 Sep 45 which shows in Section "B", Para 7, sub-para (a) G479 Pte Godin J. A. having returned from Absence Without Leave at 1115 hrs 31 Aug 45. (Marked Exhibit "B")

(3) EXPENSE VOUCHER, CMHQ 100:55 Ref KR & O (Can) 539 dated 31 Aug 45 and signed by the Officer Issuing Railway Warrant and Expense monies, No. 6 Area Provost Coy., Canadian Provosts Corps, London, which declares that expenses were incurred in returning G479 Pte Godin J. A. to London from Swindon in the amount of £0-18-0 (Marked Exhibit "C")

(4) CERTIFIED TRUE EXTRACT from the Declaration of a Court of Inquiry held on the 4th day of September, 1945 showing K479 Gnr Godin J. A. having escaped from the Guard Room of No. 1 Cdn Gen Rft Unit at 0730 hrs 4 Sep 45. (Marked Exhibit "D")

(5) CERTIFIED TRUE EXTRACT from the Daily Guard Room Report, No. 1 CGRU dated 20 Sep 45 signed by Bdr Wendland G. E. Sjt i/c RPs showing G479 Pte Godin J. A. having voluntarily surrendered himself at 1810 hrs 20 Sep 45 to the Guard Room No. 1 CGRU. (Marked Exhibit "E")

.....Capt

(J. F. HODGINS) Capt
Officer detailed to
take the Summary of Evidence

Plea of Mitigation

Accused:- 6474 Pte Godin J A

Charge:- A.W.L.

E-3

ship on which he was on was torpedoed, and as a result of this he spent several months in a hospital in North Africa.

After being discharged he was sent to Italy, where he remained until returning to this country in June 1945.

J. Miller Lt.

himself at the Guard Room at #1 C.G.R.U.

The accused has served with the C.I.C. since May 8, 1941. In July of the same year he came overseas with the North Shore Regiment. He later was transferred to the Nova Scotia Regiment, and went to Italy with them in November 1943.

On the way there the

telling him that she was pregnant.

On September 4 the accused went A.W.L. the second time in order to determine whether or not this was true. After satisfying himself as to the truth of this fact, and that he was the father, Pte Godin voluntarily returned and surrendered

remained there for about a month, and was then posted to #1 C.G.R.U.

On August 2, 1945, embittered because he had been unable to obtain a leave either while at #1 CRD or #1 C.G.R.U., he went A.W.L.

While in the Guard-Room at #1 C.G.R.U., after being apprehended at Swindon, he received a letter from his girl-friend in Newbury

The accused, Pte Godin, pleads guilty to two charges of being A.W.L. A plea of mitigation is advanced in view of the following circumstances.

Pte Godin was returned to England from Italy in June 1945. After spending a week in the hospital, he was discharged and sent to #1 C.R.D. He

Exhibit "A"

NO. 1 CANADIAN RECEPTION DEPOT
PART II ORDERS
ISSUED BY
LT/COL R.H.F. BACK E.D. (CAC)

Last Order
No. 201
7 Aug 45

This Order
No. 202
7 Aug 45

SECTION "B"

7. ABSENT WITHOUT LEAVE

(b) A.W.L. from 1500 hrs 1 Aug 45.

G479 PTE GODIN J. A.

"J.J. DUFFY Lieut"
"for" (Ronald H. Back) Lt.Col.,
Officer Commanding
No. 1 Cdn Reception Depot

Certified True Extract from Original Document
held in my possession.

Capt.

11 Oct 45

(J.F. HODGINS) Capt
Legal Officer
Officer Having Custody
of Original Document.

Exhibit "B"

NO 1 CANADIAN GENERAL REINFORCEMENT UNIT

Last Order Issued No 210 4 Sep 45

Daily Part II Orders issued by LT-COL E PARTINGTON A/COMMANDER

THIS ORDER NO 211 5 Sep 45

Section "B"
Other Ranks.

7 ABSENT WITHOUT LEAVE

(a) Returned from AWL at 1115 hrs 31 Aug 45

GEN G 479 Pte GODIN J A CIC

"W. MURRAY, Capt
Adjt"
"for" (E. PARTINGTON) Lt-Col
A/Commander
No. 1 Cdn Gen Rft Unit

Certified True Extract from Original Document held in my possession.

11 Oct 45

(J.F. HODGINS) Capt
Legal Officer
Officer having custody of original document.

Exhibit "D"

Certified True Extract from the Declaration of a Court of Inquiry held on the 4th day of September, 1945, at the Unit Guard Room, No. 1 Cdn Gen Rft Unit, concerning the escape of K49730 Pte Sanderson A., and G479 Gnr Godin J.A.

- -4- -

" The Court having inquired into the facts concerning the escape of K49730 Pte SANDERSON A. and G479 Gnr GODIN J. A., reports: -

1. That K49730 Pte Sanderson A. and G479 Gnr Godin, J.A. did escape from Guard Room of No. 1 CGRU at approximately 0730 hrs. 4 Sep 45.

PRESIDENT : "G.H. CLAWSON"
(G.H. CLAWSON) Lieut CIC
Gen Coy, No. 1 CGRU

MEMBERS: "N.E. RADWAY Lieut"
(N.E. RADWAY) Lieut CIC
Gen Coy, No. 1 CGRU

"K.A. MacRAE Lieut"
(K.A. MacRAE) Lieut CFC
Gen Coy. No. 1 CGRU "

Certified true extract from original document held in my possession.

10 Oct 45

(J.F. HODGINS) Capt
Legal Officer
Officer having custody
of original document.

Exhibit E

DAILY GUARD ROOM REPORT

No. 1 CGRU 20 Sep 45

				Date of Admission		
37.	G479	Pte	GODIN J. A.	1810 hrs 20-9-45	AWL	Voluntary Surrender

(Sgd) "Bdr Wendland G.E."

SJT i/c R.P.s

Certified True Extract from Original Document held in my possession.

10 Oct 45

(G.F. Hodgins) Capt
Legal Officer
Officer having custody
of original document

Exhibit "C"

Ref: KR & O (Can) 539

Expense Voucher Re—

Reg No. G-479 Rank Pte Name Godin, J.A. Unit 1 Rec Depot

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Swindon

Date	Particulars	Amount		
31 Aug. 45	Escorts return fare from LONDON To Swindon	—	12	—
	Prisoners single fare to LONDON From Swindon	—	6	—
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	—	18	—

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt

R.P. Harrison

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55 40/P & E/483 (6162)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G479	Pte	GODIN J. A.	No. 1 CGRU

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15 (1) 10 times.

For AA Sec 40 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 23 Feb 43

Date of last entry in Field Conduct Sheet 11 Jul 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

[redacted]

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 32 days in military custody, *i.e.*, nil days in open arrest, 32 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 23 yrs

6. The date of his attestation [redacted] is 9 May 41

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

[redacted]

Ex B
MJ

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28071) Wt.30721/3701 32,000 9/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	8 Nov 44	AA Sec 15 (1)	1 yrs impris with H L	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23 day of October, 1945

J71 Lundgren Capt
Legal Officer

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G479	Pte		Joseph Alphonse	GODIN	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~shown~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) this date endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	to be detailed by OC	1 CGRU
Captain	to be detailed by OC	1 CGRU

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — [signature] (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Dat 1° Oct 45 — Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 96 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

No. G479 Name GODIN J A | Sqn, Battery, or Company | Corps CIC | Date of enlistment 9 May 41 | GC Badges | Signature GC Company, etc | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7010) Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Feb 43	Pte		AA Sec 15 (1)		7 days CB	23 Feb 43		Forf 2 days pay
Field	5 Apr 43	Pte		AA Sec 15 (1)		7 days CB	5 Apr 43		Forf 2 days pay
Field	26 Apr 43	Pte		AA Sec 15 (1)		14 days CB	26 Apr 43		Forf 2 days pay
Field	2 Aug 43	Pte		AA Sec 15 (1)		4 days FP	2 Aug 43		forf 6 days pay
Field	9 Oct 43	Pte		AA Sec 15 (1)		5/8d costs app.	9 Oct 43		Forf 6 days pay

Ex 2 [illegible]

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Mar 44	Pte		AA Sec 15 (1)		21 days FP	28 Mar 44		Forf 29 days pay
Field	20 May 44	Pte		AA Sec 15 (1)		28 days FP	20 May 44		Forf 72 days pay
Field		Pte		AA Sec 15 (1)		1 yrs impris with H L	8 Nov 44	FGCM	Foff 349 days pay
							19 Jun 45		Forf 6 days pay
Field		Pte		AA Sec 15 (1)		14 days detn	16 Jul 45		Forf 14 days pay
Field		Pte		AA Sec 40		14 days CB	11 Jul 45		Forf 42 days pay
Field		Pte		AA Sec 15 (1)					

CERTIFIED TRUE EXTRACT FROM ORIGINAL
MFM 4 HELD IN MY POSSESSION

12 Oct 45 (J.F. Hodgins) Capt Legal Officer
Officer having custody of original document

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined G.439, Pte. Godin, J.A.

.....

of 1 CGRU and in my opinion he is fit to undergo trial by Court-Martial.

.....
Medical Officer
No 1 Can Gen Hft Unit
Canadian Army Overseas

In the Field

23 Oct 45.

40-24

Pte. Godin L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 23185 Pte Leo Godin N. Shore. R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on (date).

(1. Insert sentence being awarded, or delete. If not applicable. See RP 45(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer Imprisonment, with HARD LABOR, for a period of one (1) year

(Sgd) ~~[illegible]~~ 23 Jan 45 (Sgd) Fredrikson Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) J. A. Roberts Brig
Date 23 Jan 45 Commanding ~~[illegible]~~ Div Arty Rde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G23185 Pte Leo Godin	24 JAN 45	B.A. Quilton A/Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 MAR 1945 ... BRANCH

RECORDED AT CMHQ IN AD 160, 4-2-24

CPA85 (1b Insc. of AFA3) (J. P. & S. 5/1608) (2604)

FIELD GENERAL COURT-MARTIAL

(Convening) Order of Brig J. A. Roberts Comd 8 C. I. B dated ...

ACCUSED.

(As to the trial of two or more charges jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G 23184	Pte	Leo	Godin	N Shore R

~~REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.~~

~~[illegible] 2 MAR 45~~

~~PROCEEDINGS QUASHED~~

...GS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 23 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 125-127. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1420 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ... as interpreter? Ans ...

The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Jack D Mon	N. Shore Regt
Member	Capt	R.M. Lawigne	~~[illegible]~~
Member	Capt.	W.P. Fredrick	S.O.R.
Judge-Advocate			
Prosecutor	Lt	D.R Mac Phason	N. Shore R
Defending Offr	Lt	R.A. Braun	N. Shore R

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused G 23184 Pte Leo Godin N. Shore R. before arraignment make(s) (no) ~~[illegible]~~ plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB mark and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B or ~~[illegible]~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privilges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E1 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 41 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 60(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes Through my Defending Offr (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 58(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt. A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G23184	Pte		Leo	GODIN	N Shore R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 22 Jan 45 endorsed by me, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; (~~because such person is on active service and in the opinion of the~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

~~4. You are hereby required to bring the accused and the witnesses named in the margin before the Court.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	F.F. Moar	N Shore R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R.M. Lavigne	R de Chaud
Capt	W.P. Grassick	QOR of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	B.A.J. McElwaine	N Shore R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland
(Country.)

Dat 22 Jan 45

J.A. Roberts
(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Commanding 8 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 55 (In lieu of AFA 3) 60/F & S/1697 (5143)

(See overleaf for oaths and notes for use on trial.)

Pt Godin is one of those brave D Day men that landed on the beaches of Normandy and has been with his unit up until the first days of November and has taken part in the biggest jobs that the unit had to do. ~~Pt Gwpg~~ Pt Godin realizes the seriousness of his mistake and he's very sorry for it and I beg the court to take these facts into consideration before sentence is passed.

RP 83 B complied with.

Summary of evidence in the case of
6 23184 Pte Godin L. 21st Battalion North
Shore (N.B.) Regt. Canadian Army Overseas.

By direction of the Commanding Officer
the evidence is taken on oath.

First Witness: D 143724 A/Cpl. Golden M. 9th Coy
North Shore (N.B.) Regt. having been
duly sworn states

On 16th Jan 45 I A/Cpl Golden then
acting pl. Sgt of 9 pl 'C' Coy reported
6 23184 Pte Godin L. A.W.L. at 0900 hrs
after searching for him in our coy
area and not being able to locate
him. I reported this to Sgt Payne
who was then acting C.S.M.

M. Golden Cpl

The accused does not wish to cross
examine the witness

Second Witness A/Capt B. Dalton adjutant of North
Shore (N.B.) Regt. having been duly
sworn states

I produce certificate of apprehension
relating to the accused which is
marked Exhibit A

B.A. Dalton A/Capt

The accused does not wish to
cross examine the witness.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or ~~~~ any evidence you give will be taken down in writing and may be given in evidence.

A. No

The accused does not call any witnesses

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that R.P.4 (C), (D), (E), (F) have been complied with

D. McPherson Lt.
North Shore (N.B.) Regt.

In the field
20 Jan 45

"A"

SUMMARY OF EVIDENCE IN THE CASE OF G/23184 PTE. Leo GODIN, NORTH SHORE (NEW BRUNSWICK) REGIMENT, CANADIAN ARMY OVERSEAS.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

D/143724 A/Cpl. Goldin, M, of "C" Coy, North Shore (New Brunswick) Regiment, having been duly sworn, states:

On 16 Jan 45, I, A/Cpl. Goldin, then acting Pl Sgt. of 9 Pl, "C" Coy, North Shore (NB) Regiment reported G/23184 Pte. Godin, L, A.W.L. at 0800 hrs. After searching for him in our Coy Area and not being able to locate him, I reported this to Sgt. A J Payne who was then acting C.S.M.

The accused declines to cross-examine the witness.

(D/143724 M Goldin) A/Cpl.

SECOND WITNESS

A/Capt. B A Oulton, Adjutant North Shore (New Brunswick) Regiment, having been duly sworn, states:

I produce certificate of apprehension relating to the accused which is marked Exhibit, "A".

The accused declines to cross-examine the witness.

(B A Oulton) A/Capt.

The accused was cautioned as follows.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make a statement.

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF ONE PAGE, WAS TAKEN DOWN BY ME IN THE PRESENCE OF THE ACCUSED AND THAT RULE OF PROCEDURE 4 (C) (D) (E) (F) HAVE BEEN COMPLIED WITH.

In The Field.
20 Jan 1945.

(D MacPherson) Lt.
NORTH SHORE (NB) REGIMENT.

CHARGE SHEET

The accused, G/23184 Pte. Leo GODIN, "C" Coy North Shore (New Brunswick) Regiment, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
A A SEC 15 (1)

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0800 hrs 16 Jan 45 until apprehended by a member of the 11 Cdn Pro Coy at 1330 hrs 17 Jan 45. (Absent 1 day 5 hrs 30 mins).

J.W.H. Rowley Lt-Col

In The Field.
20 Jan 1945.

(J.W.H. Rowley) Lt-Col.
Comd North Shore (NB) Regiment.

To be tried by Field General Court Martial.

Jas A Roberts

(J.A. Roberts) Brig
Comd 8 Cdn Inf Bde

22 Jan 45

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G/23184	Pte.	Godin, L	North Shore (NB) Regiment

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A A SEC 15 (1) ..... 1 time~~s~~ GAO

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet 3 Oct 44

Date of last entry in Field Conduct Sheet 3 Oct 44

~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of January 1945

(J.W.H. Rowley) Lt-Col.
Comd North Shore (NB) Regiment.

"E"

MFM 6 (AFB 122) 40/P&S/136 (3438).

No G23184 Name GODIN L | Sqn, Battery or Company | Corps C I C | Date of enlistment 4/6/41 | OC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"SHEET NO 1 DESTROYED - 4 DEC 41" "DATE OF LAST ENTRY - NIL" "NO OF CASES OF DRUNKENNESS - NIL"									
IN THE FIELD	30 OCT 44	Pte		A.A. SEC 15 (1) WOAS: "AWL from 1100 hrs 3 Oct 44 until 1130 hrs 5 Oct 44(Absent 2 days, 30 mins).	CSM Drysdale A.A.	Admonished	8 Oct 44	Lt-Col. J. E. Anderson	Forf 3 Days' Pay FR&I 149(1)(a).
IN THE FIELD	8 NOV 44	Pte		A.A. SEC 15 (1) WOAS: "AWL from 1330 8 Nov 44 until 2330 hrs 1 Dec 44(Absent 23 days 10 hrs).	Documentary	28 Days F P	13 DEC 44	Lt-Col. J W H Rowley	Forf 24 Days' Pay FR&I 149 (1)(a). Forf 28 Days Pay FR&I 149(2)

CERTIFIED TRUE COPY

E.A. Oulton A/Capt & Adjt

20 JAN 45

(PTO)

"B"

NO.II CDN PROVOST COMPANY

THIS IS TO CERTIFY:

REG NO G.23184 RANK PTE. NAME GODIN, L.

UNIT NORTH SHORE (NB) REGIMENT, 3CDN INF DIVISION

WAS APPREHENDED AT 1330 HOURS 17 JAN 1945 DATE

AT POPPEL, BELGIUM PLACE. AT THE TIME OF APPREHENSION

WAS DRESSED IN MILITARY UNIFORM - XXXXXXXXXXXXXXX.

This is Exhibit "A" referred to in the Summary of Evidence in the case of G 23184 Pte. Godin L. taken before me this 20th day of Jan 1945

D Macpherson Lt.

E Porter

.....Capt.
XXXXXXXXXX (E. PORTER)
Officer Commanding,
No.11 Provost Company.

MEDICAL CERTIFIFATE FOR
COURT - MARTIAL

NORTH SHORE (NEW BRUNSWICK) REGIMENT C.A.(O/S)

I certify that I have this morning examined No.G/23184.

Rank...PTE.....Name...~~MTE~~ GODIN ...L....Unit.....NORTH SHORE(NB)REGIMENT.

and in my opinion he is fit to undergo trial by Court-Martial.

In The Field.
Date.....

M.O. North Shore Regt. In The Field.

Z-2

PTE GODIN P.A

E-4780 Pte. Paul Armand GODIN
R.22e R. 6 C.I.R.U. Z-2

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 19th day of FEBRUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[illegible]~~

*(1. ~~[illegible]~~

*(2. ~~[illegible]~~

~~[illegible]~~

* Omit if not applicable.

Proceedings [illegible] Moulin Capt. [illegible] Reviewing Officer [illegible] 9 Mar 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	E.A. MORIN (Fus.M.R.)	6 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Lieutenant	J.W. Benham (R.Wpg.R.)	2 C.I.R.U.
Lieutenant	D. Mousseau (R.de Mais)	6 C.I.R.U.
Waiting Member Lieutenant	H.A. Crowe (Regina Rif.)	2 C.I.R.U.

*Signed [signature] Brigadier,
Commanding "A" Group Cdn Rft Units, C.A.(O).
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4780 Pte. Paul Armand GODIN R.22e R. 6 C.I.R.U.	First Charge A.A. Sec. 15(1) Second Charge A.A. Sec. 15(1) SEE CHARGE SHEET ATTACHED.	Guilty Guilty	Guilty Guilty To undergo detention for a period of six months Allowin maj 20 Feb 43	I confirm the finding & sentence of the Court of 1st count but remit 60 days detention R. Stewart Lovat Brigadier

"I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial."

A E Morin maj
President of the Court.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) R. Stewart Lovat (Signed) A E Morin maj
Brigadier, President.
Commanding "A" Gp Cdn Rft Units, Exc MR. 6 C.I.R.U.
Convening Officer or A.A.(O).

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of February, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. ~~The members of the Court~~
2. The witnesses a.e.w.
* ~~(3. The interpreter)~~ a.e.w.
* ~~(4. The officers under instruction)~~ a.e.w.

were duly sworn.

* Omit if not applicable.

Signed this 20th day of February 1943.

A E Morin maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~ a.e.w.

~~Signed this~~ a.e.w. ~~day of~~ a.e.w. ~~19~~ a.e.w.

~~*President of the Court Martial.~~ a.e.w.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 20th day of February 1943.

R. Stewart Lovat Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of { E4780 Pte Paul Emile Godin / R22R - 6 C.I.R.U. / 6 C.I.R.U. D.P.M.O. 420

(a) (Dated) 26th Feb. 1943 (Signed) J.N. Chicoine Capt A/adjt 6 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.S. 47567/1937 25 M. 3/43 (3,31/7565)(1) Gp. 698/2

I certify that I have this morning examined No [illegible]4780 Pte Godin, P.A., of the Royal22e Regiment, No 6 Canadian Infantry Reinforcement Unit, and that he is fit to undergo trial by Court-Martial.

Algonquin Camp,
Witley, Surrey,
20th day of February, 1943.

CAPT. J. L. A. HURTEAU, M.D.
R.C.A.M.C.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT LAURANTIDE CAMP ON THE 20TH DAY OF FEB 43

TRIAL OF:-No. E4780 PTE PAUL ARMAND GODIN Unit R22eR 6th CIRU

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) LIEUT G BEAUCHAMP (Unit) R22eR 6 CIRU

Defending Officer:- (Name) (Unit) R22R 6 CIRU

At 09.30 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - NO

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President. MAJOR. A.E. MORIN.....(Unit) FMR 6 CIRU

Members LIEUT. H.E. CROWE.....(Unit) RIG. RIFLE 6 CIRU

LIEUT. D. MOUSSEAU.....(Unit) R de MAIS 6 CIRU

The officers under instruction are duly sworn.

~~Q2 Do you object to.....acting as shorthand writer? A2 =~~ N.A. Acus

~~The shorthand writer is duly sworn.~~ Acus

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lieut. G. Beauchamp (Unit) R22R 6 CIRU sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - no

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - yes I WANT TO GIVE EVIDENCE ON OATH

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

AE Morin Maj Pres

Cours-Martiale de E.4780 Pte Paul-Armand GODIN (R.22' R. Coy, #6 C.I.R.U.)

Declaration de l'accuse:
Le president et les membres de la Cours ayant ete assermente, lecture des deux charges fut faite a l'accuse: il plaida coupable aux deux charges.
Apres lui avoir lu le sommaire d'evidence le President demanda si l'accuse voulait faire une declaration a l'intention d'attenuer sa sentence, si possible. - Ayant ete assermente l'accuse declara ce qui suit:

"Je suis E.4/80 Pte Paul-Armand GODIN, R.22' R. Coy, #6 C.I.R.U..
Je suis arrive en Angleterre en 1939, et depuis jamais je n'eus de chance. j'etais commis de bureau; toujours j'ai travaille fort, sacrifiant plusieurs fois mes soirees a mon travail. Toujours, jusqu'a la date de mon depart, j'eus une bonne conduite.
Avant cette absence sans permission, mon nom avait ete soumis pour mon retour au Canada comme escorte de prisonniers (ceci etait en octobre/42) et, par la suite, je n'en eus plus de nouvelle. Alors je me suis decourage, et je suis parti.
Je savais, par lettres, que ca marchait mal a la maison et c'est la raison pour laquelle je voulais tant revenir et fut si desappointe.
Durant mon absence j'ai pense que j'avais mal fait, et considere qu'il valait mieux revenir pour continuer comme avant et avoir une bonne conduite.

Q.(2'membre)- Avez-vous toujours pu prendre vos conges d'une maniere reguliere, tous les trois mois, ou aviez-vous de la difficulte pour les obtenir?
R.- oui, j'ai toujours pris mes conges regulierement.
Q.(Pres.)- Avez-vous eu raison de ne pas etre satisfait de la conduite de vos superieur a votre egard, depuis votre arrivee en Angleterre?
R.-Dans les premiers temps j'ai ete satisfait, mais je n'ai pas aime la maniere dont j'ai ete conduit lorsque le maj. Doiron prit charge de la Cie.
Q.(Pres.)- Quelle est la raison qui a pu vous faire vous absenter sans permission?
R.- J'etais tres decourage. - J'etais commis au bureau de la Cie et tres souvent travaillais tard.etc. Lorsque mon nom fut soumis pour mon retour au Canada comme escorte, j'ai eu de l'esperance. Mais, plus tard, lorsque je demandai au maj. Doiron si j'avais des chances d'y aller, il me repondit qu'il n'avait pas le temps de s'en occuper.
Q.(Pres.)- Et ca vous a pris 68 jours pour vous replacer?
R.- Oui, Monsieur.
Q.- Ou etes-vous demeure tout ce temps?
R.- A Londres tout le temps.
Q.(Pres.)- Etez-vous demeure longtemps au "Field"?
R.- Non, j'en suis revenu en 1940 pour le "Holding Unit".

A.E. Major Pres. — D. Rousseau Lieut.

Defense presentee par le Cpt. V.P.E. AUBUT, R.22' R. Coy, #6 C.I.R.U., officier defenseur pour E.4/80 Pte P.A. GODIN:

"Je demanderais a la Cour de ne pas juger trop severement l'accuse.
Je n'ai pas a ajouter beaucoup plus que la declaration de l'accuse lui-meme.
Je veux simplement faire ressortir que l'accuse a servi deja depuis trois ans, sa conduite passee prouve que fondamentalement il a un bon caractere.
Il a eu une faiblesse comme toute personne en a quelque fois dans sa vie, et quand on est au courant des faiblesses humaines on peut comprendre que dans un moment de decouragement quelque chose de semblable puisse arriver.
Le "Padre" m'a fortement recommande l'accuse, et j'aurais aime avoir plus de temps disponible pour le faire, parce que je crois que le probleme est assez delicat. Mais je n'ai ete averti que quelques heures avant.
Cependant je suis moralement convaincu que si la Cour pardonne a l'accuse, elle ne fera pas preuve de faiblesse, car ~~dans~~ un acte de bonte et de clemence de la part de celui qui pardonne n'est pas un acte de faiblesse, mais de force et, pour le pardonne, c'est une voie ouverte a mieux faire dans l'avenir.
On a promis a l'accuse qu'il pourrait aller en Canada. Eh bien! cette esperance disparait. Il a un moment de decouragement.
Il est jeune, mais son caractere est bon ainsi que son moral.
Encore une fois je prie la Cour de bien considerer ce cas et d'user envers l'accuse de toute la clemence possible. Sa conduite anterieure prouve qu'il la merite.

DE Morin maj
Pres.

"for certified true copy....."

D. Mousseau Lieut.

CHARGE SHEET

The accused, No E-4780, Private Paul Armand CODIN, of the Royal 22e Regiment, on the strength of 5 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:

First Charge — When on active service, absenting himself without leave,
Section 15(1) Army Act.

in that he,

at Algonquin Camp, Witley, Surrey, did absent himself without leave from about 0800 hours on the 2nd day of November, 1942, until he surrendered himself at 2345 hours on the 16th day of November, 1942.
(Total absence 17 days, 16 hours, 45 minutes).

Second Charge — When on active service, absenting himself without leave,
Section 15(1) Army Act.

in that he,

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 0315 hours on the 19th day of November, 1942, until he surrendered himself at 1900 hours on the 15th day of February, 1943.
(Total absence 88 days, 19 hours, 45 minutes).

.....Lt-Col
(W.E. MCRAE), Acting Commander
5 Can Inf Reinf Unit

Algonquin Camp,
Witley, Surrey,
18th day of February, 1943.

To be tried by Field General Court Martial.

A/E Morin maj
Pres

.....
(J.R. Stewart Lough) Brigadier,
Commanding,
"A" Group Cdn Rft Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
19 Feb. 43.

SUMMARY OF EVIDENCE

In the case of No E-4780, Private Paul Armand GODIN, of the Royal 22e Regiment, on the strength of 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas),

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

FIRST WITNESS FOR THE PROSECUTION

Capt P.M.A. Simard, Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am Capt P.M.A. Simard, of the Royal 22e Regiment, 6 CIRU. I produce herewith the following documents concerning the accused, whom I now recognise:

(a) Extract from 1 CDIRU Daily Order 278 (28), dated 17 Nov 42.

(b) Copy of the Declaration of a Court of Inquiry, dated 16 Dec 42.

The accused declines to cross-examine this witness.

P. Simard Capt ....Capt.

SECOND WITNESS FOR THE PROSECUTION

E-39040 A/Sgt Boutet, J.H., Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am E-39040 A/Sgt Boutet, J.H., of the Royal 22e Regiment, 6 CIRU. On 2 Nov 42, I was COS of the Royal 22e Regiment Company, 1 CDIRU. On that date the accused, whom I now recognise had a pass which expired at 0600 or 0800 hours. I do not remember the exact time of expiration of the pass, because the accused had taken it before it could be entered in the Pass Record Book. The accused failed to return that morning and I placed his name on the Absentee Report.

Q. 1 Who was COC at the time I was given that week-end ?
A. 1 E-5551 Cpl Ringuette, A.
Q. 2 Are you sure he didn't enter my leave in the pass book ?
A. 2 Yes.

The accused declines to further cross-examine this witness.

J.H. Boutet ....A/Sgt.

THIRD WITNESS FOR THE PROSECUTION

E-5402 A/Sgt Riopel, E., Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am E-5402 A/Sgt Riopel, E., of the Royal 22e Regiment 6 CIRU. On 19 Nov 42 I was COS of the Royal 22e Regiment Company, 1 CDIRU. At 2245 hours the accused, whom I now recognise and who was shown on the Absentee Reports as being AWL from 0600 hours 2 Nov 42, came into my hut and surrendered to me. As I was making arrangements to have him taken to the guard room, the accused opened the door and went out saying he was going to the QM stores for blankets. He was outside before I could stop him. I followed immediately but could not find him either in the QM stores or anywhere about. It was about 2315 hours at this time and it was very dark outside.

The accused declines to cross-examine this witness.

E. Riopel ....A/Sgt

AEW Pres

SUMMARY OF EVIDENCE

In the case of No E-4790, Private Paul Armand GODIN, of the Royal 22e Regiment, on the strength of 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas)

FOURTH WITNESS FOR THE PROSECUTION

E-5241 L/Cpl Longpre, M., of the Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am E-5241 L/Cpl Longpre, M., of the Royal 22e Regiment, 6 CIRU. On 16 Feb 43, I was at the Salvation Army Hut on the Milford-Hindhead Road, when, at about 1900 hours, the accused, whom I now recognize, came over to me and surrendered as an absentee without leave from the Royal 22e Regiment, 6 CIRU. I placed him under close arrest and had him escorted to 6 CIRU guard room.

The accused declines to cross-examine this witness.

W.M. Longpre L/Cpl.

The accused, having been duly cautioned in French in accordance with RP 4 (K) and CARO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, ~~xxx~~ this 17th day of February, 1943, and that Rules of Procedure 4 (C), (D),,(E), (F) and (G) have been duly complied with.

Geo Beauchamp .....Lieut.
(Officer taking Summary)

Algonquin Camp,
Witley, Surrey,
18th day of February, 1943.

A E Morier maj
Pres

GB/JLM

3 C 1 B

RECORD of the Declaration of a Court of Inquiry assembled at # 1 C.D.I.R.U.

on the 16th day of December 1942

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. E 4780 Pte. Godin, P.A. R22eR Coy. # 1 CDIRU
By authority of D.O. Part I # 3043 dated 14 Dec. 42

DECLARATION

The Court declare that No. E 4780 Pte. Godin, P.A. illegally absented himself without leave from 2315 hrs. at Algonquin Camp on the 19th day of Nov. 42 and is still so absent and that on the 15 Dec. 42 he was deficient, and that he is still deficient of the following articles:-

Articles	Value Vocabulary £.	s.	d.	Value Appraised £.	s.	d.
Badges, cap 1	0	0	6½	0	0	5
Blouses, serge 1	1	7	8	1	0	9
Trousers, serge 1	1	7	11	1	0	11¼
Boots, laces, prs.1	0	0	1½	0	0	1
Boots, ankle prs. 1	1	1	6	0	16	1½
Brasses, button 1	0	0	2	0	0	1½
Brush, shaving 1	0	1	4	0	1	0
Brush, tooth 1	0	0	4½	0	0	3¼
Cap, F.S. 1	0	3	8	0	2	9
Greatcoat 1	3	17	0½	2	17	9¼
Field dressing 1	0	1	1	0	0	9¾
Fork 1	0	0	5	0	0	3¾
Holdall 1	0	0	9	0	0	6¾
Shirt, flannel 1	0	9	2	0	6	10½
razor 1	0	1	10½	0	1	5
Spoon, talbe 1	0	0	4½	0	0	3¼
Belt, waist 1	0	6	7	0	4	11¼
Resp. haversack 1	0	6	6	0	4	10½
Container 1	0	4	4	0	3	3
Facepiece 1	0	8	6	0	6	4½
Outfit a/d	0	0	2½	0	0	1¾
Eyeshields 6	0	2	3	0	1	8¼
Ointment a/g 1	0	0	9½	0	0	7
Total	£ 10	3s.	2d.	£ 7	12s.	4d.

Sgd. C.E. Brennan CQMS
C.& Y. Coy. Stores , 3 Bde. Wing.

Names of President and Members:

Signed at Algonquin Camp this 21st day of December 1942.

P. Simard, Capt. President
(P.M.A. Simard) Capt. R22eR #1 CDIRU

C. Simard, Lieut. Member
(J.H.C. Simard) Lieut. R22eR #1 CDIRU

G. Gagnon, Lieut. Member
(G. Gagnon) Lieut. R22eR #1 CDIRU

A E Harris maj fus

Signature of Commanding Officer H G Pearson Col

Certified true copy H G Robinson Lieut
Signature of Officer having custody of original record.

M.F.B. 25

ARMY FORM B 196.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4730	Private	Godin, P.A.	Royal 22e Regiment, 6 CIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 46 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 857, K.R., 1940.

* The particulars hereof stated should correspond with the entries in the conduct sheets, the reasons being given in the most serious offence in each entry, and to any recognized medal bars of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has *not* been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 46 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence (or~~ imprisonment ~~or detention) for~~ ~~commencing on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~days~~ days in civil custody, and ~~days~~ days in military custody, making a total of ~~days~~ days, of which ~~days~~ days were spent in hospital.

5. The present age of the accused according to ~~his~~ record of service / attestation paper is 23 years

6. The date of ~~his~~ commission / attestation specified in ~~his~~ record of service / attestation paper is 28 Nov 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years 332 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 332 days service.

9. The accused is entitled to reckon 2 years 332 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or award).)~~

11. ~~(If the accused is a warrant officer.)~~ The accused before he ~~was made a warrant officer~~ last held the ~~regimental~~ rank of

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of , dated , ~~and in his regiment (or corps or department) the rank of~~ dated

(A1820) Wt. 13852/144 12,500 6/41 A & F.W.3.108. Gp.498

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. [illegible] Rank Private Name [illegible] of [illegible] Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NO ENTRIES		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of [illegible] 1943

[illegible] Officer having custody of original documents

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

in the rank of [illegible] years,

in the rank of [illegible] years

in the rank of [illegible] years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

Date of Promotion.

EXTRACT FROM 1 CDIRU DAILY ORDER 278

17 November, 1942.

28. ABSENTEES.

E-4780 Pte Godin, P.A. (R 22e R) absent from 0600 hours 2 Nov 42, and is still absent after the 8th day.

Certified true copy

Pte Claude Duroche ..... Lieut.
(Officer having custody of original documents)

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Witley, Surrey,
this 18th day of
February 1943

Paul G. Godin

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial.

Dated at Witley, Surrey,
this.....day of
.....194

Paul G. Godin

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Capt. P. Abbott R.22e.R. & CIRU if he is available.

Dated at Witley, Surrey,
this 18th day of
February 1943

Paul G. Godin

M.F.M. 6
(A.F.B. 177)
[illegible]

No. E4780 Name Godin, P.A. Sqn., Battery, or Company } Corps R 22e R Date of enlistment } 28 Nov '39 G.C. Badges } 1 Service or Proficiency Pay } N/A

Date of last entry in Company Conduct Sheet } nil No. and date of last drunk } nil. Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature O.C. Company, etc. } Character O.A. Turcot, Major

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NO ENTRIES					
				Certified true copy consisting of one sheet					
				Haidin Lieut.					
				Officer having custody of original documents					

A E Morris maj Pres

(P.T.O.)

4c.146

PTE GODIN S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G/18888 Pte Sylvest GODIN CYR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12(1)(a)	NOT Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~Beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to be imprisoned with hard labour for two (2) years

(Sgd) ..... Judge-Advocate, if any. 7 Oct 1944 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 11 Oct 44 (Sgd) ..... Commanding 3 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G/18888 Pte Sylvest Godin	11 Oct 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AR 160

FIELD GENERAL COURT-MARTIAL

(CFAO6 (1st Issue of AFA31) 40/P & 87/1866 (5621))

4/38B

Convened by Order of Maj Gen P E BERNATCHEZ Comd 3 Cdn Inf Bde dated 5 Oct 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G/18888	Pte	Sylvest	Godin	CYR

PROCEEDINGS REVIEWED 15th Nov 44

JAC Ma Fullerton Lt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd (in country) Italy on (date(s)) 7 Oct

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ~~The Interpreter is sworn.(1). Do you object to~~ ~~as shorthand writer?~~ Ans ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to accused. President to accused: Do you object to be tried by me as President or by any of the Members?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	P.E. TOTVIN, M.C.
Member	CAPT	C.E. DENT
Member	LIEUT	N.M. LEITCH
~~Judge Advocate~~		
Prosecutor	~~CAPT~~ Lieut	~~N.R. Mosher~~ J.N.[illegible]
Defending Offr	LIEUT	C.E. SENECHAL

Questions by President: Is the Prosecutor a lawyer? Ans No Is the

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment whe

A8. The accused G/18888 Pte ~~Cpl~~ Godin S

(1. If a special plea is made for separate trial on one or more charge
(RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused
by one of several accused charged jointly to be tried separately (RP 16, 71)
evidence, if any, and finding are recorded per Notes. For forms of re
and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all
not object to any charge.(1) There is no amendment to be
pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more
separately see RP 71(C), and use separate copies of CF A96 to
make appropriate record per Notes.)

A10. The Court (~~is closed and~~ considers the Instrs
roceedings are continued on Record Form "D".

PRESIDENT OR JA WILL INITIAL ALL DELE

RECORD

Cl. As to the
Inclusive of Record
(1. RP 37(

Cl. The charge
by using parag B1 to
(1. Under B3
changed to Not Guilty
appropriate record

Cl. The accused has
Record Form F on p 3.

PRESIDENT

RECORDED AT CMHQ IN AR 160 [illegible] CPA86 (On Days of AFA81)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Lt Col P.E. BERNATCHEZ Comd 3 Can Inf Bde dated 5 Oct 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
G 18888	Pte	Sylvest	Godin	CYR

PROCEEDINGS REVIEWED 15th Nov 44.

Lieut
Lt Col
JAG

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd (or (country) Italy on (date(s)) 7 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of having dealt with summarily by the C.O.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to an interpreter?~~ Ans ~~—~~

~~The Interpreter is sworn.(1)~~ ~~Do you object to a shorthand writer?~~ Ans ~~—~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	P.E. POTVIN, M.C.	R22eR
Member	CAPT	C.E. DANT	WINN R
Member	LIEUT	N.M. LEITCH	C-VR
~~Judge Advocate~~			
Prosecutor	~~Capt~~ Lieut	~~N.R. Moore~~ J.N. BURNHAM	CYR
Defending Offr	LIEUT	C.E. SENECHAL	CYR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 29 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G 18888 Pte ~~Capt~~ Godin, S. before arraignment makes(s) (no) ~~—~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 18888 Pte Sylvest GODIN CYR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12(1)(a)	NOT Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence of imprisonment for a period beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to be imprisoned with hard labour for two (2) years

(Sgd) ..... (Sgd) ~~of~~ Peter Mayn
Judge-Advocate, if any. 7 Oct 1944 President. (RP 45, 50.)
Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attained before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) All

(1. AA 57A. Delete if not used.)

(Sgd) P.E. Bernatchez, Brig
Date 11 Oct 44 Commanding 3 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G 18888 Pte Sylvest Godin	11 Oct 44	[signature] Lieut

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(B).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 90(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the chargr(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans N O (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~a~~ (no) opening address.(1) Nil
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(s), and allowed on the ~~charge(s)~~, and that, accordingly, the trial will proceed, ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 13-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I wish to give evidence myself. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans NO
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes on Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the findings~~ of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or,~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith ~~and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 3. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES by my defending Officer.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the Pres, if any.~~(2) 7/4/47
(*1. When several accused tried separately see RP 24-46A. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, (38, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentence assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G18887	Pte	Sylvest	GODIN	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 5 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) YES

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~. NO

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ NO

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major	P F Potvin MC	R22R
(Rank.)	(*Must be named. RP 106.*)	(Unit.)

MEMBERS.

Captain	C E Bent	WNSR
Lieutenant (Rank.)	N M Leitch (*Named or detailed. RP 106.*)	CYR (Unit.)

WAITING MEMBER.

Captain (Rank.)	W S McCullam (*Named or detailed, if any. RP 106.*)	WNSR (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(*Must be named, if any. RP 106.*)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(*Signed personally. RP 105 fn 2.*) Brigadier (Rank.)

Date 5 Oct 44 Commanding 3 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (*See overleaf for oaths and notes for use on trial.*)

CHARGE SHEET

The accused, G18888 Pte Sylvest Gedin, a soldier of the Carlt & York R, Canadian Army Overseas, C.M.F. when on Active Service is charged with:-

First Charge
Sec 12(1)(a)
A.A.

When on Active Service, deserting his Majesty's Service

in that he,

in the Field, in Italy, on 18 Sep 44, after being warned that his platoon would soon proceed to take part in active operations against the enemy, with intent to avoid so proceeding, absented himself from his platoon from approximately 2115 hrs 18 Sep 44 until reporting back to his unit at approximately 1000 hrs 19 Sep 44.

Total absence - 12 hrs, 45 minutes.

In the Field

Date 1 Oct 44

Lt.-col.,
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

Date 5 Oct 44

Brigadier.,
Comd 3 Cdn Inf Bde

MEDICAL OFFICER'S CERTIFICATE

KR(CAN) PARA 357

I certify that I have this morning examined

No. G18888 Rank Pte Name GODIN S

of The Carleton & York Regiment and in my opinion he is fit/~~[illegible]~~

to undergo Trial by Court Martial.

Station } In the field

Date 7 Oct 44

R. Zuidescapt Capt.,
Medical Officer
R.M.O. Carleton & York Regt.

CLOSIND ADDRESS BY PROSECUTOR

The prosecution has shown that the accused was duly warned that the section to which he belonged was about to go into action.

The accused had previously that day said "I am fed up with it all and am going Awk."

The accused when the shellfire started moved into a ditch ahead of Pte Massey who was able to hear the word to move off.

The accused was not with his platoon when it went into action.

That the accused did not appear again until the next morning.

That there was enough [illegible] to see men in the near vicinity moving off.

That the word to move off was not given until after the shellfire had quieted down and that the remainder of the men had heard the order to move.

(1)

G 18888 Pte Sylvest Godin Carlt. & York R.

1st Witness for Prosecution — Lt. C.O. Stuggard, having been duly sworn states

I saw Lt C.O. Stuggard No. 16 Pl. Coy. "D" Coy. Carlt. & York Regt. At approximately 2100 hrs. 18 Sept. 1944. "D" Coy of which I was were warned that they were going forward on immediate attack. I called together my platoon Sgt and section commanders and issued the necessary orders. At approximately 2115 hrs. I checked my section Cmdrs. again and found all personnel were present. Directly after we moved off as a Coy with 18 Pl. leading and remainder of Coy in single file. The line of approach was along a very prominent main road thence into a 5 ft. deep irrigation ditch. The visibility was good partly due to burning tanks, burning haystacks and searchlights. Approximately halfway to our objective it was reported to me. Pte Godin was missing from his section. Although under heavy shell fire at the time they were not landing close enough to disperse on the ground. Previously that day I had occasion to warn Pte Godin that I wanted to hear no more of his statements in the presence of the platoon as it was A.W.L.

Cross examined by Defence

This is a rough sketch of the axis of advance of the platoon. The approximate position of the haystacks which were burning and it is marked Exhibit "A"

1st Witness
for Prosecution

When I got down to bridge approximately 200 yards from where we started the Coy was behind me but I don't know if they were under cover or in single file. The closest haystack fire to my platoon position was about 100 yards. After moving off my platoon was not forced to the ground by shell fire. The accused said "I am fed up with this and that, and that he was going to fuck off and go A.W.L." He was in my platoon off and on for 4 or 5 months. I knew him to grouse before this. He grouses quite a bit while he was in my platoon. I don't know if grouches were the same as [illegible] when he went A.W.L. There were numerous searchlights going to high ground beyond us. They were not directed at us. It was reported to me that Pte. Godin came back at about 1000 hrs. I did not speak to the accused when I saw him in the morning. I ordered the accused placed under arrest. I ordered under close arrest for A.W.L. and cowardice in the face of the enemy.

Questions by Court in regards to the searchlights

I refer to artificial twilight. The country was open fields on each side of the road.

R.P. 83(B) Complied with

2nd Witness
for Prosecution

G 2004 Sgt Tapley J. G. having been duly sworn states

I am G 2004 Sgt Tapley J. G. No. 18 Pl. Sgt of "D" Coy Carl & Yuk R. On 18 Sept. 1944 at approximately 2100 hrs we were ordered to advance

2nd Witness
for Prosecution

I called my section leaders together and gave them planned time etc. of the attack. They went back to their sections and we moved off almost immediately. When we first started off we came under shell fire which lasted for only a few minutes. We then continued on our way up the main highway. We stayed on the highway for approximately 200 yards. Leaving the highway we went across a lawn into a ravine 3 to 4 feet high. About half way up the ravine we stopped for some unknown reason. When we stopped I went back along my platoon to see if everything was alright. While I was back L/Cpl. Clayton reported to me the absence of Pl. Godin. I made a mental note of this and the next I saw him was when he reported back to me about 1000 hrs. the next morning.

We could see about 10 yards or more and the light from fires lit up the country. There was at least one tank and one haystack burning. Order of march was 7 sec. Pl. H.Q. 8 or 9. I was at the head of Pl. H.Q. No. 8 sec. was on the left side of road - accused was in it opposite than ~~first witness~~ exhibit. I don't know if it was 8 or 9 section that came after Pl. H.Q. The ditches were deep enough that a man could lie down and not see the road. The shell fire was sufficiently heavy to cause sections to lie in ditch. Shell fire lasted a few minutes. I can't remember how the shelling was after we started. When we were under shell fire I could see 10 yards.

The accused ~~is about the~~ to my knowledge did not say whether he meant to miss any of the attacks. The man returned about 1000 hrs. and said something about being lost. I said I don't want to hear anything about it. I placed him under open arrest on my own initiative. for a Wh. I remember the order of march was No. 7. Pl. H.Q. No. 8 sec. and No. 9 sec.

2nd Witness
for Prosecution

Intmittent Shell fire caused the sections to go to ground.

No cross-exam. ~~[illegible]~~

R.P. 83 (B) Complied with.

3rd Witness for Prosecution

2 86231 L/Cpl. Clayton W.J. after being duly sworn states

I am 2 86231. L/Cpl. Clayton W.J. No 8 Sect. Leaders No. 18 Platoon D Coy. Carlt. & York Regt. On Sept 18 Sept. the Pl. Sgt. called the Section Leaders and warned them that they were going forward to attack. They were to get their sections together to move off. I went back to my section and warned my men that we were going into an attack. They got their equipment on and fell in the section. Just then the enemy started shelling and the men took cover. Then word came to move off so I hollered to my section to move. We moved off and went to the ravine where we stopped for 5 or 10 minutes. The Pl. Sgt. came around to see that all his sections were there. Pte. Godin was missing. He reported back the next morning at 1000 hrs.

The accused was there at the time the men were warned and ~~[illegible]~~ to move off. When the shelling started I could see 5 or 10 yards. The men were rather bunched up. Order of march was No. 7 Section Pl. H.Q. No. 8 section No. 9 section. After being warned and shelling had ceased I was at the head of the section

3rd Witness
for Prosecution

After the shelling ceased I couldn't see the other sections

Questions by Defence

I didn't check my section when we moved off. We stopped in ditch 5 or 10 minutes due to shelling. I told the section to move but dont know if every man heard me. We walked about 10 minutes before we stopped in the ravine. About 30 minutes elapsed from the time I warned the men until we moved.

R.P. 83(B) complied with

Fourth Witness
for Prosecution

F 60440 Pte. Mossey J. F. having duly sworn states:

I am F. 60440 Pte Mossey J. F. rifleman No. 8 Sect. 18 Pl. "D" Coy Carlt & York R. Approximately 2130 hrs 18 Sept 1944 we were warned by L/Cpl. Clayton that we were going to make an attack. We left the house and lined up on the road. Jerry started shelling pretty heavy so we got in the ditch. The order came again to move and that is the last time I saw Pte. Godin. I saw Pte. Godin go in the ditch directly ahead of me. There were 2 or 3 men between the Sect. leader and myself. I could not see all the rest of the section when the order was given to move off. The shelling gradually stopped after we moved off.

Fourth Witness
for Prosecution

I think I could see a man's form at 20 or 25 yards.
No cross-exam. [illegible]
R.P. 83(B) complied with.

Defending Officer

I submit that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge.

Prosecutor

In answer to the plea of the defence of no case to answer, I submit the prosecution has shown that the accused was warned that his platoon would be going into action against the enemy soon as shown by the evidence of L/Cpl. Clayton, that he was in the section in the ditch immediately prior to moving off is shown in the evidence of Pte. Mossey and was able to hear the command given by the Section leader when told to move. That he did absent himself is shown by the evidence of L/Cpl Clayton & Sgt. Tapley who checked his section of which the accused at approximately 2115 hrs on 18 Sept, 1944 when he was found to be absent. The evidence of all the witnesses shows he was not seen until the following morning. The accused previously that day himself had expressed the intention of going A.W.L. of being fed up in general

as shown in the evidence of Lt. C.O. Heggard. ~~It has been shown that~~.

1st. Witness for Defence

G 18888 Pte. Godin S. having been duly sworn states

I am G 18888 Pte Godin S. On Sept. 18, 1944 about 2115 hrs my section commander came into our end of the building and told us we were going into an attack. We put our equipment on and fell outside the building. We were all in a pile of men. We were walking [illegible] minutes the house 2 or 3 minutes when Jerry started shelling so we all hit for the ditch. He kept on shelling some near road, some near the house for about 10 or 15 minutes. I got into a hole and kept my body down about 10 minutes and then got up to see if they were going to move and found everyone gone. No body was around the area at all. After that I looked all around to see if I could see anybody so I took a walk up the road and met 5 Englishmen in a [illegible] tank in the ditch. I stayed there till daylight about 6 o'clock had breakfast and then went up the road and saw a couple of fellows for [illegible] of D. Coy. I continued along road and met the R.A.P. Sgt. and he told me D Coy was across the river and showed the direction. I went there and reported to Sgt. Major White and then to Pl. Sgt. Tapley. I reported to Sgt Major White that I had got lost. I told Sgt Tapley I had got lost but he said he didn't want to hear anything about it and that I was under open arrest.

I didn't hear anyone tell me to move off when I was in the hole. If I had heard the Cpl. tell me to move I would have moved.

No cross exam. [illegible]

R.P. 83(B) complied with.

face and body as close to the ground as possible. In this position and with shells exploding all around, it is very difficult to hear an order such as "Move".

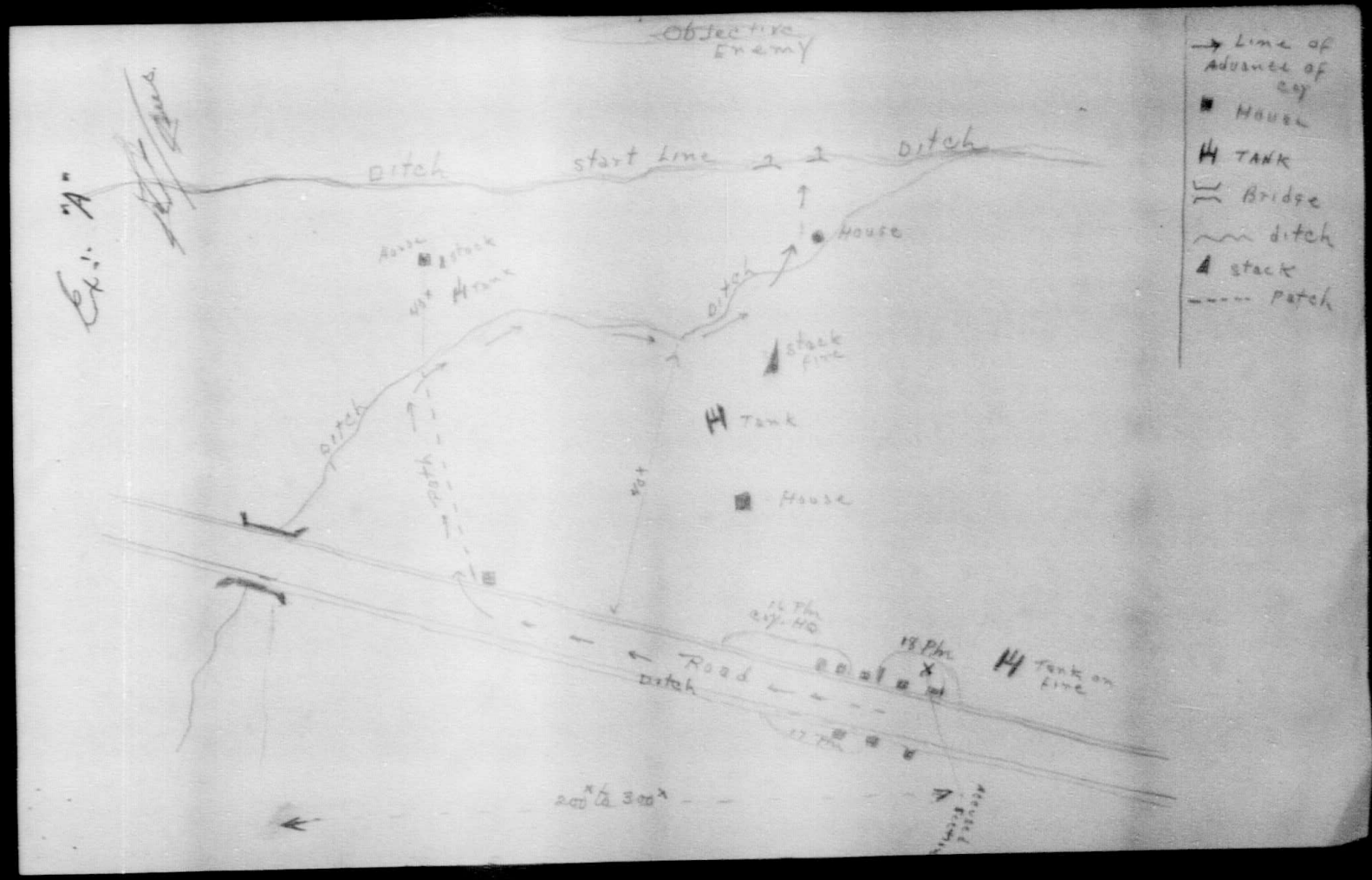
Just on the question as to whether or not the accused heard this order are we to assume that he had intentions of deserting.

A maxim of British Law says that a man is innocent until he is proven guilty" and also that any doubt whatsoever in the Courts mind is to be granted in the favour of the accused and if such a doubt ~~exists~~ the accused must be found not guilty.

Was the originator of this charge against the accused discriminating against the accused when he laid this charge or was he sincere? Apparently the question begins there and ends with any doubt as to the guilt of the accused existing in the Court's mind.

Plea of Mitigation

The accused has been in the army for 3 years and 3 months. He was through the battle of Sicily and has not missed one action to date with the Carlt. & York Regt. After 14 months of severe hardship & fighting against the Jerry this man apparently has been found guilty of either desertion or A.W.L. On the last short attack that this unit has made and which met no opposition this man was lost and apparently must pay the penalty for losing himself. What this penalty would be I hope for the accused that this court would not misuse the word justice


Ex: "A"
Objective Enemy
Ditch
start Line
Ditch
House
House
stack
Tank
Ditch
Ditch
stack fire
Tank
House
Road
Ditch
18 Pln
Tank on fire
Line of Advance of coy
House
TANK
Bridge
ditch
stack
Patch

Ex. "B" Affr Green

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G18888	Pte	Godin S.	Carleton & York

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced to court with this statement but will not be read to the prisoner.

† See note, SIT. K.R. 1940.

* The particulars which should be stated under this head are those of entries in the conduct sheet which refer to the periods of time given in the next column, offences committed while on active service, and to any exceptional acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, and

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for ____ beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 4 days in military custody, making a total of 4 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 23 yrs.

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 15 Jun 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 3 mos

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 3 mos service.

9. The accused is entitled to reckon 3 yrs 3 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)). CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of ____ dated ____

12. (*In the case of an officer.*) The accused holds in the army the rank of ____ dated ____ and in his regiment (or corps or department) the rank of ____ dated ____

(P1.6255) W.13422/141 725,000 6/41 A.S.S.W.432 Gp.466

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G18888 Rank Pte Name Godin. S. of CYY Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

CYY

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of Oct 44

[signature]
Officer i/c Records
CYR

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*

Summary of evidence in the case of G18888 Pte Gedin, S. of the Carleton & York Regiment, Canadian Army Overseas, C.M.F.

By direction of the Commanding Officer the evidence is taken on oath.

First Witness for Prosecution

Lt. C.O. Huggard, having been duly sworn states:-

I am Lt. C.O. Huggard, No. 18 Pl Comd "D" Coy, Carleton & York Regiment. At approximately 2100 hrs 18 Sep 44 No 18 Platoon were warned to go into an attack. At approximately 2115 hrs I checked with the three section comds and was informed that each man in his section was ready to move. A few minutes later, we moved off along a main road with No 18 Platoon in single file and forward platoon with myself leading. The night was comparatively moonlight with numerous fires burning from haystacks and tanks. Visibility was good. At no time did our axis of advance become difficult as it was all along a main road and a five feet deep irrigation ditch. With the remaining two platoons and company headquarters directly to our rear. After moving through heavy enemy shell fire though at no time were they dropping close enough to our column to force personnel to the ground. At approximately halfway to our objective it was reported to me that Pte Gedin was absent from his section. This man had stated in my hearing that he was fed up and did not care what happened. I had warned him at that time that I did not want to hear any more of that talk amongst the men of the platoon.

C.O. Huggard Lt.

The accused was cautioned as follows:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Certified that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Taken down by in the presence of the accused this 30th day of Sep 44.

M.R. Moore Capt
Officer taking Summary

List of witnesses in the case of C18888 Pte Godin, S.
For the Prosecution: Lieut. C.C. Huggard
C20004 Sgt Taylor, J.S.
F86231 L/Cpl Clayton, W.F.
F60440 Pte Mossey, J.V.

For the Defence: NIL

Certified that I have received free of charge a copy of Summary of Evidence and all other documents relating to my trial by Court Martial.

Certified that I have received free of charge a true copy of the Charge Sheet upon which I am being brought before Court Martial.

I desire the services of an officer to represent me at my trial. Yes

[signature]

Second Witness For Prosecution

G20004 Sgt Tapley, J.G., having been duly sworn states:-

I am G20004 Sgt Tapley, J.G., No. 18 Pl Sgt of "D" Coy Carlt & York R, C.E.F.. On the 18 Sep 44 at approximately 2100 hrs we were ordered by the Pl. Comdr. to advance and attack a river and put a bridgehead across. I called my section leaders together and told them the plans for the attack, times, etc. The section Comdrs were warned to tell their sections and we moved off almost immediately On moving off, within five minutes we came under shell fire. The men took cover in a ditch along the road. After the shell fire had let up a little we continued our advance going about 200 yds along a highway. From there we turned off and went about 25 or 30 yds across a lawn into a ravine which was about four feet deep. We continued in this ravine for approximately 600 yds, then stopped for about 15 minutes. While we were stopped L/Cpl Clayton reported to me that Pte. Godin, S. was missing. I made a mental note of it and next morning Pte. Godin, S reported back to me at approximately 1000 hrs saying that he had been lost. When the absence of Pte. Godin was first reported to me I searched the Pl. area without success. It was approximately 2100 hrs when L/Cpl Clayton reported to that Godin was missing. At that hour it was fairly bright as there were several fires burning around us caused by haystacks and tanks burning. You could see for a distance of 10 or 15 yds normally, but out of the ravine for a distance of 300 yds or more. Two or three days previously Godin mentioned to me that he could not take as much shelling as previously.

The Accused declines to cross-examine this witness

Third Witness For Prosecution

F86231 L/Cpl Clayton, W.F. having been duly sworn states:

"I am F86231 L/Cpl Clayton, W.F. No. 8 XXX section Leader No. 18 Pl "D" Coy, Carlt & York R. At approximately 2115 hrs 18 Sep 44 my platoon Sgt called the section leaders and warned us that we were going into an attack. I went back to my section and warned the men that we were going into an attack. All my men were present when I warned them. Pte. Godin was present at that time. The men equipped themselves and fell in. The enemy began to shell and the men took cover, but the shells were not landing near enough to hit anyone. We were then ordered to move off. I don't know if Pte. Godin was present when we moved off or not. About 15 or 20 minutes later we reached a ravine and halted there. The platoon Sgt came around and checked my section finding that Pte. Godin was missing. Visibility was such that I could see approximately 15 yds in front of me.

W.F. Clayton

The accused declines to cross-examine this witness.

Fourth Witness For Prosecution

F60440 Pte Mossey, J.F. having duly sworn states:

I am F60440 Pte. Mossey, J.F. rifleman No. 8 Sec. 18 Pl "D" Coy Carlt & York R.
Approximately 2130 hrs 18 Sep 44 we were warned by L/Cpl Clayton that we were going into an attack that night. Pte. Godin was present. We fell in prepared to move off but the enemy commenced to shell so we took to the ditch. We were then ordered to move off by the Pl. Sgt. Pte Godin fell in with us when we were first ordered to fall in but I did not see him when we were finally ordered to advance. I saw him next the following morning. Visibility was such that you could see a man for a distance of 25yds.

The accused declines to cross-examine this witness

No. G18888 Name GODIN, S. Sqn., Battery, or Company Supplementary, Corps C.I.C Original not available. Date of enlistment 15 Jun 41 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F. B.(22) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy Pet Tangs Capt		Ex "C"	[illegible]		

(P.T.O.)

SSS-37

SPR GODMER H H

RECEIVED AT CMHQ IN AB 160a 555-34
RECEIVED 28 AUG 1944 CMHQ

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brigadier P.R. Shields Comd "B" Gp CRU dated 15 Jul 44

ACCUSED.

(As to the trial of two or more chd. jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt. A/rank or A/apptmt. if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B27020	Spr	Harry Henry	GODMER	1 CERU

PROCEEDINGS REVIEWED 31 July 44
W.C. Dick Capt
REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 751. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which insts are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s)[1] attached thereto.[2] The Court is satisfied that it is properly convened and constituted[3], accused is ~~are~~ amenable to military law, and each charge discloses an offence.[4]

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.[1] ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.[2]~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans~~
~~The Interpreter is sworn.[1]~~ Do you object to Rfmn Sgt Sinclair QF as shorthand writer? Ans NO
The shorthand writer is sworn.[1]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.[1] President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR.

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JAs, if any~~, and Offrs under instr, if any, are sworn.[1] The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.-Col.	D.L. Redman	HQ CRU
Member	Capt.	H.R. McKenzie	2 CACRU
Member	Lieut.	I.M. ROBERTS	3 CACRU
~~Judge Advocate~~			
Prosecutor	LT.	D.E. PICKETT	1 CERU
Defending Offr	LT.	J. SPIEGELMAN	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO [2]

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea.[1]

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the arguments made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (~~separately~~) on all charges in the charge sheet.[1] The accused does ~~do~~ not object to any charge.[2] There is no amendment to be made to the Charge Sheet.[3] The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.27020 SPR. GODMER, H.H., 1 CERU.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	GUILTY	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 755, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Six (6) months

(Sgd) 17 Jul/44 (Sgd) President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 2, 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sentence, finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 54. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

Date 18 July 44 (Sgd) (P. R. Shields) Brigadier
Commanding Commander, "B" Group
Confirming Offr. Units.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused,	Date.	Signature of Offr.
B 27020 Spr. Godmer H.H.	18 July 44	[signature] R.E.S.

ENTERED PART II ORDERS
DATE 20 Jul 44 671
OFFICER i/c RECORDS
No. 1 Cdn. Engineer Holding Unit. C.A.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 105 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO, SIR (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*c*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*b*), 90, 92(*C*) (*b*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*b*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do you intend to call witnesses on your behalf ?
Ans Are they witnesses as to character only ? Ans
(1. *RP* 115. 2. *RP* 40(*A*), *see* 90(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf* AF5. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes. I wish to call witness (NOTE ATT)
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans BY DEF. OFFR (NOTE ATT) (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AAs* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-759. *As to sentences assigned for civil offences by the law of England see AA* 46(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see* INSTRS *on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LIST OF WITNESSES

List of Witnesses in the case of B 27020
Spr. GODMER, H.H., Royal Canadian Engineers,
No. 1 Canadian Engineer Reinforcement Unit,
a soldier of the Canadian Army (Overseas):

FOR THE PROSECUTION

Lieut. W. J. WEYMARK	No. 1 C.E.R.U.
A 20716 Cpl. MACFARLANE, A.	No. 1 C.E.R.U.

FOR THE DEFENCE

Nil

12 Jul 44

LIST OF EXHIBITS

(1) one copy of M 375 Record of Declaration of a Court of Inquiry d/ 29 Apr 44

(marked exhibit "A")

12 Jul 44

APPLICATION FOR DEFENDING OFFICER

I, B27020 Spr. GODMER, H. H., request that

..Lieut....L.... Spiegelman

be appointed by the convening officer to defend me at my forthcoming Court Martial or if not available another officer be appointed by the convening officer.

H. Godmer

B27020 Spr. GODMER, H. H.

12 Jul 44

I, B 27020 Spr. GODMER, H.H., hereby acknowledge receipt of one copy of the Charge Sheet and of the Summary of Evidence in my forthcoming trial.

H. Godmer

B 27020 Spr. GODMER, H.H.

12 Jul 44

SUB FOR ARMY FORM B.496 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
B 27020	Spr.	GOEMER, Harry H.	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entry for drunkenness or absence, as the case may be, should be stated seperately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For..~~4.4.6.(2).(b)~~..... ...1..times.

For..~~4.4.9.(2)~~..... ...1. times.

For..~~4.4.15.(1)~~..... ...4. times.

For..~~4.4.49~~..... ...2. times.

Date of first entry in Field Conduct Sheet..9 Mar.41.

Date of last entry in Field Conduct Sheet..12.Aug.43.

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

~~3. The accused at the present time is under sentence for.....~~
~~beginning on the.....day of.....~~

4. The accused has been awaiting trial on the present charges for ~~.....~~

~~days in civil custody;~~ and for.....8'.....days in military custody, i.e., ~~.....days in open arrest;~~.....8'.....days in close arrest; ~~of which.....days were spent in hospital.~~

5. The present age of the accused is...29.10.12.yrs.

6. The date of his...attestation.....is..1.June.40 ~~calling up for military service~~

7. The service which the accused is allowed to reckon is....4.1.12.years.....

~~8. The accused is in possession of.....~~

~~9. (if the accused be a warrant officer or N.C.O.).~~ The accused has served continuously, without reduction, to the present date - Date of Promotion.

~~In the substantive rank of~~
~~In the war substantive rank of~~
~~In the acting rank of.....~~

INSTRUCTION.- If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

*State the military decorations (if any) held by accused.

ET B

SCHEDULE OF CONVICTIONS BY COURT-MARTIAL OR CIVIL COURT.

Description of Corps by which Tried.	Date and Place of Trial.	Charge upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Dated this Seventeenth day of July 44

Adjt
1 C. Eng. R.U.

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at No.1.C.E.R.U. on the 29th day of April 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B.27020 Spr. Godmer, H.H.

DECLARATION

The Court declare that B.27020 Spr. Godmer, H.H. illegally absented himself without leave from No.1.C.E.R.U. at 0720 hrs on the 4th day of April 1944, that he is still so absent, and that on the 4th day of APRIL 1944 he was deficient, and that he is still deficient of the following articles to the value of $27.63 (75% of vocab rate. See list on reverse of this sheet)

Signed at No.1. C E R U this 30th day of April 1944

J.L. MARTIN LT RCE PRESIDENT
No.1. C E R U

W.L. HEAD LT RCE MEMBER
No.1. C E R U

R.P. HUDSON LT RCE MEMBER
No.1. C E R U

Signature of Commanding Officer (HGJWOODS) LT COL

Certified true copy [signature]
Signature of officer having custody of original record ..... Adjt.
T C. Eng. R.U.

SUB for MFB 375
8/169

Summary of Evidence (Sheet Two).

The accused declines to cross-examine this witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (D), (E), (F), and (G) have been complied with.

D.E. Pickett Lt.
(D.E. PICKETT) Lieut. R.E.
Officer detailed to take the Summary of Evidence.

In the field.
12 Jul 44.

EXA

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at No.1.C.E.R.U. on the 29th day of April 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B.27020 Spr. Gedmer, H.H.

DECLARATION

The Court declare that B.27020 Spr. Gedmer, H.H. illegally absented himself without leave from No.1.C.E.R.U. at 0720 hrs on the 4th day of April 1944, that he is still so absent, and that on the 4th day of APRIL 1944 he was deficient, and that he is still deficient of the following articles to the value of $27.63 (75% of vocab rate. See list on reverse of this sheet)

Signed at No.1. C E R U this 30th day of April 1944

J.L. MARTIN LT RCE PRESIDENT
No.1. C E R U

W.L. HEAD LT RCE MEMBER
No.1. C E R U

R.P. HUDSON LT RCE MEMBER
No.1. C E R U

Signature of Commanding Officer (HGJWOODS) LT COL

Certified true copy [signature]
Signature of officer having custody of original record ..... Adjt.
1 C. Eng. R.U.

SUB for MFR 375
8/165

KIT DEFICIENCIES OF B.27080 SPR. GODMER H. April 26 1944.

Anklets Web	prs	1.	$0.99	$0.74
Badges Cap		1.	0.09	0.06
Badges Shoulder	prs	2.	0.10	0.06
B.D. Blouses		1.	5.25	3.94
B.D. Trousers	prs	1.	5.39	4.04
Boots Ankle	prs	1.	5.46	4.10
Cap Field Service		1.	0.56	0.42
Greatcoat Drab		1.	11.55	8.67
Discs Identity		2.	0.02	0.02
Drawers Woolen		1.	1.20	0.90
Gloves Woolen	prs	1.	0.47	0.36
Overalls Comb.		1.	2.72	2.02
Shirt Woolen		1.	1.20	0.90
Shoes Canvas T.P.	prs	1.	0.65	0.50
Eyeshields		1.	0.08	0.06
Drawers Cellu.	prs	1.	0.43	0.32
Vests Gym.		1.	0.36	0.27
Brushes Hair		1.	$.34	0.26
			56.86	27.63
			100%	75%

Summary of Evidence (Sheet Two).

The accused declines to cross-examine this witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been complied with.

E. Pickett Lt.
(D.E. PISKETT) Lieut. R.C.E.
Officer detailed to take the Summary of Evidence.

In the field
12 Jul 44.

EXA

Summary of Evidence

Summary of evidence in the case of B 27120 Spr. Harry Henry GODMER, Royal Canadian Engineers, #1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of evidence is taken on oath.

First WITNESS
For the prosecution

Lieut W.J. WEYMARK, R.C.E. of #1 Cdn Engr Rft Unit having been duly sworn states:-

(1) I, Lieut W.J. WEYMARK, R.C.E., of #1 Cdn Engr Rft Unit, present a Record of the Declaration of a Court of Inquiry assembled at #1 Cdn Engr Rft. Unit on 29 Apr 44 for the purpose of investigating and recording the absence without leave from his duty, and deficiency if any in the Arms, Ammunition, Equipment, Instruments, Regimental necessities or Clothing of No B 27020 Spr. GODMER, H.H., whom I now recognize as the accused.

(Marked Exhibit "A")

W.J. Weymark
(W.J. WEYMARK) Lieut. R.C.E.

The accused declines to cross-examine this witness.

SECOND WITNESS.
For the prosecution

A 20716 Cpl. MACFARLANE A., R.C.E. of #1 Cdn Engr Rft. Unit having been duly sworn states:-

I, A 20716 Cpl MACFARLANE A. RCE of #1 Cdn Engr Rft Unit was N.C.O. on duty at the Guard Room on the night of 8 Jul 44, when B 27120 Spr. GODMER, H.H.A whom I now recognize surrendered himself as an absentee at 2355 hours. He was sober and properly dressed. I placed him under close arrest and escorted him to Unit Detention.

Mac Farlane A.
A 20716 Cpl MACFARLANE A. RCE

SUMMARY OF EVIDENCE (SHEET TWO)

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (D), (E), (F), and (G) have been complied with.

(D.E.PICKETT) Lieut. R.C.N.
Officer detailed to take the Summary of Evidence.

In the field
12 Jul 44

I certify the above to be a true copy of the original Summary of Evidence.

D Pickett Lt
(D.E. PICKETT) Lieut R.C.N.R.

SUMMARY OF EVIDENCE

Summary of evidence in the case of B27020 Spr. Harry Henry GODMER, Royal Canadian Engineers, #1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
For the prosecution Lieut W.J. WEYMARK, R.C.E. of #1 Cdn Engr Rft Unit having been duly sworn, states:-

(1) I, Lieut. W.J. WEYMARK, R.C.E., of #1 Cdn Engr Rft Unit, present a Record of the Declaration of a Court of Inquiry assembled at #1 Cdn Engr Rft Unit on 29 Apr 44 for the purpose of investigating and recording the absence without leave from his duty, and deficiency if any in the Arms, Ammunition, Equipment, Instruments, Regimental necessities or Clothing of No. B27020 Spr. GODMER H.H. whom I now recognize as the accused.
(Marked Exhibit "A")

(W.J. WEYMARK) Lieut R.C.E.

The accused declines to cross-examine this witness.

SECOND WITNESS
For the prosecution

A 20716 Cpl MACFARLANE A. R.C.E. of #1 Cdn Engr Rft Unit having been duly sworn, states:-

I, A 20716 Cpl MACFARLANE A., R.C.E., of #1 Cdn Engr Rft Unit was N.C.O. on duty at the Guard Room on the night of 8 Jul 44, when B27020 Spr GODMER H.H. surrendered himself as an absentee at 2355 hours. He was sober and properly dressed. I placed him under close arrest and escorted him to Unit Detention.

A 20716 Cpl MACFARLANE A. R.C.E.

The accused declines to cross examine this witness.

The accused was cautioned as follows:-

" Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence.

The accused reserves his defence.

CHARGE SHEET

The accused B 27020 Spr. Harry H. GODMER, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:-

First Charge
AA 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from No. 1 Canadian Engineer Reinforcement Unit from 0720 hours, 4 Apr 44 until he surrendered himself to the Guard Room at No. 1 Canadian Engineer Reinforcement Unit at 2355 hours, 8 Jul 44.

(Absent 95 days, 16 hours, 35 minutes)

In the field
12 Jul 44

(G. H. WHYTE) Colonel
Commanding Officer
1 Cdn Engr Rft Unit
Canadian Army (Overseas)

To be tried by Field General Court Martial

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units

In the Field
15 Jul 44

CASE OF

B.27180 Spr GOMER H.H. 1 CEHU

STATEMENT BY ACCUSED (ON OATH)

F1-1

I joined the army shortly after the outbreak of war medically fit with a field company where I did my training for two years. While on a sports parade I injured my knee and was taken to hospital where I remained for a month. They just kep me under observation while in hospital and gave me a little exercise. Then I came to the reinforcement unit and was kept there and done my training and later was sent to the 4th Fd Pk Sqn. My category then was "A". I was with them close to a year during which time my knee gave me trouble but I carried on and did not report it. I am anxious to get into a theatre of operations and that is why I did not report the injury, Sir. Apparently they were ready for a move and I was told to report to the M.O. on account of the injury to my knee and I was told that I had better have medical attention to it and I said it was alright and that I could do alright and later just before they moved I was sent to the doctor and he recommended me to the hospital. This time I had a major operation and 2 or 3 minor local operations. I was in the hospital close to 6 months and from there I was sent to CEHU. Before I went AWL I was at CEHU close to 2 months, Sir, during which time I was just hanging around. I was anxious to go to the field and was told I could not go and was just kept hanging around. My category is L4 now, but I would still like to go to the field and I'm sure that I could carry on in a theatre of operations. I was fed up, did not have anything definite, did not know what they were going to do with me, so I suppose I just went the wrong way. I am a married man, but did not realise at the time the consequences this would have on my wife's allowance and I had no idea that she would suffer this way otherwise I can truthfully say it would never have happened. Should I get a severe sentence I will do it, and when I come out I will be a real good soldier and do my best in anything I do Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

CASE OF

B.27180 Spr GODMER N.N. 1 CERU

PLEA IN MITIGATION E-3

There are certain extunuating circumstances which I should like to bring before the Court. Shortly after the outbreak of war the accused enlisted in a field company and felt fully fit and anxious to serve his country and after 2 years of hard training he met with an unfortunate accident whilst engaged in sports and was sent to hospital over it. He was kept under observation and given treatment for the purposes of strengthening his leg and after 3 weeks was discharged and joined another field unit. He was with that new unit for about a year during which time his leg caused him considerable trouble but he kept this hidden in the hopes of entering a theatre of action. The injury came to light in his training the result of which was just prior to proceeding to a theatre of action and his company sent him to hospital. He had 2 operations, was in the hospital for 6 months and was then sent to 1 CERU. While at CERU he led rather a dull life of doing nothing and consequently like anyone who is anxious to serve his country this went against the grain of the accused and so we find him going AWL. I know the accused is a good soldier, has good qualifications, and under proper treatment by officers who would take an interest in him I am quite sure he could do his duty as a real soldier. In this case, gentelemen, it is not only the accused who suffers, but his wife as well. I know he should have thought of that before he went AWL, but this is his first ~~xxxxxxx~~ serious charge and I am sure he has learned his lesson, gentlemen, and by his own words, he will be a good soldier after completing his sentence, and I feel certain myself that he will. I hope this is taken into consideration when sentencing him.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B27120	Spr		Harry Henry	GODMER	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 15 Jul 44 endorsed by me, (~~or by my predecessor in command~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not expedient that such offence(s) should be tried by any other Court-Martial)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~do direct that the Court shall consist of not more than seven nor less than five officers~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.-Col.	D.L. Redman V.D.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	H.D. McKenzie	2 CACRU
Lieut.	to be detailed by	3 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 15 Jul 44

(Signed personally. RP 105 fn 2.) *(Rank.)*

Commanding (P.R. Shields) Brigadier
"G" Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Duty of AFAS) 30/7 & 31/1&47 14481

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R.(Can) para 557

I certify that I have this morning examined NO 827020 Spr Godmer ##
(rank) (name)
of #1 C.E.R.U and in my opinion he is fit to undergo
~~[illegible]~~
trial by Court Martial.

Station Field

Date 17th April Sgd W.B. Law Capt
(Medical Officer)

(R.O. #2084) old sheet destroyed 29 June 42 W.J.G. WADSWORTH Lieut

M.F.M. 6
(A.F. S.122)
40/P & /S136 (2965)

No. B27020 Name GODMER H.H. Sqn., Battery, or Company #1 C.E.R.S. Corps R.C.E. Date of enlistment 1-6-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 6 Aug 40 No. and date last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. one Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex N.B.	9Mar41	Spr		A.W.L. 0200 hrs 9Mar41 to 0600 hrs 9 Mar 41 (4 hrs)		7 dys. C.B.	11/3/41	Maj Thompson	
Tweedsmuir	1/9/41	"		W.O.A.S. A.W.L. from 2300 hrs 1/9/41 til 0200 hrs 2/9/41	L/Cpl Hastings F.	6 dys P & A	3/9/41	Maj Thompson	
Field	19/5/42	"		Leaving his post before he was regularly relieved as sentry	L/Cpl Langley Cpl Baillie	10 Dys Forf. P & A	20/5/42	Maj Thompson	Forf.10 dys P & A, F.R.I 149 (2)
Field	15/10/42	Spr		Sec.40 A.A. Conduct to prejudice etc. failed to make his bed, failed to salute, & XXXXXX was found not wearing his cap F.S.	Capt Hayward Lieut Huxley Sgt McPherson	7 days C.B. 3 days pay	15/10/42		
				over/------					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13Mar	Spr		(1) A.A.9 (2) WOAS disobeying a lawful command at 1745 hrs 13 Mar - when ordered to load shovels neglected to do so (2) A.A.15 (1) WOAS AWL from 1800 hrs 13 Mar 43 till 2345 hrs 13 Mar 43 - absent 5 hrs 45 min (3) A.A.40 Neglect to prejudice - neglected to get up and do sentry duty	Sgt Brown Cpl Moore Spr Conner Spr Shaw Spr Spears	14 days C.B. forfeits 28 days pay	16 Mar	LT.COL C.J. BERRINGHAM CRE 5 CAD	
Field	12 Aug	Spr		A.A. 15 (1) WOAS AWL 2300 hrs 31 Jul 43 to 0200 hrs 11 Aug 43 absent 10 days 1 hr 30 mins	Cpl Stokes Sgt Durcussion	21 days F.P.	12 Aug 43	G.E.Smith Maj	forfeits 11 days pay

CERTIFIED TRUE COPY _____

Officer having custody of regimental books - July 44

5 21- 77
Kfsn. Godowitz, M. D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B155550 Gnr Godovitz Michael Walter GODOVITZ QOR of C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1)(a)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ N/A ~~beginning on (date)~~ N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of one (1) year.

(Sgd) ..... Judge-Advocate, if any. 28 Sept 45 Date awarded. (Sgd) W K Dickie Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) J. A. Roberts Brig

Date 1 Oct 45 Commanding 5 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B155550 Gnr GODOVITZ MICHAEL WALTER.	3 OCT 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5 2 L. 77

FIELD GENERAL COURT-MARTIAL

CPA96 (To take place of A.F.A.B. 40/P & R/1008 (R1144) 4/38B

Convened by Order of Lt-Col S M Lett, DSO T/Comd 5 Cdn Inf Bde dated 26 Sept 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmts, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B155550	Rfn	Michael Walter	GODOVITZ	QOR of C

PROCEEDINGS REVIEWED

25 Oct 45 L J Brody maj

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 28 Sept 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevants fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for duties and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 36, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ N/A ~~as interpreter? Ans~~ N/A

~~The Interpreter is sworn.(1) Do you object to~~ N/A ~~as shorthand writer? Ans~~ N/A

~~The shorthand writer is sworn.(1)~~ N/A

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.K. Dickie	N Shore R
Member	Captain	R.G. Gault	R de Chaud
Member	Lieut	G Radakin	R de Chaud
Judge-Advocate			
Prosecutor	Lieut	D.M. Kalbmeyer	QOR of C
Defending Offr	Lieut	R.L. Graham	QOR of C

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See DI p 3.)

A8. The accused B155550 Rfn Godovitz before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(5), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (now) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 495 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB160 GII p82

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence,* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on 1st charge(s). The accused is (are) so informed, ~~and he (they) change(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence as it provides relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CP A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFW 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 128, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 336, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to reimpose from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B155550	Rfn	Michael Walter	GODOVITZ,	Q O R of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 26 Sep 45 endorsed by me, (~~who~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~appoint~~ ~~Offrs~~ ~~Offrs~~ ~~Offr~~ ~~Offr~~
(AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

~~appoint~~ ~~Judge Advocate~~ ~~Offrs~~
(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	W K Dickie (*Must be named. RP 106.*)		N Shore R (Unit.)

MEMBERS.

Captain (Rank.)	R G Graulx (*Named or detailed. RP 106.*)		R de Chaud (Unit.)
Lieut (Rank.)	G Radikir (*Named or detailed. RP 106.*)		R de Chaud (Unit.)

WAITING MEMBER.

Lieut (Rank.)	L Robert (*Named or detailed, if any. RP 106.*)		N Shore R (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(*Must be named, if any. RP 106.*)		(Unit.)

On Active Service in the Fd

in Holland (Country.)

(S W Latt). (*Signed personally RP 105 fn 2.*) Lt-Col (Rank.)

Dat 26 Sep 45

T/Commanding 8 Cdn Inf Bde Cda
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 86 (In lieu of AFA 3) 40/P & S/1691 (6142) (*See overleaf for oaths and notes for use on trial.*)

CHARGE SHEET

The accused, B155550 Rfn GODOVITZ, Michael Walter "B" Company, 1st Bn The Queen's Own Rifles of Canada, (CDA) a soldier of the Canadian ~~Forces in the Netherlands~~ ARMY OVERSEAS, is charged with:-

First Charge
Sec 15 (1)(a)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1700 hrs 9 Sep 45 until 1330 hrs 17 Sep 45.

(Absent 7 days 20 hrs and 30 mins)

(H E DALTON) MAJOR
T/Comd, 1st Bn The QOR of C (CDA)

In the Field
21 Sep 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(S M Lett) Lt-Col
T/Comd, 8 Cdn Inf Bde Cda

In the Field
26 Sep 45

ADDRESS FOR MITIGATION OF SENTENCE

IN FAVOUR OF

B155550 Rfn GODOVITZ M.W.

MR PRESIDENT AND MEMBERS OF THE COURT:

May it please the court to consider the following facts in favour of the accused, before sentence is passed.

1. Firstly, I beg you to consider the circumstances surrounding his absence. Rfn Godovitz spent his three days leave in Amsterdam, with some pals, having a good time, and like most soldiers, drinking. When he should have reported to return to his unit, he was, shall we say,"under the weather," and in no condition to realize that his leave was over. However, the next day, Monday Sep 10th, he got on the truck to go back to the unit, and while waiting for it to pull out, some of his chums came along, and persuaded him to go with them, and kill another bottle. Unfortunately, the party lasted for several days, and it was not until Monday, 17th Sept that he realized he had better get back, which he did on his own initiative, Reporting in to his company orderly clerk at 1230 hrs. It was not a case of willfull, deliberate absence, but that of an unfortunate sequence of events.

2. Rfn Godovitz has been in the army since Jun 1942, and as you see, from his conduct sheet, his record is not altogether clear. However, there is a reasonable explanation for this. When Godovitz came into the army he left several dependents, and as his wife has been unable to work for any lengthy period due to persistent sickness, he has "taken" army time to work to earn a little extra, and to take care of his wife. This was not the wisest thing to do, but at the time, he felt that he was needed most at home. This is the first offence he has committed since arriving overseas, in March this year.

3. In conclusion, I ask that the court consider the foregoing facts in deciding the sentence.

28 Sep 43

R.L. Graham Lt.

SUMMARY OF EVIDENCE

Ex "A"

Summary of Evidence in the Case of B 155550 Rfn Godovitz, M.W., a soldier of the Canadian Army on the strength of "B" Coy 1st Bn The Queen's Own Rifles of C (A.F.), C.F.N., charged with being absent without leave (AA Sec 15 (1)).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness

B 71500 L/Cpl. Trufal, W., B Coy 1st Bn The Queen's Own Rifles of C (A.F.), sworn states:-

I am Company Orderly Sergeant of B Coy. On 6 Sept 45 a group of men from B Coy were listed to go on leave to Amsterdam. Rfn Godovitz was on the list. Before the group left B Coy lines I checked the list by the bodies actually present and ready to proceed on leave and Rfn Godovitz was present at that time. The procedure then is that the group parades to the B.O.R. where leave documents are picked up and the men are then transported by vehicle to Amsterdam. This leave group reported back to B Coy at approximately 1700 hours on 9 Sept 45; but when I checked my leave list against the men who had returned, I found that Rfn Godovitz was not present. On the morning of 10 Sept 45, on checking over the Tattoo and Reveille reports, I found that Rfn Godovitz was shown as absent. He continued to be shown as absent on these reports until the Tattoo report for 17 Sept 45 when he was shown as present. I know and recognize Rfn Godovitz.

W Trufal

The accused declines to cross examine the witness.

Second Witness

B 122117 Rfn Long, R.A., B Coy 1st Bn The Queen's Own Rifles of C (A.F.), sworn states:-

I am orderly clerk of B Coy. On 17 Sept 45 at approximately 1330 hrs I was in the B Coy orderly room and at that time Rfn Godovitz, whom I recognize, came in and reported his return.

R Long

The accused declines to cross examine the witness.

The accused declines to make any statement or to give evidence on oath and declines to call any witnesses.

I certify that the foregoing summary of evidence, consisting of one page, was taken down by me in the presence of the accused and that RP 4 (c), (D), (E) and (F) have been complied with.

I.G. Wahn Lt

I.G. Wahn, Lt.
1st Bn The Queen's Own Rifles of C (AF)

Ex "B"

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only.)

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
B155550	Rfn	GODOVITZ, M W	1st Bn The QOR of C (CDA)

NOTE.—The Field Conduct Sheet is to be produced in Court with the statement but is not to be admitted to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA15(1) AWL ..... 4 times.

For ..... ~~times.~~

For ..... ~~times.~~

For ..... ~~times.~~

Date of first entry in Field Conduct Sheet ..... 12 Dec 42

Date of last entry in Field Conduct Sheet ..... 28 Aug 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The entries in the Conduct Sheet for~~ ..... ~~Nil~~

~~beginning with the~~ ..... ~~Nil~~

4. The accused has been awaiting trial on the present charges for ~~the period stated, and for~~ 5 11 days in military custody, ~~Nil~~

~~the period stated,~~ 5 11 days in close arrest; of ~~Nil~~

which no days were spent in hospital.

5. The present age of the accused is 30 years and 2 months

6. The date of his ~~attestation~~ calling up for military service is 11 Jun 42 ~~Nil~~

7. ~~The number which the accused is entitled to wear~~ ..... ~~Nil~~

8. ~~The number of the accused~~ ..... ~~Nil~~

9. ~~The accused has the following other decorations in addition to~~ The accused has ~~the following~~ ~~Nil~~

~~other decorations in the service~~ —

~~1st Bn The QOR of C (CDA)~~

~~1st Bn The QOR of C (CDA)~~ ..... ~~Nil~~

~~1st Bn The QOR of C (CDA)~~ ..... ~~Nil~~

~~1st Bn The QOR of C (CDA)~~ ..... ~~Nil~~

*Strike out if not applicable.

State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

DVAS. UDF. 32E.—(145 44—4,200—317 UDF 3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
F G C M	27 Dec 44 Debert, N S	AA 15(1) AWL from 0750 hrs 28 Aug 44 until he surrendered to OC No 2 DD at Toronto at 0135 hrs 22 Nov 44. Total time absent 85 days 17 hrs and 45 minutes.	60 days Detention	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 28 day of Sep 45

(W G A GILLESPIE) CAPT

WKO

1ST BN THE QUEEN'S OWN RIFLES OF CANADA (CDN)

B-155550 Rfn Godarity H.W.

MEDICAL CERTIFICATE

This is to certify that on this date I have examined all personnel listed on the attached nominal roll and find them free from infectious and contagious diseases and infestation.

fit to undergo trial by Court's Martial

W.A. Davies Capt (RCAMC)
RMO

date 28 Sep 45 Att 1st Bn The QOR of C (CDN)

JJ-66 (case #3)

PTE GOING L.P.

See 118 for 1st case

See E-40 for 2nd case

C.10315 Pte. Going, L.P.
1 Cdn ASC Rft Unit
BGHQ 5-6-2/198

JJ-66

Army Form A.3.

Correspondence to be PINNED here.

'B' GROUP H.Q. 25 MAY 1943 CIVIL REINFORCEMENT UNITS

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 20 day of May, 1943.

Whereas it appears to me, the undersigned, an officer in Command of B GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

'B' GROUP H.Q. 1 JUN 1943 CIVIL REINFORCEMENT UNITS

'B' GROUP H.Q. 6 JUL 1943 CIVIL REINFORCEMENT UNITS

'B' GROUP H.Q. 22 JUL 1943 CIVIL REINFORCEMENT UNITS

Proceedings approved
J Robbins Capt
5 Aug 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt. Col.	D.L. Redman, Calgary Highrs	HQ CRU

Members.

Rank.	Name.	Regiment.
A Major	from	1 C.A.S.C.R.U.
A Lieut.	from	1 C.S.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R.Shields)Brig

Commanding B Gp CRU

Convening Officer.

[illegible]

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.10315 Pte. GOING, Leonard Philip 1 Cdn ASC RU	First Charge A.A.Sec. 22	Guilty	Guilty	[illegible] Pres [illegible]
	Second Charge A.A. Sec. 15(1)	Guilty	Guilty	On the advice of the Deputy Judge Advocate General, Canadian Military Headquarters, I do not confirm the finding of the court that the plea in bar of trial is not proved, and I hereby direct that the record of the conviction on the first and second charges be and the same is hereby removed and the accused relieved from all consequences of his trial thereon. (P.R.Shields)Brig Comd "B" Gp CRU
	See Attached Charge Sheet			Date 12 Jul 43.

Sentence to undergo detention force period of Thirty (30) Days 21st May 1943 [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (Signed) [illegible]

(P.R. Shields)Brig
Commanding B Gp CRU
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of MAY, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) The shorthand writer.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 21st day of MAY 1943.

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 26 day of May 1943.

[illegible] Brig
Confirming Officer.

Promulgated and extracts taken in the case of C.10315 Pte. Going, Leonard Philip 1 CASC RU.

(a) (Dated) 28 May 43 (Signed) [illegible] Lt. Col. Comd. 2 Trng. Wing

Promulgated and extracts taken in the case of C.10315 Pte. Going, Leonard Philip 1 Cdn. A.S.C. L.D.

(Dated) PART II DO. 161 31 May 43 (Signed) [illegible] Lieut. Officer Records

Amended DO 175 21 July 43

Promulgated and extracts taken in the case of 1 Cdn. A.S.C. Reinf. Unit.

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

WT. 47790/1921 50 M. 5/41 K.JL.0260(2) Gp. 698(2)

M.F.B. 355
22M—5-41 (2073-3)
H.Q. 1772-39-020
A.F.B. 2580

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-10315	Pte.	Going, L.P.	1 C.A.S.C.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 15 (1)	1	times	8	times
For AA 10 (4)	0	times	1	times
For		times		times
For AA 9 (2)		times	1	times

Number of instances of gallantry or distinguished conduct nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for xxxxxxxxx beginning on the xxxxxxxxxx day of xxxxxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 5 days in ~~Air Force~~ military custody, making a total of 5 days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 24

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 6 Jan 40

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. Nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the ~~regimental~~ Air Force rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number C10315 Rank Pte Unit

Name GOING, L.F. of 1 C.A.S.C.R.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	3-10-40	AA Sec 15 (1) AA Sec 22	120 days detention	
Civil Court	1- 6-41	Stealing	3 mos hard labour	
F.G.C.M.	6-12-41	AA Sec 18 (4) AA Sec 15 (1)	1 yr imprisonment	
Civil Court	10-12-42	Robbery with vollence	20 mos imprisonment.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of May 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. 144.
(Unruled)

METROPOLITAN POLICE.

"D" DIVISION.

POSTAGE on all letters must be PREPAID.

Paddington STATION.

24th January 1942.

REPORT for the information of the Officer Commanding, 1 Canadian A.S.C., Reinforcement Unit, Blenheim Barracks, Farnborough, Hants.

respecting Pte. C-10315. Leonard Philip Going.

*To { S.D. Inspector. / D.D. Inspector.

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (M) OF THE ARMY ACT.

I certify that the person whose description is given below, was arrested at 25, Randolph Avenue, London, W.9., at 4.30pm, on the 18th December 1941.

Regimental particulars of soldier referred to above.
(No. C-10315.
(Rank. Private.
(Name. Leonard Philip Going.
(Unit. R.C.A.S.C.

Description.
(Age. 22.
(Height. 5ft. 9
(Complexion. Fresh.
(Hair. Brown.
(Eyes. Grey.
(Marks. Scar under right eye, and behind right ear.

Signature of the officer of Police, in charge of Paddington Police Station, where the above named person was taken on arrest.

W. McDonald SPS 5°
In charge of Paddington Police Station.

No.

Forwarded by direction of the Commissioner of Police of the Metropolis, *in reply to letter of , reference No.

Exhibit 'B'
New Scotland Yard,
London, S.W. 1.

26. 1. 1942

Chief Inspector
Superintendent D

M.P. 19258/80,000 Nov./1939 D14 (2)

* Delete as necessary.

C H A R G E S H E E T

The accused, C-10315 Pte. Leonard Philip GOING, 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with when on active service:

1st Charge

A.A. Sec. 22

WHEN IN CONFINEMENT ESCAPING

in that he

at Blenheim Barracks, Farnborough, Hampshire, on 12 Dec 41, when in confinement in the Guard Detention Room at Blenheim Barracks, escaped.

2nd Charge

A.A. Sec. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Blenheim Barracks, Farnborough, Hampshire, absented himself without leave from 2359 hours 12 Dec 41 til 1630 hours 18 Dec 41, when he was apprehended by the Metropolitan Police, London.

Farnborough, Hampshire.
13 May 43

(J.M.Pocock, A/Colonel)
Commanding
1 Cdn. A.S.C. Rft. Unit.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.R. Shields)Brig
Comd "B" Gp
Cdn Rft Units

20 May 43

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT DELVILLE BARRACKS, COVE, HANTS.,
ON THE 21nd DAY OF MAY 1943

The accused C10315 PTE. GOING, L.P. .....Unit 1 C.A.S.C.R.U.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.L. REDMAN .....Unit. H.Q., C.R.U.....

Members MAJOR D.B. MORRISON .....Unit. 1 C.A.S.C.R.U.....

LIEUT. F.G. BUSSELL .....Unit. 1 C.A.S.C.R.U.....

The officers under instruction are duly sworn:-

LIEUT. H.F. PEDLAR .....Unit. 1 C.A.S.C.R.U.....

.....Unit.....

Prosecutor LIEUT. W.J. CLARK .....Unit. 1 C.A.S.C.R.U.....

Defending Officer LIEUT. J.C. DOAK Unit. 1 C.A.S.C.R.U.....

The charge sheet is signed by the President and the accused is arraigned (See attached proceedings and plea in bar)
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s), R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355 and MFM 6.
The Court complies with R.P. 46(B). ~~[illegible]~~

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) ~~Calls witnesses as to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

C.A.O.R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

[illegible signature]

COURT MARTIAL

RE the case of : C-10315 Pte GOING, L.P.

CHARGED Under -
1st Charge - A.A.Sec. 22
2nd Charge - A.A.Sec. 15(1)

TRIED - 21st May, 1943.

Lt.-Col. D.L. Redman -

Sir:

As requested, I submit the plea I made as Defending Officer in the a/m soldier's trial held before you as President of the F.G.C.M. this 21st day of May, 1943.

The law and facts which I state below, I submit, constitute both a Plea in Bar under R.P. 36-A(ii) and a statement mitigating the sentence of Pte. Going, if a sentence is passed, to a nominal one of one day's detention.

1. R.P. 36-(A)(ii) states that the fact that "The offence has been Pardoned or Condoned by competent military authority" - is a plea in bar:

(1) Pte. Going on being arrested after the alleged offences mentioned above was not charged with these offences (18 Dec. 41).

(2) Pte. Going was in civilian custody awaiting civilian trial throughout January and early part of February 1941 and he was not charged then with the above offences.

(3) Pte. Going was sentenced to 1 year imprisonment by a Court Martial in December 1941 which ran concurrently with the civilian sentence given in February, 1942. This civilian sentence amounted to 20 months. During all the time Pte. Going was in prison he was not charged with the present offences upon which this F.G.C.M. has been assembled.

(4) At the end of March, 1943, the accused was released from civilian prison a "free" man and returned to his Unit. Upon arrival at his Unit, he was not charged nor were the charges mentioned.

(5) On the contrary, he was given a leave (9 days) and turned loose of all immediate control with the two offences still on his file. He was not charged then nor told that he would face them later.

(6) He came back from leave A.W.L. and was charged for that offence receiving 28 days detention, but he was not charged with the present offences at the same time.

(7) He served three quarters of his detention then when freedom was within three days (15 May 43) he was on the 12th day of May, 1943 arraigned and charged with the present charges which have been held in abeyance from the 18th December 1941 to 12th May, 1943.

2. Note 2 to R.P. 36-(A)(ii) - states - "It has long been recognized that a military offence can be "condoned" cf.Clode Mil. Forces, 1, p. 173. For the prupose of barring a trial condonation means such conduct on the part of the competent authority as is inconsistent with subsequently trying the offender, and as would make it inequitable to do so; it must be a deliberate and intentional act, done with full knowledge of all material facts. The Duke of Wellington is quoted by Clode as having written in a Dispatch that the performance of a duty of honour or of trust after the knowledge

of a military offence committed ought to convey a pardon."

(1) Yet the accused was more than trusted with a duty of trust. He was given a "free go where you wish" a nine day leave, free from his Unit guard or discipline and his commanding officer's immediate control. He was not merely put in an orderly room on a duty where he was subject to discipline but competent military authority went further and gave a man with a charge of breaking out of confinement and A.W.L. a free pass to go where he wished for nine days, out beyond their power to lay their hands on him or control his actions. He was given the right to do legally what he had done illegally and for which no charge had been laid against him. The utmost faith that could be placed in a man was put in this man by turning him free of direct control with two offences not yet charged still on his file. It was not merely the case of an accused person going into action or doing a duty of trust which is condoned but a higher trust of going where he wished or willed was given a man who had these present offences listed on his file, pending disposition.

(2) When the accused was sentensed to detention for overstaying his leave, these charged were not laid. More condonance was shown, nor was any step taken to charge him and inform him that he would be proceeded against, till the idea of finding a charge which could be used to have him in ignominy discharged from the Canadian Army. This was used as proven by exhibit 2 and 3 and the evidence of Lieut. V.G.Pearce and Sgt. Beaver-Jones. Then, when as was admitted, it was found this rider for discharge could not be put in on these charges as shown by K.R.Can. Para 563(k), this recommendation was dropped and the prosecution were left holding a "hot potato" they had dug up and which had no valuable purpose anymore but to embarrass everyone.

(3) The accused was lulled into a sense that these charges were condoned and/or pardoned on numerous other occasions when they could have been proceeded with: i.e.

(i) 18 Dec. 41 (on being arrested)

(ii) Dec.41 to Feb.42 -(while awaiting civil trial).

(iii) Feb.42 (when on trial these offences were brought before the court along with his whole army career by an officer of 1 C.A.S.C.R.U. Unofficially, this appeared to have increased his civilian sentence. He could not help, but feel that when awarded this sentence, that this was the end of all offences.

(iv) Feb. 42 to Mar 43 (while in prison, nothing was done on these charges. They must have been condoned as the sentence by court martial for his offence of November 1941 was running concurrently with his civilian sentence, therefore it was logical that he and all in authority would consider that that was the end of these offences as he appeared to be serving concurrently all he owed the state and army.

3. K.R.Can. Para 466 states - "When a soldier already under sentence of court-martial is charged with an offence for which it is necessary to arraign him before a court-martial, the trial should take place at once."

(i) From the beginning of December 1941, the accused was under sentence of court martial and after 18 Dec. 1941 was available to military authorities if they so requested, yet they did nothing for nearly two years. Did they act at once? Was this equitable? It could only mean one thing that every time he was arraigned on an army charge or imprisoned from then on that as nothing was done about these present charges, then the authorities must have condoned and pardoned same.

Surely ~~the~~ we're not going to ask a man to present a defence at an indefinite time in the future? Any defence which might be lost by then or for which any evidence in mitigation of sentence would long be gone except the word of a man subject to general persecution. Meanwhile, the prosecution has all the evidence, knowledge of the facts and facilities to charge and sentence him if found guilty. It is a fundamental rule of British Justice that a man who "sleeps on his rights and lulls the other man into false security and puts him at a disadvantage can't later demand his rights, when he feels the time convenient."

"He who seeks equity must do equity".

With exceptions, the army authorities are not given the right to try a man after three years so as to commit a fraud and injustice on him. Parliament gave us that authority so a fraud would not be committed against the army, but not to misuse and persecute with it at will. One must act on his rights as soon as possible. He is only given time to assist his rights not to ruin his opponents rights or hold a whip hand over him.

4. K.R.Can. Para 593-(a) states: " An order for the delivery into military custody of a soldier from a public prison or detention barracks, for the purpose of being brought before a court-martial or civil court, or for any other purpose will be made on Form K or L. The escort which removes him will obtain from the governor of the gaol, etc etc."

(i) This shows that nothing stood in the way of the military authorities to have the accused brought up at any time, and under para 466 K.R.Can "at once" means 18 Dec. 1941 and not 12 May 1943. There was no fair, honest or equitable reason that this man should be treated any way but the normal way, as in the case of a soldier appearing to have committed an offence. The only possible reasons could be that by not charging him at the correct time:

(i) get a full sentence later when it would not run concurrently with any other sentence.

(ii) have a charge hanging which could be used for infamous purposes.

(iii) give the man a feeling of false security and condonance.

(iv) by lapse of time to ruin or weaken any defence or evidence in mitigation and strengthen the prosecution's case.

None of these reasons are humane, equitable or just. They are foreign to the principles of British Justice.

charges, the sentence would have been concurrent and of little vindicative effect, yet that does not effect his legal rights to be tried at once (K.R.Can 466), if there is no equitable reason to delay; and to have his sentence run from some time in December 1941 or January or February, 1942. Nothing but condonance or pardon would legally and equitably justify the not laying and proceeding with these charges then.

7. K.R. Can. Para 449 (a) states: "When an officer or soldier is in custody his case will be disposed of at the earliest possible moment."

(1) This is a restatement of the fundamental rule of justice which was not complied with in the case of the accused. If it had been, he would have served his time for this offence sometime between Dec. 41 and March 43 and now he would be a free man, but no! he is now faced with a sentence that should have run off almost a year ago, a sentence which for all intents and purposes except for the formality of laying a charge and trying him did run off then; both in what he was sentenced by the civil court and by the fact that there is no other answer but if justice had been done in Dec. 41 - Jan 42 his sentence would have run off long ago. He paid for it then (as it was an offence committed prior to his committment for the civilian offence) and during his custody under the court martial sentence of Dec. 51, under K.R.Can Para 466 when only the prosecution formalities was lacking. He served one year and a half from Dec. 41 which would have covered nine times what he would have been sentenced to then on these charges. He owes nothing legally, morally or equitably for any time in detention or prison to His Majesties service at this date. He had paid for all his crimes, therefore as he is legally not responsible for any more time, how can anything but a nominal sentence of one day be given; if the plea in bar on the basis of condonation and/or pardon is disallowed. Legality does not mean anything but what is just and right. The law refuses to be made a "monkey of". It is the duty of the Courts not to allow the law to be used for anything but just and equitable purposes. On this basis, regardless of the three year limit on crime in the army offences, the time for which these charges could be brought has long, in justice and equity and for any other good reason, legally lapsed as much as if it were now ten years since the offence.

8. A.A.Sec. 44 (1B) Page. 463 MML and note 19 Page 466 MML states: "By virtue of this proviso a man cannot be subjected to imprisonment or detention, whether under one or more sentences, for more than two consecutive years. Any period passed in military custody under a sentence or in imprisonment by the civil power between two periods of imprisonment or of detention or between a period of imprisonment and one of detention (or vice versa) is to be reckoned as part of the term of confinement.
The proviso does not apply to a fresh offence committed after release." (Note only way the accused could be injustly inflicted with effective extra sentence was by waiting till he was released after 20 months, then after, a fresh offence hitting him with these charges)
".....If he is recaptured and kept in military custody to be tried for some fresh offence (.e.g his escape from imprisonment or detention) and his Original sentence is still current, he is not merely "in arrest pending trial" but is actually serving his original term (S. 63) Therefore at his trial a court-martial cannot award a full two years imprisonment or detention, but must deduct therefrom the period spent in custody since his re-arrest."

9. The condonation and/or pardon is complete and evident at every step. Then appears the question, "if that is so, why the charges now?" Exhibits 1,2,3,8,9 and 10 show clearly the reason these charges were dug from the grave to haunt the paid up debtor.

It appears the man Wildig who led a similar and often companion life with the accused was discharged from the army in ignominy. How was the accused to be got rid of? He has paid his debts to the army. These charges appear to be remembered and are as exhibit 2 and 3 state, used [illegible] recommendation to have the accused discharged with ignominy. The charges were laid on 12 May 43, many months after the offences and proceedings were started, but K.R.Can Sec. 563 (K) States:

> "Where a soldier has been sentenced to imprisonment and to be discharged with ignominy, and a confirming officer, or other superior authority, commutes the imprisonment to detention, he will, in such a case, remit the discharge with ignominy as such a discharge cannot accompany a sentence of detention The converse will also hold good, that is, when a confirming officer, or other superior authority, remits a discharge with ignominy, he will at the same time commute the sentence of imprisonment to one of detention."

(1) The prosecution then considered that this man could not be imprisoned on this charge and therefore the recommendation "with ignominy" had to be dropped. The prosecution was then left with a "hot potato", a bastard charge. They had to proceed but it was then a formality. The charges they had condoned had proved useless for the specific purpose that they were revived from the grave.

10. The defence is now prejudiced, the defence is weakened, their evidence in mitigation weakened and the evidence of only one person the accused remains. There was never a clearer case of where an unconvicted and unacquitted offence was pardoned and condoned. The Note.2 on page 640 of K.M.L. which gives an example of condonation is not nearly as strong a case as that of a man with two offences, (one of A.W.L.) being trusted to steps which no man would trust if the charges were meant to be proceeded with.

11. If this court can't agree that this is the strongest case of condonance except a written statement to that effect, then it must surely admit that as regards mitigation of sentence that this man served it long ago as I have proved. He owes nothing legally, morally or equitably to the army for time. How can he be sentenced to more than one day's detention, as a nominal sentence? There is no debt left to owe the army. Any other award as 30 days, 60 days etc is a confirmation of abusive use of the law, as entrusted by parliament to the army to be administered according to the principles of only "justice". This fundamental essential "Law" to our civilization must never be made a weapon of oppression confirmed by our courts.

It now lies upon this court whether they will continue to uphold the fundamental principles of equity and fair dealings between man and by this trial or at the most in the alternative on a conviction give the accused a nominal one day sentence or give him a sentence for which he has already paid in prison many times over and leave a never to be forgotten blemish on trial by court martial and British Justice.

12.

Sheet #7

12. I call the courts attention to all the evidence, exhibits and particularly to the law as laid down and given at the trial.

I submit this on request, and purely as an exposition of the legal rights infringed which I endeavoured to call to the courts attention; as the accused's defending officer and for no other purpose. I submit this under the protection given to counsel which I have abused in no way, on the contrary, all I have said I was legally bound to say and did in the best of faith.

Yours respectfully,

(C.C. Doak) Lieut.
Defending Counsel.

[illegible] Lt Col
Pres F.G.C.M.

5. Sec. 68 Army Act, Page 495, M.M.K. Note, 2, states: "Under this section a term of penal servitude, imprisonment or detention under sentence by court martial cannot be made to commence at the expiration of a previous term of penal servitude, imprisonment or detention, but must commence on the day on which the sentence is signed by the president of the court. If, therefore, the court desires to inflict (e.g) six months' additional imprisonment on a prisoner already in prison undergoing six months' imprisonment, of which three months are unexpired, the court must award nine months and similarly with respect to sentences of penal servitude and detention. The period of imprisonment or detention must, however, never exceed two consecutive years, whether under one or more sentences. (s.44 Proviso (1B).

(1) I submit that as from the time the accused was arrested on 18 Dec. 41 till he was released at the end of March, 43, he was under continual sentence running; that any sentence given during that period consequently would have to run concurrently and consequently it appears it might have been felt that the accused would not be rapped hard enough if his sentences were to run thus. In Dec. 41 he would have had to been sentenced to more than a year on these minor present charges in order to inflict punishment that would pass running concurrently; as it was beyond reasonable probability that the accused would be given over a year for these charges then it appears this to be the most likely reason why he wasn't then charged as he should have been under Para 466 K.R.Can.

During Jan 42, as he was facing a civilian charge again the same situation would arise and the affect of a sentence on these charges couldn't be made effective to the accused as to cause him to serve more time. But these facts produced at the civil trial could and appear to have had much to do with the stiff sentence he got of 20 months. Now, even if he were charged near the end of his 20 months, 4 months would be all that could be given him as two years or 24 months is the most he could serve at once without a fresh offence or release, so accordingly, nothing was done. Once he was released, he could be charged for these offences and given the full rap. But this was not done. It appears that the former reasoning of condonation from the authorities view was in fact, true. The accused's offences were long condoned over, since nothing was done in Dec. 41 as far as others were concerned, and as far as the accused was lulled into belief. The authorities by holding up these charges had, as shown above, condoned and/or pardoned these offences. If there was any doubt this was erased as shown by his being not charged on release from prison and thereby allowed to go from the unit lines unbarred by anything except the obligation to return in nine days on expiration of leave.

6. K.R. Can. Para 564 states: "When a court martial passes sentence on a soldier already under sentence of imprisonment or detention or on a soldier tried at the expiration of a term of imprisonment or detention for an offence committed or discovered during its continuance regard must be had to proviso (1B) to Sec. 44 of the Army Act; the limit of two consecutive years of imprisonment or detention including the term already undergone will under no circumstances be exceeded."

[redacted]

(1) The accused was under sentence of court martial for one year from Dec.41. He was under imprisonment sentence of 20 months by civil authorities and if court martials had passed sentence for these present

C O N F I D E N T I A L

BGHQ 10-2-0

H.Q. "B" GROUP
CANADIAN REINFORCEMENT UNITS

5-4-4

Ex 6

22 Dec 41

1. Cdn. ASC. Reinf. Unit

C-10315 Pte. Going

1. Reference your 1 ASC/RU 6-2-0 dated 19 Dec 41.

2. In view of the fact that the m/n soldier will probably be given a term in civil prison it is suggested that a charge sheet and a memo of the evidence available be filed with his documents, so that the case can be disposed of when he is discharged ~~(from hospital.)~~

H.D.G. Currie CAPTAIN
(H.D.G. CURRIE)
STAFF CAPTAIN
"B" GROUP CANADIAN REINFORCEMENT UNITS

Charge sheet prepared & attached for action when going released

RJMcA/JT
DRLS/POST

HEADQUARTERS - CANADIAN REINFORCEMENT UNITS

4-5-0

CRU 11/Descrip
~~16~~ Dec 41.

ESCAPE FROM DETENTION -
B85931 Pte. Wilding, W.
B81631 Pte. Davis, A.C.
C10315 Pte. Going, L.P.

1. With reference to this office circular dated 13 Dec 41, please be advised that C10315 Pte. Going, L.P., was on 18 Dec 41 apprehended by civil police, London, and is being held on a charge of Armed Robbery.

2. Ptes. Wilding and Davis are still at large.

F.B. Creasy

(F.B. Creasy) Captain,
D.A.P.M. C.R.U.

FBC/as

DISTRIBUTION:-

D.P.M., C.M.H.Q. (2)
A.P.M., Cdn Corps (2)
D.A.P.M., 1 Cdn Div (2)
D.A.P.M., 2 Cdn Div (2)
D.A.P.M., 3 Cdn Div (2)
D.A.P.M., 5 Cdn Armd Div (2)

No.7 Pro Coy
Nos. 1 & 2 L of C Sections
Supt. Police, Farnham
Supt. Police, Guildford
Supt. Police, Godalming
Supt. Police, Petersfield

POSTAGE on all letters on this subject must be PREPAID.

METROPOLITAN POLICE.

No. 506A (Unruled).

"D" DIVISION Paddington STATION.

10th February 1942.

REPORT for the information of the Officer Commanding, 1 Canadian A.S.C., Reinforcement Unit, Blenheim Barracks, Farnborough, Hants.

respecting Pte. C-10315.

Leonard Philip Going.

CONFIDENTIAL REPORT.

(The information given is supplied on the clear understanding that it will be regarded as confidential, the source from which it is obtained not being disclosed to the persons concerned.)

-1-

To D.D.Inspector.

The above named soldier was arraigned before Judge Beazley, at the Central Criminal Court, on 10th February 1942, indicted with robbery with violence. Going was sentenced to 20 months imprisonment, after being found guilty of the offence. Captain Essex, from his unit, was present at Court and gave particulars of Going's Army character.

The Governor, H.M.Prison, Wandsworth, has been informed that Going is a soldier, and asked to acquaint his Commanding Officer of the date upon which he will be released.

C. MacDougall
Det. Inspr. "D".

A/D.D. Inspector.

11th February 1942

Superintendent.

194

Forwarded by direction of the Commissioner of Police of the Metropolis in reply to the application (No.)

of

C.O. No.

11th February 1942

T H Durham
~~Secretary~~
~~or~~ Superintendent. "D"

Documents returned ( ).

M.P.-21763/50,000 Nov./1940 w83 (2)

C O P Y HEADQUARTERS CANADIAN REINFORCEMENT UNITS

AUG 5 1942 5 Aug 42

"B" Group H.Q.

IN REPLY PLEASE QUOTE

I Incorrigible Soldiers

Your 10-2-0 of 26 Jul 42.

1. It is considered that many of the soldiers listed are not necessarily useless to the Cdn Army, but the following are and it would be desireable to at once apply for their disposal to Canada.

D-16199 Spr. Scahill, P.
C-10315 Pte. Going, L.P.
B-85051 Pte. Wilding, W.
and possibly
D-16198 Spr. Gagne, G.L.

Ex 7
MM

2. It is felt that there are some others such as Galewski who should also be included.

3. It is therefore suggested that these cases should be taken up at once; the particulars are therefore returned for attachment to your recommendations.

II a. J.C.R.V.
please return with recommendations as indicated above
J. Robertson capt
for

(sgd) D.A. Clarke Major
D.A.A. & Q.M.G.
Cdn. Reinf. Units

DLC/HL

Staff Capt.
"B" Group.
CDN. REIN. UNITS

1

Incorrigible Soldiers

Reference BGHQ 10-2-0 d/5 Aug 42.

1. The two soldiers whose names are submitted as candidates for the a/m category are serving sentences in prison as follows:-

C-10315 Pte.GOING, L.P. H.M.Prison, Wandsworth.

B-85931 Pte WILDING, W. H.M.Prison, Feltham, Mdx.

2. In view of their record, particulars of which are attached, they are considered as useless to the Canadian Army.

3. It is recommended that they be returned to Canada under escort, there to complete their sentences, upon termination of which they be discharged from the Service ~~with ignominy~~.

LO/VGP

OK

SUMMARY OF EVIDENCE

In the case of C-10315 Pte. Leonard Philip GOING, 1 Cdn. A.S.C. Rft. Unit., Blenheim Barracks, Farnborough, Hampshir

The Commanding Officer, A/Colonel J. M. Pocock, 1 Cdn. A.S.C. Rft. Unit, directs that the evidence be taken under oath.

First witness for the prosecution: Lieut. V.G.Pearce, RCASC, having been duly sworn, states:-

I am Lieut. V.G.Pearce, RCASC, 1 Cdn. ASC Rft. Unit, and have knowledge and am custodian of certain documents pertaining to this case and relative to the accused. I produce:-

(a). Certified true copy of the finding of a Court of Inquiry held 14 Dec 41 by order of Brigadier A.E.Nash, Commander "B" Group, C.R.U., in so far as it relates to the time of escape of C-10315 Pte. Going, L.P., and two other soldiers from the Guard Room, Blenheim Barracks, namely midnight 12-13 Dec 41.

(b). Certificate of arrest purporting to be signed by W.McDonald, S.P.S.5d, and by G. Fisher, Chief Inspector, Metropolitan Police, Paddington Station, London, showing C-10315 Pte. Going, L.P., arrested at 1630 hours 16 Dec 41.

The accused declined to cross-examine this witness.

V.G. Pearce Lieut
(Lieut. V.G.Pearce, RCASC)

Second witness for the prosecution: W. McDonald, Spec.Police Sgt. 5d, Metropolitan Police Paddington Station, London.

Third witness for the prosecution: G. Fisher, Chief Inspector, Petropolitan Police, Paddington Station, London.

I hereby certify that in my opinion the attendance of the second and third witnesses, owing to the expense and loss of time involved, is not readily procurable, and a written statement signed by them has been read to the accused and is attached hereto.

V.G. Pearce Lieut
(Lieut. V.G.Pearce, RCASC)
Investigating Officer.

Fourth witness for the prosecution: B-85286 L/Cpl. Dunnett, J.W., having been duly sworn states:-

I am B-85286 L/Cpl. Dunnett, J.W., of the Regimental Police, 1 Cdn. A.S.C.Rft.Unit. On the night of 12-13 Dec 41 I was N.C.O. i/c of No. 1. Guard Room, Blenheim Barracks. At approximately 2359 hours I was called to Pte. Going's cell. He asked to go to the latrine. I let him out of his cell and escorted him to the large detention room where the latrine is. I opened the door and permitted Pte. Going to enter. I remained at the door. I did not switch on the lights so as not to awaken the prisoners asleep in the room. When Pte. Going did not return in a reasonable time I threw the keys to L/Cpl. McGugan who was at the desk, and started to enter the large detention room. I was immediately siezed and pulled into the room by Pte. Going whom I recognized by his white underwear, and one or more other prisoners whom I did not recognize. I struggled with Pte. Going and we fell. Going broke away and before I could get to my feet, went through the door and slammed it shut. The spring lock engaged and locked me inside the detention room. I immediately started pounding on the door to attract attention. About three or four minutes later I was released by Pte. Robertson, the telephone switchboard operator. I found L/Cpl. McGugan handcuffed and locked in Pte. Going's cell. The Orderly Officer arrived whom I assisted by calling the roll and found Pte. Going and two other prisoners missing. I had previously called the roll at 2100 hours and at that time Pte. Going and the others were present. On this occasion Pte.Going was in solitary confinement awaiting commitment to prison. I recognize the accused as being one and the same person.

The accused declined to cross-examine this witness.

J.W. Dunnett
B-85286 L/Cpl. Dunnett, J.W.

Fifth witness for the prosecution: B-82580 R.S.M. (W.O.1) Fisher, A, having been duly sworn states:-

I am B-82580 R.S.M. (W.O.1) Fisher, A., Regimental Sergeant Major, 1 Cdn. A.S.C.Rft. Unit. On the 12-13 Dec 41 I held the rank of C.S.M. and was Provost Sergeant Major i/c Detention rooms at Blenheim and Malplaquet Barracks. At approximately 0005 hours on 13 Dec 41 I was in the Sgts' Mess with R.S.M.Muzylo listening to the news on the radio. L/Cpl. McGugan came into the mess, handcuffed, and made a report to me. I proceeded to the Guard Room and found Pte. Going and two other prisoners had escaped. I recognize Pte. Going, the accused, as the same person who escaped at that time and who was confined to the Guard room awaiting commitment to prison.

The accused declined to cross-examine this witness.

A. Fisher
B-82580 RSM (W.O.1. Fisher, A.)

The accused soldier was thereupon warned in accordance with R.P. 4 (e).

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declined to make any statement at this time.

(C-10315 Pte. Going, L.P.)

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing at Blenheim Barracks, Farnborough, Hampshire, this Thirteenth day of May, 1943, in the presence and hearing of the accused, and that R.P. 4 (c), (d), (e), (f) and (g) have been complied with.

V.G. Pearce Lieut

(Lieut. V.G.Pearce, RCASC)
1 Cdn. ASC Rft. Unit.
Investigating Officer.

I, C-10315 Pte. Going, L.P., desire the assignment of an Officer to represent me at my forthcoming trial by Court-Martial.

(C-10315 Pte. Going, L.P.)

List of witnesses:

Lieut. V.G.Pearce, RCASC. (Production of documentary evidence only).	1 Cdn. A.S.C.Rft. Unit.
W.McDonald, Spec.Police Sgt.	Metropolitan Police, London.
G. Fisher, Chief Inspector,	Metropolitan Police, London.
B-85286 L/Cpl. Dunnett, J.W.	1 Cdn. A.S.C.Rft. Unit.
B-82580 RSM (W.O.1) Fisher, A.	1 Cdn. A.S.C.Rft. Unit.

List of exhibits:

(a). Certified true copy of finding of Court of Inquiry.
(b). Certificate of arrest.

This is to certify that the accused, C-10315 Pte. GOING, L.P., refused to sign the attached Summary of Evidence.

V.G. Pearce Lieut

(Lieut. V.G.Pearce, RCASC)
1 Cdn.A.S.C.Rft.Unit.

MAY 14 1943

Copy of the Finding of a Court of Inquiry held 14 Dec 41 by order of Brigadier A.E.Nash, Commander, Cdn. Rft. Units, for the purpose of inquiring into the escape of three prisoners from 1 Cdn. A.S.C.Rft.Unit Guard Detention Room and in so far as it relates to the time of escape of C-10315 Pte.Going, L.P., and two other soldiers 12-13 Dec 41.

REPORT OF THE COURT.

The Court, having considered the evidence, beg to report that:

1. About midnight on the night of 12-13 Dec 41
C-10315 Pte. Going, L.P.
B-83531 Pte. Wilding, W.
B-81631 Pte. Davis, A.C.
escaped from military custody in the Guard Detention building of No. 1. C.A.S.C. R/U, Blenheim Barracks, Aldershot, Hants.

I hereby certify ~~certify~~ this to be a true copy of para. 1. of the Finding of the above mentioned Court of Enquiry and which is signed by the undermentioned Officers:

John R. Barber, Lorne Scots.	Major.	President
A.W.Edwards, R.C.A.S.C.	Capt.	Member
H.R.Cleveland, R.C.E.	Capt.	Member

W.G. Pearce Lieut

(Lieut. W.G.Pearce, RCASC)
1 Cdn. A.S.C.Rft.Unit

Exhibit A

ATWing

C-10315 Pte Going, L.P.

1. The m/n soldier was tried by F.G.C.M. 6 Dec 41 on the following charges;-

(1) A.A. Sec. 18 (4) Stealing
(2) A.A. Sec. 15 (1) A.W.L.

and was sentenced to undergo imprisonment with hard labour for a period of one year.

2. Arrangements were made for his commitment to Wandsworth Prison but as no vacancy occurred until 13 Dec 41, Going was held in the Unit Guard Room from which, on 12 Dec 41 in company with two others effected his escape by overpowering the guards.

3. Pte Going was arrested by the Civil Authorities in London at 1430 hrs 18 Dec 41 and charged with robbery with violence contrary to Sec 23 Larceny Act 1913, (being armed with an offensive weapon, did on the 17 Dec 41 rob Cecil Francis Parsons of £ 220 in money and at the same time did use personal violence to him.) Going was tried at the Central Criminal Court on the 10 Feb 42, found guilty and sentenced to 20 months imprisonment. He was committed to Wandsworth Prison to which A.F.C. 385 order for Commitment and other documents relative to his F.G.C.M. sentence mentioned in para 1 were forwarded, such sentence to run concurrently with the civil award.

4. Reference is made to B.G./H.Q. 10-2-0 d/22 Dec 41 which contains the suggestion that a charge sheet and memo of evidence available be filed with his documents so that the case of escape and subsequent A.W.L. be disposed of upon release from civil prison.

A charge sheet was accordingly prepared and placed in the Court Martial File together with certificate of arrest. B.G./HQ 5-6-2- A.S.C. d/31 Jan 43 also refers to this outstanding disciplinary action.

5. Reference is also made to B.G./HQ 10-2-0 d/14 July 42 captioned " Incorrigibles " requesting the submission of names and particulars of thoroughly undesirable soldiers with a view to their return to Canada.

The names of Pte Going and Pte Wilding were submitted (Pte Wilding like Going having a bad record and was one of the soldiers who escaped from the Guard Room with Going)

6. Pte Wilding was subsequently tried by F.G.C.M. and higher authority instructed that the prosecuter (Lieut. V.G. Pearse) should ask the Court to embody in any sentence awarded " on completion of sentence to be discharged from His Majesties Service with ignominy."

This was carried out and on completion of sentence Pte Wilding was sent to N.R.T.D. for return to Canada and discharge

7. Pte Going was released from Wandsworth Prison 23 Mar 43 and it appears the outstanding charge against him was not proceeded with.

He was granted privilege leave 26 Mar 43 to 4 Apr 43 from which he did not return, absenting himself from 2359 hrs 4 Apr 43 to 1420 hrs 14 Apr 43, for which he was awarded 28 days detention wef. 22 Apr 43.

8. Pte Going is of thoroughly bad character and like Pte Wilding is considered undesirable and of no further use to the Canadian Army.

He is a smooth talker, full of promises which are never fulfilled.

He will use any means to absent himself periodically even to breaking lawful custody.

He has spent over 50% of his service in civil prisons and detention.

On the arraignment of the accused, and before the accused had pleaded, the Def. Offr. made a plea in bar of trial under R.P. 36(A)(ii), which is attached hereto.

The Def. Offr. stated that he wished to put the accused in the box, and also to call a witness, both in support of the plea which he had raised.

THE ACCUSED, having been duly sworn, is examined by the Defending Officer:-

Q1:The offense with which you are charged, according to the charge sheet, was committed on the 12th of December, 1941.
A1:That is correct, sir.
Q2:On what date were you arrested, following that ?
A2:On the 18th of December, 1941.
Q3:At that time, was this charge laid against you ?
A3:No, sir.
Q4:- After you were arrested, what happened ?
A4:- I was held by the civil authorities on remand.
Q5:- Was this charge laid against you then ?
A5:- No, sir.
Q6:- What happened after that ?
A6:- I was arraigned in civil court, tried, and sentenced. That was on February 10th, 1942. The sheets would show the assizes as being on Feb. 3rd, but the actual date was the 10th.
Q7:- Then for approximately one and a half or two months no charge was laid against you for this offense ?
A7:- No, sir, the civilian sentence was 20 months. I served just over 15 months.
Q8:- And at any time while in prison were you brought out and charged with these offenses ?
A8:- No, sir. I was released on March 23rd, 1943.
Q9:- Up to then no charge was laid against you ?
A9:- No, sir.
Q10:- What happened upon your release ?
A10:- I was held the usual one day in London by the Canadian Provost Corps, and then came back to the Service Corps Guard Room the next day, and was released there.
Q11:- And no charges were laid against you, you were a free man as far as you knew ?
A11:- Yes, sir, I was given 9 days privelege leave.
Q12:- So three days after your release you were given 9 days leave ?
A12:- Yes, sir.
Q13:- Still you heard nothing about these charges ?
A13:- No, sir.
Q14:- Then what happened ?
A14:- I had personal trouble, and overstayed my leave 10 days,, and was sent back through the C. Prov. Corps on the 15th of April, I was apprehended.. On the 22nd I was taken before the wing commander and sentenced to 28 days detention.
Q15:- And this charge was still not brought against you at the time you got the 28 days detention for overstaying your leave ?
A15:- No, sir.
Q16:- Your detention started when ?
A16:- April 22nd, sir.
Q17:- Your detention should have been over about when ?
A17:- May 15th, sir, with remission for good behaviour.
Q18:-(Pres) When were you released from that 28 days detention ?
A18:- I never was released, sir, it would have been on the 15th.
Q19:- On what day were you first aware of this charge ?
A19:- On may 12th, sir.
Q20:- Just three or four days before you were to be released as a free man ?
A20:- Yes, sir.
Q21:- You served that whole period of detention without these charges being laid against you, until the 12th ?

A21:- Yes, sir.
Q22:- At the time the charge was laid against you were you told anything about the charge - the nature of it ?
A22:- No, sir.
Q23:- I produce this exhibit in your statement, have you ever seen it before ?
A23:- Yes, sir, it is a note that I handed to Major Smith, a request that my brother's mail be turned over to me on my release. He was also my company commander, and he said he would get it approved if he could. On the 14th of May I got the note back, with the message on the reverse side, which reads as follows:-

Pte. L.P. Going - No, you will be returning to Canada and your brother can collect his parcels on release from detention.

L Smith(Major)
O.C. No. 6 Hold Coy.

dated 14 May 43.

MARKED EXHIBIT 1.

Q24:- How do you account for that word"Canada" were you told about that ?
A24:- Just on the afternoon of the 12th of May was the first time I heard about it. I asked for a personal interview with Major Smith about the personal business that had made me overstay my leave. Major Smith said he could not grant compassionate leave that I asked for, but he told me to come and see him on the afternoon of my sentence. That morning I had been charged at Wing H.Q., and this charge was read out. In the Afternoon when I saw Major Smith, he said "Going, I have just found out what actually has happened, you are to be returned to Canada". I rather imagined that because of my record I was being discharged, and that that charge was laid in that respect.

PROSECUTOR DECLINES TO CROSS-EXAMINE THIS WITNESS.

K 73904 SGT. J. BEAVER-JONES, 1 CASCRU, sworn, is examined by the defending officer:-
Q25:- What are your duties with your unit ?
A25:- My duties are superintendent clerk at H.Q., 1 C.A.S.C.R.U..
Q26:- Do you recognise the accused ?
A26:- I do.
Q27:- You have seen numerous papers going through the office about him ?
A27:- Yes, sir.
Q28:- Do you remember his leave application going through ?
A28:- No, sir.
Defending Officer:- I would ask the prosecutor to produce a document which is relevant all through this case. (Prosecutor complied).
Q29:- Have you ever seen this document before ?
A29:- Yes, I have .
Q30:- When did you first see that ?
A30:- Sometime after the 21st of April, when it was sent to the AT wing.
Q31:- Would you read to the court para. 6, and the last paragraph ?

Para 6:-

Pte. Wilding was subsequently tried by F.G.C.M. and higher authority instructed that the prosecutor (Lieut. V.G. Pearce) should ask the Court to embody in any sentence awarded "on completion of sentence to be discharged from His Majesties Service with ignominy. This was carried out, and on completion of sentence Pte. Wilding was sent to M.E.T.D. for return to Canada and discharge.

Para 10:-(referring to Going).

Recommended that he be brought to trial by F.G.C.M. on the outstanding charge against him, and authority obrained to ask the Court to embody in any sentence awarded that "on completion of such sentence to be discharged from H.M. Service with ignominy."

Q32:- This came from R.H.Q. ?
A32:- Yes, sir.
Q33:- Were you ever given any instructions on this ?
A33:- Just that Pte. Going had gone on privelege leave, which he over-stayed, and was subsequently sentenced to 28 days detention. It was then found that these charges were still in abeyance, and had not been dealt with, and the rough charges were sent to me to be prepared and a summary of evidence taken.
Q34:- Who prepared the original charge ?
A34:- I don't know, sir.
Q35:- Read the note on the front of this document.
A35:- "Adjutant - Action as recommended in para 10 to be taken"
29 April 43 W.W.F.
Q36:- Whose initials are those ?
A36:- They look like Lt.-Col. Fletcher's.
Q37(Pres) Can you swear those are his initials ?
A37:- No, sir, those are his initials, but I cannot swear that he wrote them.

PROSECUTOR DECLINES TO CROSS-EXAMINE THIS WITNESS

LIEUT. V.G. PEARCE, 1 C.A.S.C.R.U., sworn is examined by the defending officer:-
Q38:- Have you ever seen this document before, Mr. Pearce ?
A38:- Yes, I have. It is a private memorandum, which was made up by myself and prepared as a memorandum for guidance, and attached thereto was a certain document.
Q39:- That was a recommendation, was it not, in para 10 ?
A39:- That was not intended exactly to be a recommendation, otherwise it would have borne my signature.
Q40:- Whose initials are these ?
A40:- They purport to be, and look like, Lt.-Col. Fletcher's initials. The wording is as follows:- "Action as recommended in para 10 to be ta ken"

President:- I am prepared to admit the document, and mark the typed memorandum exhibit 2, and the pencilled memorandum exhibit 3.

Prosecutor has no objection, and declines to cross-examine this witness.

The prosecutor asked that certain other documents be admitted, both as mitigating evidence, and in support of the plea in bar, to which the president agreed:-

Provost letter CRU 11/Descrip d/19 Dec 41 marked exhibit 4
Confidential Report of Met. Police marked exhibit 5.
"B" Gp. letter d/22 Dec. 41 marked exhibit 6.
D.A.A.&Q.M.G. letter to "B" Gp. marked exhibit 7.
1 CASCRU chit to "B" Gp. ASC/RU/6-2-0/Gen marked exhibit 8.
CMHQ letter 10/Going LP/1(A.G. 5a) marked exhibit 8A.

THE COURT IS CLOSED TO CNSIDER THE PLEA IN BAR.

The court re-opens, president stated:-

The court have considered the application made under R.P. 36(A)(2) and after full consideration have disallowed the application, and find that the plea in bar is not proven, and will proceed with the trial.

(The accused was then arraigned, pleaded guilty to the charges against him, the summary was read, and the court made its finding).

Prosecutor presented MFM 6 and MFB 355, stating that they both related to the accused. R.P. 46(B) complied with, and neither the

Defending Officer nor the accused had any objection to these two documents.

Pursuant to R.P. 37(C), the Defending Officer stated that the accused would make a statement in mitigation of punishment.

STATEMENT BY THE ACCUSED:-

The offence for which I was sentenced to one year's hard labor was committed on November 5th, 1941. On that date I was released from detention. I had sent from home a sum of money, parcles, cigarettes, etc. The sum of money was to help me out ofpersonal domestic difficulty, which I had in this country. The circumstances of that case were known to my commanding officer and the court-martial officer. On my release from detention I found out that I could not get my own property etc. from the court-martial office on November 5th, 1941. That night, in company with three other people, I had been drinking quite a lot, and was drunk, we came back, broke into the court-martial office and took a box containing my property, including the money and the property of another chap, and also in the box was the property of many other men in detention. We went AWL at that time. I became separated from the other three men in London, and I returned and surendered myself, as I learned that the other three had been apprehended, on November 20th, after 15 days absence. I signed a statement at that time, taking the whole blame for the affair, on the night of November 5th, in order to clear the three others. I was successful with my statement, and the other three men never have been charged with the offense, but merely with AWL. I was court-martialled in December, and sentenced to one year's hard labor. At that time my condition was anything but good. I had hoped during my term of detention to come out get a clean sheet, and start over, and the very day I was released I was back in trouble again. I had been suffering from head-aches, and was in a nervous condition. I was in the M.O's care at various times, and when my sentence was promulgated, he refused to sign the commitment papers, that I was fit to undergo detention.

(Defending Officer stated at this point, that, if the court so desired, he could produce the un-signed commitment paper, which was on file at records)

I don't think at the time that I Broke out of the guard room and went absent on tis charge that my conduct was what it would have been had I been in ordinary circumstances. The personal trouble to which I referred was a girl, and she was in need of my help financially at that time. While I was awaiting court-martial, and while I was awaiting promulgation of my sentence, I made attempts to have the usual amount of $20.00 signed over to her, and found that I was unable to do this. The treatment I received in the guard room at that time made me very bitter. I was kept in solitary confinement, handcuffed almost constantly, and while in the cell I was not allowed any blankets, mattress, reading material or anything, and my boots, braces and jacket were taken away from me. This sort of treatment made me rather desperate. On going from the first aid post on the afternoon of December 12th, at the time the M.O. refused to sign the commitment papers, he ordered me to be taken the next day to Basingstoke for a consultation. I met the R.P. C.S.M. and the R.S.M. When they were told the fact of the case, the R.S.M. then said "Very well, issue him with a full kit, ready for imprisonment, and take him to Basingstoke in the morning. When the specialist there finds out that there is nothing wrong with him, as I already know to be so, tell him Going is an old Malingerer - take him directly to Wandsworth Prison, I don't want to see him around this barracks again." That night I had a short opportunity for a conversation with two others in the guard room, and I agreed to take part in this break, which had already been planned before. I went to London, and I was without money, and I was desperate. Within

five days I had committed robbery, the offence for which I was sentenced to 20 months imprisonment, by the civilian authorites on February 10th, 1942. Regarding this present charge, I think I have been already punished for it, because at the time of my civilian trial, the officer from 1 CASCRU was present, and gave a full statement concerning it to the court, and they evidently took it into account and it had a great influence on my sentence that I received. Similar cases, and in fact the chap who was concerned with me in this case, all received much lighter sentences. I received the sentence which I did because of the fact that I had just recently broken out of the guard room, and had been absent without leave. I completed my sentence on March 23rd, 1943. I was returned to 1 CASCRU. The following day I was released, and two days later I obtained privelege leave from Colonel Bonny, who was then my commanding officer. For personal reasons I was forced to overstay this leave, and returned again to 1 CASCRU. I was sentenced to 28 days detention. The wing commander at that time did not see fit to listen to my reasons for overstaying my leave, and I therefore received 28 days detention, and towards the end of it I was remanded for court-martial on these charges. I received this 28 days sentence on the 22nd of April, and I was on fatigues shortly after in the afternoon, when the R.S.M. saw me on fatigues, he called me into his office with my escort, and asked me what my intentions were in the future. I explained to him that I came out of Wandsworth with the best of intentions, and that overstaying my leave was something I had not intended to do. He said "you will remember there is an old charge we can hang on you if we take the notion. Mr. Pearce and I were talking about it since you came back." I asked him if he didn't think in view of the sentence I had completed, I had had enough, and he said "yes, we think you have had enough, and that is why we are not bothering with it. If you behave yourself, you will be given the same chance as any man in this unit". I do not frankly think that I have had that chance. I realize as I dictate this that it is not very convincing, and it does not seem to bring out the facts that I wish to. In view of the other sentences that were being given at the same time in the Service Corps, actually 28 days for 10 days absence at that time was severe. Actually, I think if I had gone to Colonel Bonny and told him my story, I would not have received any punishemnt. I told the wing commander that I wanted to see Colonel Bonny, but he said that he had no time for my personal troubles, and that I could not see Colonel Bonny. I feel that they should have understood, and that I should have had a chance to tell my story.

X

PLEA IN MITIGATION OF PUNISHMENT BY THE DEFENDING OFFICER:-

I don't want to take any more of the court's time. You will agree that what I have stated in bar to trial will now apply in mitigation. I would point out, sir, that not only was condonation and pardon shown, but the fact remains that had this man been tried for these offences when he should have been, that the sentence would have run out. Unless the prosecution can give a very good reason, there is something very wrong. A man must have a chance to put up a defense, and he has lost that chance to a large degree. It is known that court-martial is one of the fairest forms of tribunal, so I want the court to realize that he has more than served his sentence. The court has the power to do this man justice on these charges, and it is only with these charges that we are concerned. We cannot feel that this man is a certain type. This sentence could have been served before. It now lies with the court whether they will uphold the fundamentals of justice and give him a nominal sentence of one day, as his sentnece has been already served.

C.A.C.R.O. 3262 complied with.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

Continued;-

9. Copy of Pte Goings record attached hereto.

10. Recommended that he be brought to trial by F.G.C.M. on the outstanding charge against him and authority obtained to ask the Court to embody in any sentence awarded that "on completion of such sentence to be discharged from H.M. Service with ignominy."

C-10315 Pte. Leonard Philip GOING

1 Cdn A.B.C. Reinforcement Unit

Age 23 years Category "A"

Enlisted 7 January 1940 Ottawa, Ont.

Service in Canada - 22 days
Service overseas - 2 years 6 months

OFFENCES : -

(1) A.A. Sec. 9 (2) Disobeying a lawful command.
Awarded 14 days detention 11 Mar 40

(2) A.A. Sec. 15 (1) AWL 2 days 14 hours
Awarded 14 days C.B. 18 Apr 40

(3) A.A. Sec. 15 (1) AWL 4 days 20 hrs 15 mins.
Awarded 14 days detention (no date)

(4) A.A. Sec 15 (1) AWL 2 days 21 hrs 30 mins
Awarded - Admonished (no date)

(5) A.A. Sec 15 (1) AWL 8 hrs 15 mins
Awarded 14 days C.B. (no date)

(6) A.A. Sec 10 (4) Breaking out of barracks
Awarded 21 days detention 19 Aug 40

(7) A.A. Sec. 15 (1) AWL 17 days 19 hrs 15 mins
A.A. Sec. 22 Escaping
Awarded 120 days detention by F.G.C.M. 3 Oct 40

(8) A.A. Sec. 15 (1) AWL 3 days 6hrs 30 mins
Awarded 14 days C.B. 6 Jan 41

(9) A.A. Sec. 15 (1) AWL. 6 days 14 hrs (in hospital)
Awarded 27 days detention 5 May 41. 14-3-41to3-5-41

(10) A.A. Sec 15 (1) AWL 4 hrs 30 mins
Awarded 168 hours detention 3 June 41

(11) CIVIL OFFENCE - Stealing £4 -15 -0
Sentenced to three months hard labour 31 July 41
(In close arrest 21-7-41 to 31-7-41)
released 1 Oct 41

(12) A.A. Sec 15 (1) AWL 37 days 13 hrs 30 mins
Awarded 28 days detention (summary award after case investigated by Unit Padre and reviewed by C.O. and Formation H.Q. Going's difficulties appeared to be removed and he promised to be a good soldier.)

(13) A.A.Sec. 18 (4) Stealing
A.A.Sec. 15 (1) AWL 15 days 2 hrs 20 mins
Awarded one years imprisonment with hard labour by F.G.C.M. (Arrangements made to commit him to Wandsworth Prison 11 Dec 41. Escaped 12 Dec 41.)

(14) A.A.Sec 15 (1) When in confinement absenting himself without leave from 2359 hrs 12 Dec 41 til apprehended by civil police 1630 hrs 18 Dec 41 (absent 5 days 16 hrs 30 mins Case not tried - in hands of civil authorities. see (15)

Continued:-

(15) CIVIL OFFENCE - Robbery with violence
Date of offence 17 Dec 41. in close arrest from 18 Dec 41 to 10 Feb 42 date of trial.
Sentenced to twenty months imprisonment in Wandsworth Prison 10 Feb 42.

The award of one years imprisonment with hard labour mentioned in (13) above running concurrently - commitment warrant etc., forwarded to Wandsworth Prison 16 Feb 42.

Released from Wandsworth Prison 23 Mar 43.

Granted privilege leave 26 Mar 43 to 4 Apr 43.

A.W.L. from 2359 hrs 4 Apr 43 to 1420 hrs 14 Apr 43.
Awarded 28 days detention w.e.f. 22 Apr 43

CERTIFIED TRUE COPY

No. C10315 Name GOING, L.P. Sqn., Battery, or Company Corps RCASC Date of enlistment 6-1-40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 40/P & S/196 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Nature of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 9(2)-Disobeying lawful command		14 days detn.	11 Mar 40		
Field		Pte		AA Sec 15(1)-AWL 2 days 14 hrs		14 days C.B.	18 Apr 40		
Field		Pte		AA Sec 15(1)-AWL 4 days 20 hrs 15 min.		14 days detn.	No date		
Field		Pte		AA Sec 15(1)-AWL 2 days 21 hrs 30 min.		Admonished	No date		
Field		Pte		AA Sec 15(1)-AWL 8 hrs 15 min.		14 days C.B.	No date		
Field		Pte		AA Sec 10(4)-Breaking out of Bks		21 days detn.	19 Aug 40		
Field		Pte		(1)AA Sec 15(1)-AWL 17 days 19 hrs 15 min.(2) AA Sec 22-Escaping		120 days detn	3 Oct 40	F.G.C.M.	
Field		Pte		AA Sec 15(1)-AWL 3 days 6 hrs 30 min.		14 days C.B.	6 Jan 41		
Field		Pte		AA Sec 15(1)-AWL 6 days 14 hrs		27 days detn	5 May 41		In hosp 14-3-41 to 3-5-41
Field		Pte		AA Sec 15(1)-AWL 4 hrs 30 min.		168 hrs detn.	3 Jun 41		
Field		Pte		CIVIL OFFENCE-Stealing £4-15-0		3 mos hard labour	21 Jul 41		Close arrest 21 Jul 41 to 1 Oct 41 Released 1 Oct 41

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	—	Pte		AA Sec 15(1)-AWL 37 days 13 hrs 30 min		28 days detn	13-10-41		
Field		Pte		(1) AA Sec 18(4) Stealing (2) AA Sec 15(1)-AWL 15 days 2 hrs 20 min.		1 yr imprisonment with hard labour	6 Dec 41	F.G.C.M.	Escaped 17-12-41
Field	17-12-41	Pte		CIVIL OFFENCE-Robbery with violence		20 mos imprisonment with hard labour	10 Feb 42		To Wandsworth Prison. Under close arrest from 18-12-41 to 10-2-42. Released 23 Mar 43.
Field		Pte.		AA Sec 15(1)-AWL 10 days		28 days detn	22-4-43.		

Certified true copy.....H.G. Pearce Lieut
1 Cdn. H.S.C. Rft. Unit

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. C.10315 Pte Gorring L.P. of No. 6 Coy. # 10 ASC. R.U. and in my opinion he is fit / unfit to undergo trial by Court Martial.

Station. Blenheim Bks
Date. 21.5.43

Sgd. A. H. McDonald Capt.
(Medical Officer)

C O P Y: JK

(410/GOING, L/1 (DAQ))
10/Going LP/1 (A.G.5a)
29 Jan 43.

IN REPLY PLEASE QUOTE
D.G.I.S. 26-2 ASC

C.R.U.

C-10315 Dvr. L. Going
1 C.A.S.C.R.U.

1. Information has been received that the m/n soldier will be released from H.M. Prison, Wandsworth on 30 Jan 43, and will be returned to his unit under escort of the Canadian Provost Corps in due course.

2. It is noted from a report of the S.I.S. at this H.Q. under date of 27 Dec 41, that the m/n soldier escaped from custody of RCASC Holding Unit on 13 Dec 41.

3. The soldier was apprehended by the Civil Police at London, and on 10 Feb 42 was found guilty of robbery with violence and was sentenced to 20 months' imprisonment.

4. It would appear that there is disciplinary action outstanding against the soldier in respect of his escape from custody and subsequent period of A.W.L.

5. It is considered that the disposition to be made of the m/n soldier should be carefully investigated in view of his conviction on a serious charge. A report on his conduct while in prison at Wandsworth is being obtained, and will be forwarded to you.

(Signed)
(H.A. MARTIN) Capt.
for D.A.G.
CANADIAN MILITARY H.Q.

CASCRU
for information

Staff Capt.
"B" Group
CDN. REIN. UNIT

Ex 8A

1 FEB 1943
Canadian Army Overseas

Pte L P Young — No 1 Guard Run

Now you will be returning to Law and your brother Law Collection has possible to release from Detention

[illegible]
Wagon
OC No 6 Hold Cap

14 May 43

Tues, May 11/43.

This is my permission for my brother - C/10315 Dvr. L. P. Going - to draw all parcels & cigarettes which are addressed to me up till this date —

M. T. Going
C-12575

J. C. Snider Sgt.

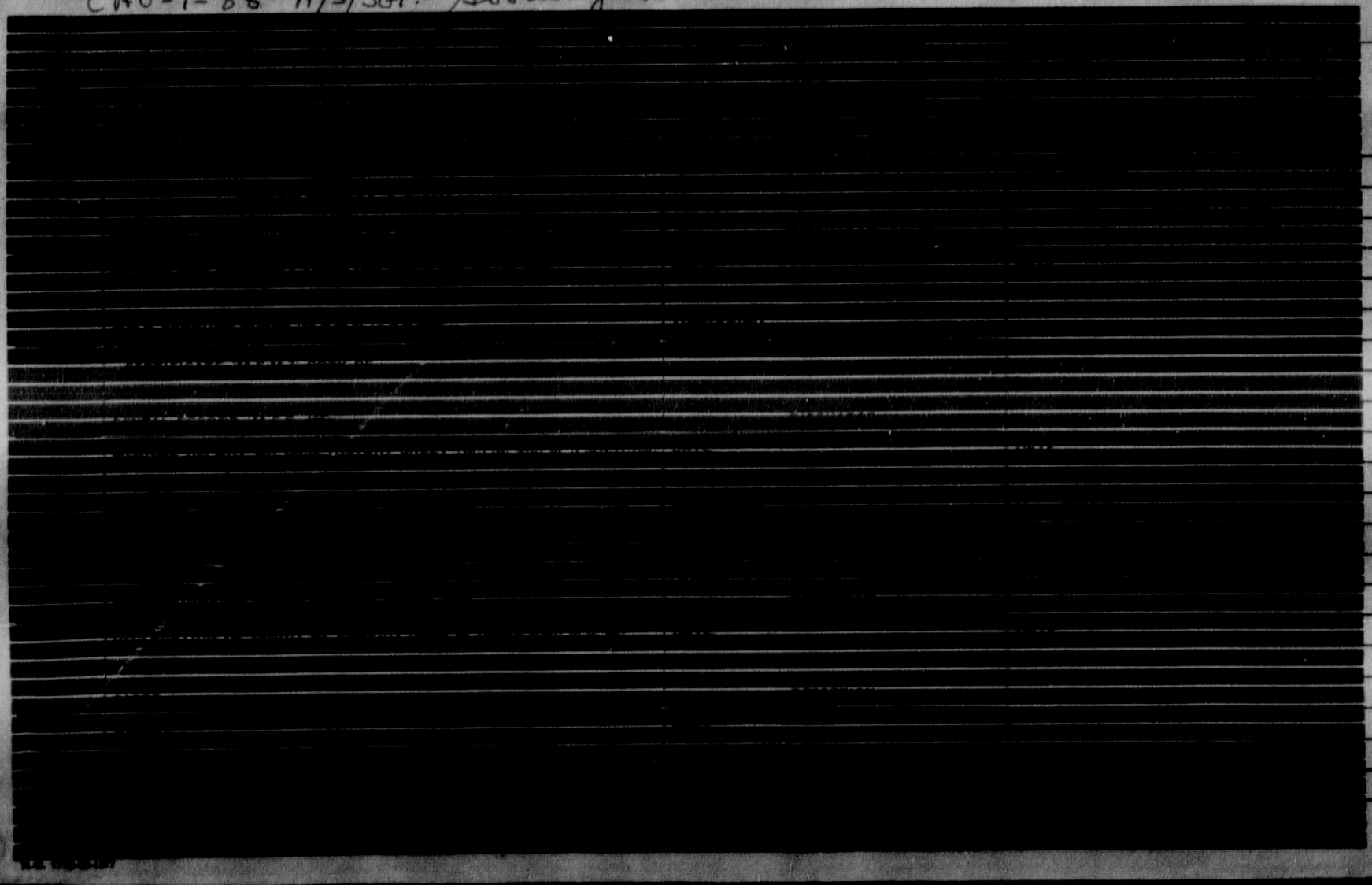
EX 1
MW

(P.T.O)
(see OCO 2820)

Adjt
Action as recommended in para 10, to be taken
MWF
29 Apr 43

EX 9
MW

CAO-1-85 A/S/SGT. Gooding K.W.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.20456 Sgt. (A/S/Sgt) Karl William Gooding

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec.40	NOT GUILTY	GUILTY	
2nd AA Sec.19	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lack of kit see RP 44 fn 6.)

~~Not present under sentence for~~ ~~beginning on (date)~~ (1)
(1. insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 29 days, of which Nil days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the Ranks.

(Sgd) ..... 16 JUL 46 (Sgd) C.E. Woodrow
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.) Lt Col.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 19, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 19 Jul 46 (Sgd) The B.K. Gordon Col
Commanding 1 Cdn Repat Depot
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A20456 Sgt (A/S/Sgt) Karl William Gooding	20 July 46	(Illegible) Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED JUL 27 1946 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 168 CAD-F-85

FIELD GENERAL COURT-MARTIAL

CFA06 (To item of AFAR) 40/P.A.B./1698 (F. 44) 4 388

Convened by Order of Col. M.B.K. Gordon Comd 1 Cdn Repat... dated 11 Jul 46
Depot

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A.20456	Sgt	A/S/Sgt	Karl William	GOODING	4(Gen Eft)Wing 1 Cdn Repat Depot

PROCEEDINGS REVIEWED
27 Jul 46 C.H. Initialled Maj.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 16 Jul 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Creations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AA5, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object~~ to ~~as interpreter~~ ? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to CPL GAULT, RCAMC as shorthand writer ? Ans NO OBJ
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?
Ans NO OBJ (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. Woodrow, OBE ED	HQ CRU
Member	Capt	J.L.F. MOREAU	1 Cdn Repat Depot
Member	Lieut	G.H. ROBERTS	1 Cdn Repat Depot
~~Judge-Advocate~~			
Prosecutor	LIEUT	C.E. ENNIS	1 CDN REP DEP
Defending Offr	MAJOR	D.C. ROSE ED	1 CDN REP DEP

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)
(1. RP 26, 27, 109, 111. Use of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See 2e p 2.)

A8. The accused ~~before arraignment~~ make(s) (no) plea ..... (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the assessments made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2.* 4. *MML p 54 para 47.* 5. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of pages D3 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) Evidence attached
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D5.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. GIVE EVIDENCE SIR..... Do you intend to call witnesses on your behalf ? Ans. YES SIR..... Are they witnesses as to character only ? Ans. NO SIR evidence attached
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Page 1 of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. YES SIR CALL WITNESSES evidence attached
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP 37(C) fn 4, 46 fn 5. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *define 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Defending Officer plea in mitigation attached
(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on such anything here or previously stated which would affect the amount of punishment.* *RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried summarily see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 562-566, Overseas RO 304, 2303, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MOML p 130. When accused already under sentence of imprisonment or detention see AA 44(8), 68(1), KR Can 564.* 2. *RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit "B"

ARMY FORM B.296

Statement ~~as to~~ Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
A20556	A/S/Sgt	GOODING, K.W.	1 Cdn. Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct.~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 24 days in military custody, making a total of 24 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 31 years 7 months

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 1 August 1940

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in the day of~~

9. ~~The accused is entitled to~~ ~~service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). U.V.S.M. & Clasp 1939-45 Star France & Germany Star The Defence Medal

11. ~~(If the accused is a warrant officer.) The accused before he was a warrant officer has held the regimental rank of~~

12. ~~(In the case of an officer.) The accused in the army the rank of and in his regiment (or corps or department) the rank of~~

Wt.57637/1519 30M. 5/44. P. Ltd. T51-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A20456 Rank A/S/Sgt Name [illegible] of 1 Cdn. Depot Dep't Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		CCC		
		CCC		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of July 46

C. E. Ennis, Lieut., RCA
Legal Officer
4 Wing 1 Cdn. Depot Depot

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ~~Lance Corporal~~ ~~CCC~~ ~~[illegible]~~

In the rank of ~~A/S/Sgt.~~ ~~CCC~~ ~~[illegible]~~

In the rank of Sgt. 17 [illegible] 15 Sept. 44

INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, except that in the case of a vital by field general court-martial the information may be collected from such sources as are available and the paragraph amended accordingly.)*

SUMMARY OF EVIDENCE

In the case of,

A20456 Sgt (A/S/Sgt) Karl William GOODING, RCEME, on strength No 4 (Gen Rft) Wing, No 1 Cdn. Repatriation Depot, a soldier of the Cdn. Army Overseas.

FIRST WITNESS FOR THE PROSECUTION

F57816 Cpl. Walker T.E. Cdn. Pro. Corps, on the strength of No 1 Cdn. Repat Depot, a soldier of the Cdn. Army Overseas, having been duly sworn states:

"I am F57816 Cpl. Walker T.E., and on 15 Jun 46 was on the strength of No 6 (Area) Cdn. Provost Coy. At about 2359 hrs 15 JUN 46 I approached A20456 S/Sgt Gooding K W in London. He was lying in a doorway of Mornington Crescent Tube Station. I helped him to his feet. He could not stand unassisted. His breath smelled strongly of alcohol. I shook him by the shoulder and asked him where he was staying. He made no response. His eyes were closed. I helped carry him from where he was to a Provost Coy 3 cwt. I helped in opening the tailgate of the 3 cwt, and lifted him into the rear of the vehicle. He could not help himself. At approximately 0015 hrs, 16 Jun 46 in the Detention Room of the 6 (Area) Provost Coy, I searched the person of A20456 S/Sgt Gooding, K.W., and found in his possession, 28, 1 week Emergency Ration Cards, which I now recognize as the packet of Ration Cards marked Exhibit "A". While I was searching him, he was lying on the floor, his eyes closed. He did not speak nor move. Said 28 ration cards are numbered as follows: FH65#113A, FH65#114A, HD421212A and consecutively from HD421214A to HD421239A inclusive."

F.C.W. alker
(F57816 Cpl. Walker T.E.)

The Accused declines to cross examine this witness K.W. Gooding

SECOND WITNESS FOR THE PROSECUTION

C123965 L/Cpl. Seguin, R.A. on the strength of No 6 (Area) Provost Coy., a soldier of the Canadian Army Overseas, having been duly sworn states:

"I am C123965 L/Cpl. Seguin, R.A., on the strength of No 6 (Area) Provost Coy. At about 2359 hrs 15 June 46, I approached A20456 S/Sgt. Gooding, K.W. in London. I was with F57816 Cpl. Walker T.E. S/Sgt Gooding we found lying in a doorway of Mornington Crescent Tube Station. Cpl. Walker and I helped him to his feet. He could not stand alone, nor could he walk. He smelled of alcohol. Cpl. Walker and I carried him to the awaiting Provost 3 cwt. At approximately 0015 hrs 16 June 46 in the Detention Room of the 6 (Area) Provost Coy., Cpl. Walker and I searched the person of S/Sgt. Gooding and found in his possession 28 one week Emergency Ration Cards, which I now recognize as the packet of Ration Cards marked Exhibit "A". Said 28 Ration cards are numbered as follows: FH65#113 A, FH65#114 A, HD421212 A, and consecutively from HD421214 A to HD421239 A inclusive.

R.A. Seguin
(C123965 L/Cpl. Seguin, R.A.)

The Accused declines to cross examine this witness

K.W. Gooding
(A20456 S/Sgt. Gooding K.W.)

THIRD WITNESS FOR THE PROSECUTION

Lieut A.J. MacDonald CIC, Asst Adj., of No 4 (Gen Rft) Wing No 1 Cdn, Repat Depot, an Officer of the Cdn. Army Overseas, having been duly sworn states:-

"I am Lieut A.J. MacDonald, CIC., Asst Adjt of No 4 (Gen Rft) Wing, No 1 Cdn. Repat Depot. It is part of my duties to issue Emergency Food Ration Cards to personnel proceeding on leave. I recognise Exhibit "A" as being a number of such cards, which are issued on request to everyone going on leave for the period of the leave. No one is granted sufficient leave to require 38 of these cards. None are issued in blank but are filled out with the soldiers' regimental particulars and signed by the issuing officer."

.....
(A.J. MacDonald) Lieut

The Accused declines to cross examine this witness.

.....
(A20456 S/Sgt. Gooding, K.W.)

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence consisting of Two (2) pages was taken down bby me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

.....
(D.E. Jones) Major CIC
Officer detailed to take
the Summary of Evidence.

Signed in the Field

This 15 day of July 46

THE CASE OF A20456 Sgt (A/S/Sgt) Earl William GOODING ROMME

(i) LIST OF WITNESSES FOR THE PROSECUTION

(1) F57516 Col. Walker T.E. C. Pro. C.
(2) C123965 L/Col Seguin R.A. C. Pro. C.
(3) Lieut A.M. Macdonald CIC

(ii) LIST OF WITNESSES FOR THE DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR THE PROSECUTION

(a) One packet containing thirty-eight (38) 1 week Emergency Food Ration Cards (Marked Exhibit "A")

(iv) LIST OF EXHIBITS FOR THE DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

K.W. Gooding
(A20456 A/S/Sgt GOODING K.W.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my Trial.

I desire the services of.....
if he is available.

K.W. Gooding
(A20456 A/S/Sgt GOODING K.W.)

Signed in the Field
This 15 DAY OF July 46

Ord

TRIAL OF

A.20458 Sgt (A/Sgt) Karl William GOODING -- 4 (Gen Bft) Wing, 1 [illegible] Repat Depot

ADDRESS BY THE PROSECUTION

If the Court pleases the case of the prosecution is very straightforward. The Court is going to hear evidence this morning from a Cpl and a 1/Cpl in the Canadian Provost Corps to the effect that in the course of their duties in the London area they found the accused lying in the entrance way of one of the undergrounds. He was lying there apparently unable to move. He was questioned he made no response, his eyes were closed, they raised him to his feet and had to carry him to the waiting provost 8 cwt where he was carried away to the HQ of the provost to be examined and placed in custody. He smelt strongly of alcohol. On the way in from the place of apprehension to the place of detention he made no sign, his eyes remained closed. He was then carried from the 8 cwt to the detention room, examined while lying on the floor unable to move, smelling of alcohol without making a sign, his eyes were closed at that time as well. In the routine of making a check of the possessions he had on him 38 emergency ration food coupons, unsigned, completely as they were when they had been when they had been issued to the adjutant of the unit from whence they came. That in essence is the case of the prosecution.

The prosecution is going to bring out further that this possession of the emergency ration food coupons was improper, improper because no-one goes on leave with that quantity of ration cards on his person and furthermore no-one proceeds on leave with blank ration cards in his possession. That in essence is the case of the prosecution. It is further pointed out for the attention of the court that the possession of ration cards is not authorized for OR's in such large quantities when going on leave in the London area and if one finds himself in such possession of ration cards the proper action is to forthwith hand them into the proper military authorities. That is all.

PROSECUTION

FIRST WITNESS FOR THE PROSECUTION

F.57616 Cpl WALKER, T.F. - 1 Cdn Repat Depot, formerly on strength 6 (Area) Provost Coy, sworn, states:-

Q. Have you seen anyone on the right of this Court room previously?
A. Yes sir.

Q. Who is it, will you indicate him to the Court?
A. S/Sgt Gooding.

Q. Who is presently the accused here?
A. Right sir.

Q. What do you know about him, will you explain to the Court under what circumstances you first saw him?
A. It was on the night of the 13 Jun 45 I received a phone call and I proceeded to the Mornington Crescent Tube Station.

Q. That is in the London area?
A. Yes sir, at approximately 2359 hours I saw this NCO lying in the doorway of the tube station.

Q. How was he lying? How do you mean lying?
A. He was lying half way around the sidewalk and leaning up against the door.

Q. He was able to move?
A. No sir.

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

Q. Then what did you do?
A. L/Cpl Seguin and myself approached the NCO and we shook him and tried to rouse him. I asked him where he was staying he didn't answer me so with the help of L/Cpl Seguin we took him and conveyed him to our 8 cwt and I helped to open the tail gate and put him in.

Q. Was he able to help himself?
A. No sir.

Q. Did he make any move to help himself?
A. No sir.

Q. Was he able to speak?
A. No sir.

Q. What were the questions you asked him?
A. Where he was staying, I thought we could take him there but couldn't get any answer.

Q. He made no answer?
A. No sir.

Q. Did you try to arouse him?
A. Yes sir.

Q. What was the result?
A. None sir.

Q. Did you smell anything peculiar?
A. His breath smelt quite strongly of alcohol.

Q. What happened in the 8 cwt?
A. We proceeded to our detention barracks on store street and with the aid of L/Cpl Seguin we carried him to the second floor of the building where the detention office is.

Q. You say you carried him?
A. Yes sir.

Q. How?
A. I took his shoulders, Seguin his legs.

Q. So his body was quite limp?
A. Yes sir.

Q. It fell down in the middle sort of thing?
A. Yes sir.

Q. Then what did you do?
A. We laid him on the floor and proceeded to take his possessions off of him.

Q. Were his eyes closed at that time?
A. Yes sir.

Q. What did you find on his possession?
A. He had some money and watches and a number of ration cards.

Q. Would you examine these and explain to the Court where you found them?
A. Yes sir.

Q. What are they?
A. Ration cards sir.

Q. Are they emergency food ration cards?
A. Yes sir.

Q. What is the quantity of them? How many are there?
A. 38 sir.

EVIDENCE FOR THE PROSECUTION (CONT'D)

Q. Where did you find them?
A. In his tunic sir.

Q. He was lying on the floor, you were going through his pockets and you found those?
A. Yes sir.

Q. Would you hand them into the Court?
A. Yes sir.

30 EMERGENCY RATION CARDS MARKED EXHIBIT 1 BY THE COURT

Q. While you were going through the pockets of the accused was he making any move then?
A. No sir.

Q. Were his eyes closed?
A. Yes sir.

Q. How far away from him were you when you smelt liquor on his breath?
A. Right close to him sir.

Q. It was a drink smell?
A. Yes sir.

CROSS-EXAMINED

Q. You mentioned that you proceeded to this tube station on account of a phone call?
A. Yes sir.

Q. Did you take the phone call yourself?
A. Yes sir.

Q. By whom was the phone call made?
A. I don't know sir. It was a civilian.

Q. By a woman or man?
A. I don't know sir, I think it was a man.

Q. Will you tell the Court exactly what he told you?
A. He said, as near as I can remember that there was a Canadian soldier lying outside the tube station and just across the road is a tea wagon and there is a lot of pickpockets and other riff raff around there and apparently he has seen one or two watches on the S/Sgt and he didn't want to see him lose them.

Q. When you took his money from him at the detention barracks how much money did he have on him, can you remember approximately?
A. Approximately three pounds or something like that, two pound in notes and some change, I can remember exactly if there were any ten bob notes amongst them.

RE-EXAMINED

Q. When you went through the possessions of the accused in the detention room did you find any evidence to the effect that he had been rolled or was he still in possession of the valuables or the large number of things that were valuable?
A. If I remember rightly he had four or five watches and the money.

Q. And the ration cards?
A. Yes sir.

Q. Was there any signs of him having been in an encounter and having been rolled?

FIRST WITNESS FOR THE PROSECUTION (CONT'D)

A. No sir, we examined his head for bruises and blood, we thought probably he might have got hit and then rolled, we always do that and if there is evidence of a blow we take him to the Medical Officer.

Q. No such a mark on him?
A. No sir.

Q. No marks on his hands?
A. No sir.

Q. Was there any blood on the blouse or trousers?
A. No sir.

QUESTIONS BY THE COURT

Q. You say that when you approached the accused he was apparently out?
A. Yes sir.

Q. You couldn't arouse him at all?
A. No sir.

Q. Did you get him up and on to his feet?
A. No sir, we tried to but he couldn't stand up.

Q. He was completely out?
A. Yes sir.

Q. Was there a very strong smell of alcohol on his breath?
A. Right sir.

Q. Your conclusion from that was that he was dead drunk?
A. That was what I thought.

Q. No sign of him being involved in a scrap or anything like that?
A. No physical sign.

Q. His uniform was not torn and looked quite neat?
A. Yes sir.

Q. Where did you find the ration cards?
A. In his tunic.

Q. Where?
A. In the inside breast pocket.

Q. Were they loose like this or in a bundle or how?
A. I think they were loose.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS FOR THE PROSECUTION

C.123965 L/Cpl SEGUIN, R.A. - 6 (Area) Provost Coy, sworn, states:-

Q. Is there anyone on your right whom you have previously seen?
A. Yes sir.

Q. Who is he, would you indicate him to the court?
A. S/Sgt Gooding sir.

Q. Who is presently the accused here?
A. Right sir.

Q. When did you first encounter him?
A. On the 15 of Jan 46 at approximately 2359 hrs.

SECOND WITNESS FOR THE PROSECUTION (CONT'D)

Q. What were the circumstances under which you [illegible] him?
A. He was lying in the doorway of Mornington Crescent Tube station.

Q. Where you with someone when you first saw him?
A. Yes sir, Cpl Walker.

Q. How was he lying there?
A. His head was down and curled in the corner.

Q. Then what did you do?
A. We assisted him to his feet and he couldn't stand up by himself and so we carried him to the truck.

Q. Could he make any movement at all?
A. No sir.

Q. Did he attempt to speak?
A. He was saying something but it didn't mean anything.

Q. Did you ask him anything?
A. We tried to find out his name.

Q. What was the answer?
A. No answer.

Q. Did he make any effort to help himself?
A. No sir.

Q. Did he make any effort to move at all?
A. No sir.

Q. Were his eyes closed?
A. I didn't notice.

Q. Did you notice any peculiar odor?
A. His breath smelt of liquor.

Q. Quite strongly so?
A. Yes sir.

Q. Then what did you do with him?
A. We put him in the truck and took him to the office and carried him upstairs and laid him on the floor and searched him.

Q. And while you were going through the contents of his pockets how was he lying?
A. Lying on his back.

Q. Were his eyes closed?
A. I couldn't say sir.

Q. He was making no move?
A. No sir.

Q. But he was lying on the floor?
A. Yes sir.

Q. What did you find in his pockets?
A. We found 38 rations coupons.

Q. Did you find anything else in his pockets?
A. Yes sir.

Q. What were they?
A. Wrist watch, money, paybook and leave pass.

Q. Was there any evidence on the accused that he had been hit?
A. No sir, no marks on him whatever.

Q.

RECORD TAKEN FOR THE PROSECUTION (CONTD)

Q. No marks on him as if he had been rolled?
A. No sir.

Q. Was he drunk?
A. I can't say sir, but in my opinion I would say he was.

Q. What is your opinion?
A. I can't say that he was drunk.

Q. But you say that he smelt strongly of liquor and couldn't make a move?
A. In my opinion I would say he was drunk.

Q. As a matter of fact is that one of the main reasons you apprehended him?
A. Yes sir.

CROSS-EXAMINED

Q. When you took his money from him how much was there, do you remember?
A. There was, I am not sure but I remember there was one ten shilling note.

Q. Any more?
A. Might have been some silver.

Q. No other notes?
A. No sir, no other notes.

QUESTIONS BY THE COURT

Q. How many watches did he have?
A. Five sir.

Q. And he had some cash in his possession?
A. Yes sir.

Q. And he had some ration cards?
A. Yes sir.

Q. What are those?
A. I recognize these as the ones, yes sir.

Q. What else did he have? Did he have keys or pocket book or anything like that?
A. I don't remember him having keys.

Q. Can you remember anything else that was in his pockets?
A. There was a paybook, handkerchiefs, cigarettes.

Q. Where were these particular ration cards?
A. In his tunic in one of the inside pockets.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 88(2).

FURTHER WITNESS FOR THE PROSECUTION

Lieut. A.G.J. MacDonald, Ass't Adjutant, 4 (Can Art) Wing, 1 Can Repat Depot, sworn, states:-

Q. Would you tell the Court what your employment is?
A. I am the assistant adjutant of 4 C.R. Wing, 1 Repat.

Q. Would you explain to the Court what is your policy or the policy of the army with regards to the issue of food cards, emergency food ration cards?
A. Is that for every seven days one of those cards is half is given to the person, in other words one of those cards is good for 14 days.

WITNESS FOR THE PROSECUTION (CONT'D)

Q. When an O.R. proceeds on leave what is the number of ration cards with which he is issued?
A. For 14 days he would be issued with one of those cards.

Q. Is anyone ever granted sufficient leave to require 28 of those cards?
A. I have never known anybody to get more than 30 days leave.

Q. Now when those ration cards are issued are they signed, is there writing upon them?
A. Yes, they are inscribed with the recipients name rank and number and also they are stamped with the unit stamp and generally signed by the officer issuing same.

Q. Would you examine those cards there and from your policy would you say these would be issued to an O.R. going on leave?
A. No.

Q. Why?
A. They are not stamped or signed.

Q. Have you ever seen any ration cards of that kind before?
A. Yes.

Q. Is that the type that is usually issued to a Canadian OR proceeding on leave?
A. Yes, that is for periods of seven days.

Q. You have handled ration cards of that particular kind in your capacity as assistant adjutant?
A. Yes.

Q. That is the practice of the Canadian Army as you understood it?
A. Yes.

CROSS-EXAMINED

Q. Do you keep records of the numbers of ration cards such as these at the unit?
A. Yes.

Q. Have you checked these present numbers at any time, in other words have you checked these numbers against your records?
A. Yes.

Q. Were they at any time in your possession at the unit?
A. No.

Q. When the accused was brought up for investigation in front of Major Barclay were you present?
A. No.

QUESTIONS BY THE COURT

Q. These ration cards were not issued to a Wing, I repeat?
A. No sir.

Q. Was any attempt been made to find out to whom they were issued?
A. Yes, and the nearest we got was that they were issued to No. 3 CTD, HQ'S on the continent.

Q. Can you say at what time they were issued to them?
A. I can't sir.

IT IS THE OPINION OF THE COURT IT IS NOT NECESSARY TO CAUTION ACCUSED NO 98 (B).

PROSECUTION IS CLOSED

The accused, sworn, states:-

Q. I want you to tell the court what happened, to the best of your knowledge, of course on the day that you went on leave from 4 C.R. ing, from the time that you left 4 C.R. wing.

A. Yes sir, I proceeded on leave on the afternoon of the 12 of June ~~June~~ and I went to the other wing which is at Witley camp to see some of the boys I had been with to say good-bye as I wouldn't be seeing them anymore.

Q. At approximately what time did you arrive there?

A. Right after lunch, I left possibly it would be one to one-fifteen.

Q. You met these boys?

A. Yes, I met several of them and in the course of saying good-bye there were drinks passed around and we had some drinks together.

Q. Approximately how many drinks would you say you had and of what?

A. It was mixed actually, some whisky, some steinhagen gin, which was from the continent and there was no other drinks I believe of any other kind. As to the quantity that is pretty hard to describe, it was tin cups and we were drinking out of whatever was available and as to the amount of drinks out of those containers I would say six to eight drinks.

Q. While you were there drinking did anybody give you anything?

A. Yes sir.

Q. What?

A. These said ration cards were passed to me.

Q. The ration cards that are marked exhibit 1?

A. Yes sir.

Q. By whom were they passed?

A. By one of the boys there, I can't definitely lay my finger on any particular one.

Q. Can you give the court the names of the members of the party which were there?

A. Some of them I know I can't give them all.

Q. Will you give the court the names of the ones you knowwere there?

A. There was WO Salmon for one, S/Sgt Stewart for another and Sgt Gandolfil was another, there were also several coming and going, no-one stayed for any length of time.

Q. You had known these men previously in your unit on the continent?

A. Some were from my unit, some were not but I had known them on the continent.

Q. You say that one of these men gave you the ration cards?

A. Yes sir.

Q. You can't remember who it was?

A. No, I can't sir.

Q. For what purpose were they given you?

A. At the time I took them I wanted to destroy them but not in front of them and I was going to take them away and destroy them or turn them in which was the proper thing to do. At the time the party was going on I certainly was not going to destroy them in front of the party.

FIRST WITNESS FOR THE DEFENCE (CONT'D)

[redacted]uth?
A. Yes sir.

Q. You actually intended to destroy them or turn them in?
A. Yes sir.

Q. What time did you leave there?
A. Sometime between the hours of half past four and five o'clock.

Q. When did you take your last drink?
A. Just about the time I left.

Q. Then what did you do?
A. I hitch-hiked my way to Hazelmere on a truck that was leaving camp, and was going on leave, I got the train there for Waterloo which was just around 8 o'clock a minute before or after.

Q. Approximately what time did you arrive in London?
A. It was I would say possibly 25 minutes after seven or so maybe 7.30.

Q. What did you do when you got to Waterloo?
A. I got the tube.

Q. Did you take a drink at the buffet in Waterloo station?
A. No sir, nothing whatever, I went straight to the tube.

Q. And where did you go on the tube?
A. I went to Camden town, it is a three-penny ride on the tube.

Q. Approximately what time did you arrive there?
A. Possibly a 10 minute run.

Q. Then what did you do?
A. I went to a restaurant and had a meal, I had no supper in camp before I left and so I had my meal in London.

Q. Were you under the influence of alcohol at that time you had your meal?
A. I felt quite sober.

Q. Did you feel quite sober when you landed in Waterloo?
A. Yes sir.

Q. And then you had a meal after that?
A. Yes sir.

Q. After you had your meal what did you do?
A. I went up to the pub.

Q. Which pub?
A. The Wheat Sheaf pub in Camden town.

Q. Did you have anything to drink?
A. Yes sir, I ordered a light ale, on getting the first light ale I had a considerable amount of money in my pocket and and knowing what London is and being that I knew the lady behind the bar I left her the sum of 37 pounds.

Q. Approximately how much money did that leave you?
A. It left me with I think it was less than five pounds.

Q. How many drinks did you have while there?
A. I should say possibly six or seven, light ales and two whiskys..

Q. Were you affected by them?
A. Not particularly no.

Q. What time did you leave there?

FIRST WITNESS FOR THE DEFENCE (CONT'D)

A. Around the vicinity of I would say of 9 o'clock or a quarter past 9, I went to a pub across the road.

Q. What did you do there?
A. I asked the bartender what they had to drink and he said they had straight beer and port. I don't drink port myself and while ordering the first small beer there was a lady came up to me who I have known by sight for possibly three years and started talking to me, so I asked her if she would have a drink and she said she would have a small beer and she introduced me to two lady friends that were with her and while we were having the drink she tried to pawn me off on one of her girl friends and get me to go with one of her girl friends.

Q. By that do you mean to go with her for the night or the evening or what?
A. What she said to me is that "she is clean" and that set me off and I gave her a telling off and said I had been set up once before and her claiming to be a nurse as she said she was she should know better.

Q. How did she receive this remark of yours?
A. Wasn't very well pleased at the time.

Q. Did you have a sort of altercation with her, did she tell you what she thought of you or that she liked you?
A. Nothing of that sort sir.

Q. What happened then?
A. I bought two rounds of small beer and after the second round which was in small glasses.

Q. What happened then?
A. I went to the lavatory.

Q. This is before you had the second drink?
A. Yes, I came back and drank my second glass of beer and I was going to leave the pub and then on the way out of the pub I saw another person I had known by sight seeing as I go to that part of London on all my leaves and I passed the time of day with that person and at the door it was near closing time.

Q. Would you say you were sober then?
A. I would say I was reasonably sober.

Q. What happened then?
A. When I got to the door, that is where I blacked out.

Q. You don't remember going through the door?
A. I remember getting through the door of the pub, I don't remember anything of the street outside.

Q. What is the next time you remember anything?
A. The next I remember is the door of the detention cell rattling the following morning.

Q. What happened then?
A. One of the Cols woke me up and told me it was time to get up and to waken up, I asked him what it was allaboutt, I wanted to know what had happened and whether I had gotten into anything else and they told me that they had picked me up and that I was in possession of ration cards which I didn't know the quantity of and he asked me how much money I had on my person last night, I said I had approximately £3-10-0, which when they checked was right. I had £3-9-10 when they counted the money I had in my pocket. He asked me how it was I had drawn £40-0-0 the day before and where was the rest, I told him. So during the morning I asked the

FIRST WITNESS FOR THE DEFENCE (CONT'D)

provost Sgt if he would give me an escort to go and pick up the money at the pub. He said no but he would send a man up providing I gave him a note of authority which I did. L/Cpl McDonald went up there during the opening hours of noon, between twelve and two and told the lady of the pub that I was in jail.

Q. Did you or did you not get the money back?
A. Yes sir, I did, the Cpl came back with the money.

Q. How much?
A. 37 pounds.

MY CROSS-EXAMINATION

QUESTIONS BY THE COURT

Q. You say before you went on leave you came over to Witley camp to see some friends?
A. Yes sir.

Q. Who were these friends that you came to say good-bye to?
A. The people I have mentioned, more possibly, just how many I don't know.

Q. How many of your friends were at this Witley camp?
A. The rear party of the work-shop and the ones I could find around that I wanted to say good-bye to.

Q. And you have given us the names of three people?
A. Yes sir.

Q. How many more were there?
A. I can't remember any particular number, possibly there may have been fifteen people I believe that I saw there. There was also some personnel that I have known through dealings in the work shops that I have had back there and seen quite often.

Q. Who was it that gave you these rations cards?
A. Directly sir, I don't know sir.

Q. It was not [illegible] Salmon?
A. No sir.

Q. It was not S/Sgt Stewart?
A. No sir.

Q. It was not Sgt Gandolfil?
A. No sir.

Q. So they were given to you be one of these persons you don't know?
A. Yes sir.

Q. So you can't have know him very well?
A. Some of them I knew better than others.

Q. So that one of the people you knew better than the others gave you these ration cards?
A. No, not particularly.

Q. I am trying to find out why somebody who doesn't know you would give you 38 rations cards?
A. Who they came from I don't know.

Q. Did you remember getting the ration cards?
A. At the time yes.

Q. Was there any discussion about them?

FIRST WITNESS FOR THE DEFENCE (CONT'D)

A. They were just passed to me.

Q. What do you mean "passed to you"?
A. Given to me.

Q. By one of these people you don't know?
A. Yes sir.

Q. Why would they suddenly give you 38 ration cards?
A. Possibly because they were going home.

Q. You didn't know them?
A. I happened to be there.

Q. There was JMS Salmon, S/Sgt Stewart and Sgt Gandolfil who they were working with, why didn't they give them to them?
A. I don't know sir.

Q. Wasn't there any preliminary discussion about the ration cards?
A. No sir.

Q. Nothing said when they were given to you?
A. No sir.

Q. What did you tell the man you were going to do with them?
A. Nothing sir, I was hesitant about it.

Q. What did he tell you when he gave them to you?
A. He said, "you might just as well have them, they are [illegible] good to me."

Q. And you haven't the faintest idea who he was?
A. No sir. I can't put my finger on anyone person.

Q. You left camp between 4.30 and 5 o'clock?
A. Yes sir.

Q. And you went to Maselmere Station?
A. Yes sir.

Q. Did you walk all the way?
A. No sir, I hitch-hiked in a vehicle.

Q. Caught the train at six and got to London at half past seven?
A. Right sir.

Q. You went from there to Camden town?
A. Right sir.

Q. Had a meal at a restaurant?
A. Right sir.

Q. And then went to the Wheat Sheaf pub?
A. Yes sir.

Q. And about what time did you get to the pub?
A. Shortly after 8 o'clock I would say.

Q. A ten minute tube ride and then you had a meal?
A. Yes, fish and chips.

Q. that was between half past seven and the time you got to the pub?
A. Yes sir.

Q. You left the pub at 9 o'clock?
A. Around the vicinity of 9 o'clock, that particular pub.

Q. And during this time, which was less than an hour you can-

clb

A. Right sir.

Q. And you felt perfectly well and sober at 2 o'clock as you started through the door from one side?
A. And everything went blank as you stepped one more step out?
A. Correct sir.

Q. And you didn't remember anything until the following morning?
A. That is the first I remember.

Q. You heard the evidence this morning as to where you were picked up?
A. Yes sir.

Q. How far away is that from the entrance to the pub?
A. I would say a good half block.

Q. When you were picked up the next morning there was nothing missing from your pockets?
A. No sir.

Q. You had all the money that you should have had?
A. Right sir.

Q. Started out with some £40-0-0 and left of it and had about £5-0-0 and had £3-16-0 when you were picked up?
A. Yes sir.

Q. You had five wrist watches in your possession?
A. No sir, they were not all wrist watches.

Q. None of them were touched?
A. No sir.

Q. You had 38 rations cards, none of them were touched?
A. I don't know. I didn't know the amount.

Q. Is that perhaps the one you got from the person you don't know?
A. I never said that about getting it then.

Q. You should know if it was twice the size or half the size?
A. It looks like the pack I got.

Q. You weren't marked in any way?
A. No sir.

Q. You hadn't been hit over the head in any way?
A. Yes sir.

Q. You would have known about it if you had?
A. Yes sir.

Q. How do you explain the fact that you suddenly went blank at 2 o'clock in the evening?
A. On the person, the nurse, the lady who said she was a nurse, in my own mind I believe that she possibly doped the beer.

Q. What is her name you have known her for three years?
A. I don't know her name. All I do know about her is that I had seen her before, she had seen me in the pubs around the district and she could name some of the officers I knew and she said she had been working with Canadian nursing sisters in a hospital somewhere.

Q. She had been frequenting the Wheat Sheaf for three years?
A. No sir, the one across the road.

Q. What is the name of it?
A. The Brighton sir, she is in various pubs around that

FIRST WITNESS FOR THE DEFENCE (CONT'D)

[illegible]

Q. She introduced you to two ladies, didn't she mention their names?
A. No sir.

Q. Did she mention your name to them?
A. No sir, they didn't call me by my name, they called me "Curly" around there.

Q. So you think that the nurse, or the woman who said she was a nurse doped your beer, for what reason?
A. I have no idea for what reason sir.

Q. Evidently it was not for the purpose of getting you to go away or getting your money or your valuables, why would you suggest your beer was doped?
A. I have no idea, being the person she is, from what I know of her I wouldn't trust her.

Q. She wouldn't do it unless she had a reason?
A. Maybe it was because of my telling her off before about being a nurse.

Q. Just out of spite?
A. Maybe, that is the kind of person she seems to me to be.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS FOR THE DEFENCE

L.108944 L/Cpl McDONALD, L.E. - 8 (Area) Provost Company, sworn, states:-

Q. Do you recognize the accused?
A. Yes sir, I do.

Q. What is his name?
A. S/Sgt Gooding sir.

Q. Under what circumstances did you first see him?
A. Store street.

Q. When?
A. I didn't see him until the next day.

Q. What day would that be?
A. Well I couldn't exactly tell you the day.

Q. Was it five days ago or 50 days ago or what?
A. It is nearly a month I think.

Q. Why did you see him?
A. I was on duty in the detention office sir.

Q. Were you asked to do anything for the accused?
A. He asked us, he said he had some money checked at the pub and asked if we could pick it up for him.

Q. What happened?
A. I got him to make out a note so I could go down to the pub and pick it up for him.

Q. Did you do so?
A. Yes sir.

Q. How much was there?
A. 37 pounds.

NO CROSS-EXAMINATION

ADDRESS BY THE DEFENCE

May it please the Court, the evidence of the prosecution brought out the facts, certainly facts which are admitted by the defence in that he was found in possession of these ration cards. The charge reads, improper possession and the defence contends that this senior NCO was properly in possession of those cards because his intention was to turn them in to the proper authorities, therefore there has been nothing brought forward by the prosecution that he was going to use them improperly, that he had them for any other purpose than the one he said in his own evidence under oath. As far as the charge of drunkenness is concerned this man may have been to a certain extent under the influence of liquor when he left Witley but that was between 4.30 and 5 o'clock, there is no evidence from anybody that he was drunk, in fact we have his own evidence that he was not drunk until the time he was picked up when he might easily have been under the influence of a drug or something of that nature. He was sober we'll say when he left at 4.30, there is the time of three to four hrs a interval the fact that he had a meal before he drank anything further. After that time the evidence is that he had two small whiskys and six or seven, I believe, light ales. It is put to the Court that a man who is sober and has a meal and only has six or seven light ales and two whiskys he is not going to become so inebriated that he is going to pass out from say 10 o'clock at night until the following morning so that nobody can even shake him into consciousness without something having happened to him. It is unbelievable to me that a man could drink that amount, a man who is accustomed to drinking but is not a drunkard, as character witnesses will bring in, can drink that amount of Alcohol and will pass out, to use the colloquialism, for that period of time. I leave it to the Judgement of the court. There is not evidence, in fact there is not evidence to the contrary that he did not drink any more than that. If he had drunk more than that he would have had far more money than £0-16-0 that he had which is in line with the amount of money he first had and what he drank.

ADDRESS BY THE PROSECUTION

The case for the prosecution has been clear in itself. The Court has heard before it the evidence to the fact that the accused was found in a state which was anything but cold sober. He says himself that he had all sorts of things to drink. I ask the court once again to keep in mind what he had to drink, that afternoon according to his own word he had whisky and sinfrom the continent, if you add that to the amount which was consumed in the pub that evening, perhaps the combination of the two, inspite of the meal of fish and chips would have the effect that it apparently had on the accused. As to the ration cards, the accused freely says "Yes, Of course I had them in my possession", that point is not argued at all. As to the slipping of the Mickey Finn to the accused, when questioned upon it could not produce any reasonable explanation why an action like that would be taken by this girl whom he has known for three years. I ask the court in conclusion to consider the fact that it is most unreasonable behaviour for anything or any extra drug to be slipped into the drink and the accused could see no adequate reason for that. As to the possession of the ration cards the prosecution has not anything further to say on that point because out of the mouth of the accused himself he has created his own case.

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT RE-OPENS

FIRST WITNESS (CHARACTER) FOR THE ACCUSED

C.DAIRE DES HAMTES, B.A. -- 1 Qtr Ten Coy RCOC, sworn, states:-

Q. You know B/Sgt Gooding?
A. Yes sir.
Q. How long have you known him?
A. Since about Jun 15 of 45.
Q. Will you tell the Court what you know about him, as to character, his ability and work and so on?
A. Since that time we have been working quite close together in the unit and B/Sgt Gooding has always carried out his work well and is willing to help anyone else and he had been on our Mess Committee for about 10 months, during that time no-one has had cause to doubt his honesty or even thought that he may be dishonest. After duty hours if there was any special work to be done he was always willing to do it. He was in a responsible job there.
Q. What was his job there?
A. About the last six months there was on inspections and tested equipment coming in and out of our work shop. He would more likely than not take the extra work himself if it was to be done inst ad of putting anyone to the inconvenience of going out after duty.
Q. What would you say as to the concensus of opinion in the unit?
A. He was well liked by everyone.
Q. Was he to your knowledge in any trouble of any kind, was he shall we say mixed up in any rackets on the continent?
A. No sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS (CHARACTER) FOR THE ACCUSED

B.24614 DES YEHMO, E.D. - 1 Cdn Ven Coy, RCOC, sworn, states:-

Q. Do you know the accused, Sgt Gooding?
A. Yes sir.
Q. How long have you known him?
A. I went to the work shops at the first of this year.
Q. Since that time have you been in contact with the accused?
A. Yes sir, every day.
Q. Knew him quite well in fact?
A. Yes sir.
Q. What is your opinion of his character?
A. In my opinion he is a very good man and I found that there was nothing he wouldn't do to help anybody out.
Q. What would you say about his work?
A. He wasn't directly under me sir, but he always gave me the impression that he was a good worker and conducted himself well.
Q. What is your opinion about his honesty?
A. Very good sir, I have never known him to get in any scrapes of any kind.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS (CHARACTER) FOR THE ACCUSED

[illegible]

Q. Do you know the accused S/Sgt Gooding?
A. Yes sir, I do.

Q. How long have you known him?
A. Since the 13 or 14 of Jun last year.

Q. Have you been with him until recently?
A. Yes sir.

Q. All that time?
A. Yes sir.

Q. What is your opinion about his character?
A. Very good sir.

Q. Can you go into a little more detail, the type of man he is, his honesty, his work and so on?
A. He had one of the key jobs in our shop and at no time during the time that I have known him as he ever fell down on the job or done anything that would blacken his character in any way.

Q. Is he the type of man or not who might do things for other people, is he conscientious?
A. He is the type of man anyone would want for a friend. As long as I have known him he has helped people out and he has always helped out with extra work.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RR 83(B).

PLEA OF MITIGATION

S/Sgt Gooding is a man who has been holding down a responsible position during the war. Character witnesses, men who have known him for sometime, one in particular, know him for a man who has never gotten into any trouble which is borne out by his records. He is a man who is conscientious. He has never been mixed in any way with the rackets on the continent. He has always done a good job of work and I feel that this trouble he is in at the moment is definitely one of an error in judgement in that he took possession of the ration cards with the best possible intent and that his intentions were to get them to the proper authorities. He doesn't know who he got them from. It is quite possible to me, and I think to the Court that he not knowing exactly where he got them from was protecting all those men that he had served with. He didn't want to state any of their names if he could avoid it. I would ask the Court to remember that in sentencing this NCO, they may also remember that this young NCO is going back to Canada for demob. He has been under close arrest for some 24 days, that will cost him in pay like approximately $80.00 on top of that he will lose almost a months gratuities that is to say 34/30 of 15 dollars basic gratuity and an equal amount of re-establishment credit and of course a portion of the seven days of the supplementary gratuity, in other words he is up against a fine no matter what sentence is imposed of shall we say $100.00 or so dollars and I feel at this stage of the game that the Court will show all clemency they possibly may do.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.20456	Sgt	A/S/Sgt	Karl William	GOODING	4(Gen Rft)Wing 1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jul 46 endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col (Rank.)	C.E. Woodrow, OBE ED (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Capt	TO BE DETAILED BY OFFICER COMMANDING	1 Cdn Repat Depot
Lieut (Rank.)	TO BE DETAILED BY OFFICER COMMANDING (Named or detailed. RP 106.)	1 Cdn Repat Depot (Unit.)
	~~[illegible]~~	
~~[illegible]~~	~~[illegible]~~	~~[illegible]~~
	~~[illegible]~~	
~~[illegible]~~	~~[illegible]~~	~~[illegible]~~

On Active Service in the Fd

in England (Country.) — M.B.K. Gordon (Signed personally. RP 105 fr 2.) (M.B.K. Gordon) — Col (Rank.)

Date 15 Jul 46 — Commanding 1 Cdn Repat Depot Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 2) 40/P & S/1697 (6148)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The Accused, A2O486 Sgt (A/S/Sgt) Kerl William GOODING, RCEME, on strength No 4 (Gen Rft) Wing No 1 Cdn. Repatriation Depot, a soldier of the Cdn. Army Overseas is charged with:

FIRST CHARGE

SECTION 40

ARMY ACT

WHEN ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the Field, on the evening of 15/16 JUN 46, when apprehended by personnel of the Cdn. Pro Corps, was improperly in possession of 34 blank Emergency Food Ration Cards.

SECOND CHARGE

SECTION 19

ARMY ACT

WHEN ON ACTIVE SERVICE

DRUNKENNESS

in that he,

in the Field, when apprehended at 2359 hrs 15 JUN 46 in London, by personnel of Cdn. Pro Corps, was drunk.

Officer Commanding
No 4 (Gen Rft) Wing
No 1 Cdn. Repat Depot
(Lorne Scots)
Cdn. Army Overseas.

Field
15 JUL 46

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(M.B.K. Gordon)Col
Commanding Officer
#1 Cdn Repat Depot

In the Field
15 Jul 46

MEDICAL OFFICER's REPORT
(KR (Gen) 55/)

THIS IS TO CERTIFY THAT I HAVE THIS MORNING MEDICALLY EXAMINED

A.20.426 S/Sgt G.a.o.d.i.n.g. K.i.w.
(Regt'l No.) (Rank) (Name) (Initials)

AND THAT, IN MY OPINION, HE IS fit (FIT, UNFIT - See NOTE) TO UNDERGO

TRIAL BY COURT-MARTIAL.

STATION: .....
(Camp & Place)

DATE: 6/7/46 [signature] RCAMC
MEDICAL OFFICER
Unit: .....

NOTE: (ALL DELETIONS and/or ALTERATIONS WILL BE INITIALLED BY THE MEDICAL OFFICER)

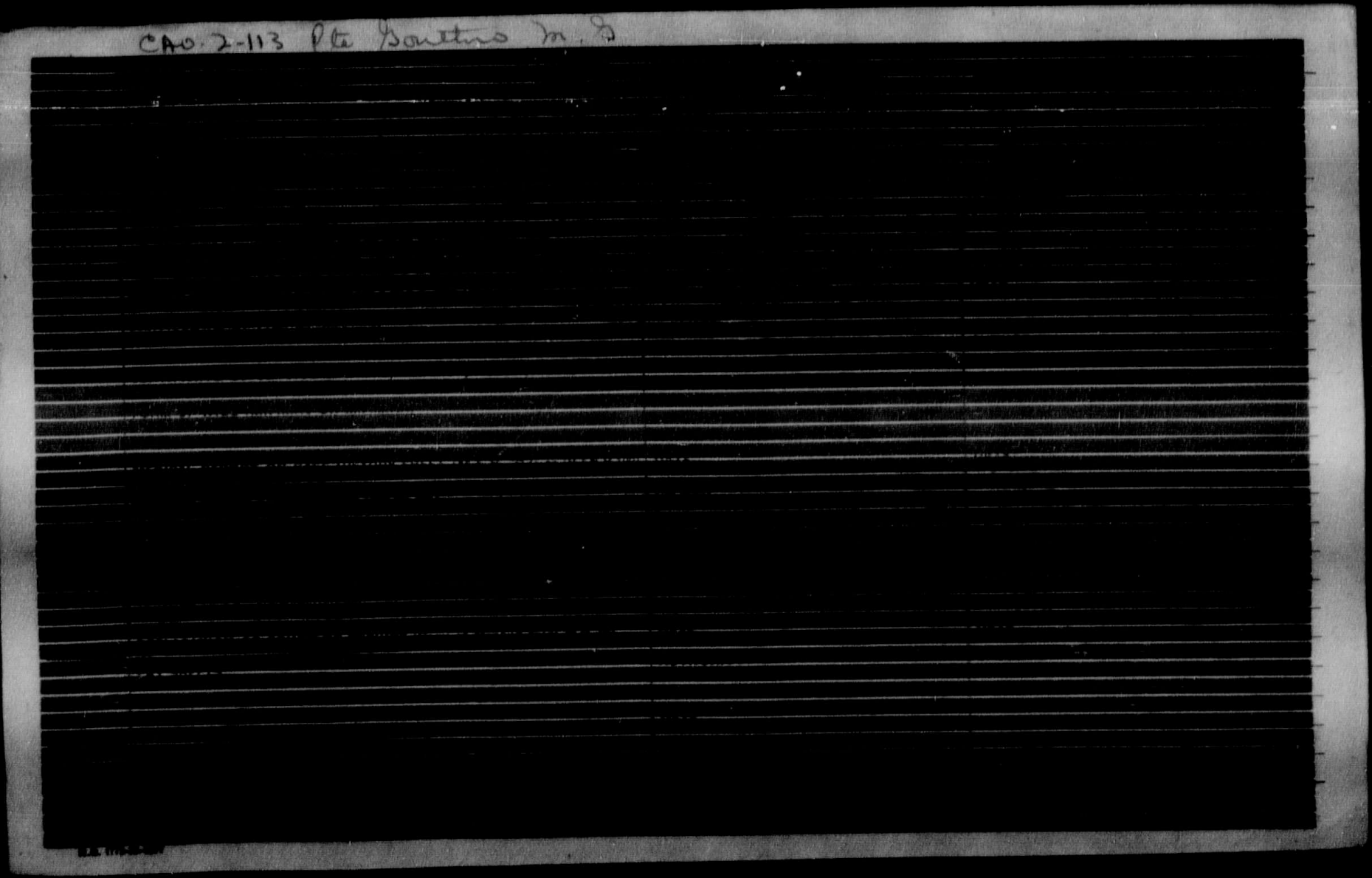
M.F.M. 6
(A.F.B. 122)
17556—7-41 (1710-28)
H.Q. 1772-20-1652

No. A20456 Name GOODING, K.W. Sqn., Battery, or Company Corps RCEME Date of enlistment 1 Aug 40 G.C. Badges Ex-Allied "C" Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
				NIL					
				Certified True Extract from Original MFM 4 held in my possession.					
				C.E. Ennis (C.E. Ennis) Lieut RCA, Officer having custody of Original Documents.					
				9 July 46					

(P.T.O.)



CAO. 2-113 Pte Gouttes M. G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F 36641 Pte Michael Gerard GOUTHRO 1 Cdn Repat Depot

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note.: As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Six months detention

(Sgd) ..... Judge-Advocate, if any. 13 Nov 46 Date awarded. (Sgd) Vincent K McKenna President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 63. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) W B K Gordon Col.

Date 14 Nov 46 Commanding 1 Cdn Repat Depot Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F 36641 Pte. GOUTHRO, M.G.	15 Nov 46.	[illegible] Lt-Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 C40-2-115

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40/1/2 & 3. 1000-6(44) 4/38B

Convened by Order of Col W B K Gordon DSO ED Comd 1 Cdn Repat Depot dated 9 Nov 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, 184, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 36641	Pte	Michael Gerard	GOUTHRO	1 Cdn Repat Depot

PROCEEDINGS REVIEWED 22 Nov 46 C.H. [illegible] 1st Lt.
[illegible] OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Field in (country) England on (date(s)) 12 Nov 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1115 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....
~~The Interpreter is sworn.~~ (1) Do you object to CAPT J.S. RICHARDS, CIP as shorthand writer ? Ans NO SIR.
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans NO SIR (1)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	V McKENNA	LOAN REP DEP
Member	CAPT	G G MACRAE	LOAN REP DEP
Member	LIEUT	J G ENGLAND	LOAN REP DEP
~~Judge-Advocate~~			
Prosecutor	LIEUT	F G RIVERS	LOAN REP DEP
Defending Offr	LIEUT	H R TAYLOR	LOAN REP DEP

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See Div p 3.)

A8. The accused F 36641 Pte Gouthro M.G. before arraignment make(s) (no) (~~no~~) plea (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 1B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*B*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. N C S A.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p. 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex P, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded ~~GUILTY~~ are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldiers(1) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 3515 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Plea in mitigation by Def. Offr attached.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything false or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and/or PJs, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 562-566, Overseas HO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 36641	Pte	-	-	Michael Gerard GOUTHRO	1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Nov 46 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt col	V McKenna (MC)	1 Cdn Repat Dep
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	To be detailed by Commanding Officer	1 Cdn Repat Dep
Lt	To be detailed by Commanding Officer	1 Cdn Repat Dep
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — M B K Gordon (Signed personally. RP 105 fn 2.) — Col (Rank.)

Dat 9 Nov 46 — Commanding (M B K Gordon) #1 Cdn Repat Depot
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 46/P & S/1697 (5143)

CHARGE SHEET

The Accused, F36641 Pte. Michael Gerard GOUTHRO, CIC., on strength No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2300 hrs., 19 February 1946 until being arrested by the Civil Police in Whitechapel at 0005 hrs., 6 November 1946.

ABSENT: 259 days, 1 hour, 5 minutes.

(B M MACINTYRE) Lt-Col.,
Officer Commanding,
No 1 Wing,
No 1 Cdn Repat Depot,
Canadian Army Overseas.

Field

7 Nov 46.

To be tried by Field General Court Martial

(M B K Gordon) Col
Commanding Officer
#1 Cdn Repat Depot

Field

9 Nov 46

SUMMARY OF EVIDENCE

Ex A

in the case of,

F36641 Pte. Michael Gerard GOUTHRO, CIC, on strength No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order 5352 which have been read over and shown to the Accused, and are attached hereto as Exhibits."

(1) Certified True Copy of the Declaration of a Court of Inquiry held on 20 March 1946 which declares that F36641 Pte. GOUTHRO, M.G., absented himself without leave from 2300 hrs, 19 February 1946.
(Marked Exhibit "A")

(2) Certificate in Accordance with P.C. 2797 of 10 April 1942 signed at London on 6 November 1946 by Lieut W.M. Arnett, O I/C, No 6 (Area) Provost Coy., which declares that F36641 Pte. GOUTHRO, M.G., was arrested at Whitechapel at 0005 hrs., 6 November 1946.
(Marked Exhibit "B")

F G Rivers Lt.
(F G RIVERS) Lieut RCAC
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one (1) page was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

F G Rivers Lt.
(F G RIVERS) Lieut RCAC
Officer detailed to take the Summary of Evidence.

Signed in the Field

This 7 day of Nov 46.

THE CASE OF F36641 Pte. GOUTHRO, Michael, Gerard

LIST OF WITNESSES FOR THE PROSECUTION

Nil

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS FOR THE PROSECUTION

(a) Cert True Copy of the Dec of Ct of Inq concerning the absence without leave of F36641 Pte. Gouthro, M.G. (Marked Exhibit "A")

(b) Cert in accordance with P.C. 2797 of 10 April 1942 signed in London by Lt. W.M. Arnett concerning the apprehension of F36641 Pte. Gouthro, M.G. (Marked Exhibit "B")

LIST OF EXHIBITS FOR THE DEFENCE

Nil

RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

M. J. Gouthro
.....
(F36641 Pte. GOUTHRO, MG)

APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

M. J. Gouthro
.....
(F36641 Pte. GOUTHRO, MG)

Signed in the Field

This 8 day of Mar 1946

RHAD Coy Stores 20 March 46

DEFICIENCIES OF KIT OF: F 36641 Pte GOUTHRO, M.G.

		100% £ s d	75% £ s d
Boots ankle, prs	2	2-08-10	1-16-08
Drawers, cell	2	03-10	02-10
Trousers, B. Dress	1	1-09-03½	1-01-11
TOTALS		£ 4-01-11½	£ 3-11-05

Checked by C52131 H. G. Southerland Sgt

Witnessed by J. [illegible]

EXHIBIT B

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr. 42

I certify that No. F-36641 [redacted] Rank Pte. Name Gouthro.M.G.

Unit No.1Cdn.Repat was arrested at Whitechapel (place)

at 0005 (Hour) on 6-11-46 (date) and that at the time of his arrest he was wearing (Military Uniform) or ~~(Civilian Clothes)~~, Signature of ~~Provost-Marshal, Assistant Provost-Marshal, or other Officer~~ or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
6 Nov.46

W M Arnett Lt.
Arnett.W.M.
O I/C No 6(Area) Cdn.
Provost Coy.

MEDICAL OFFICER's REPORT

(RR (Can) 557)

This is to certify that I have this morning medically examined

NO F36641 Pte. Gouthro M.G.

and that in my opinion he is (fit) ~~(unfit)~~ ~~"H.F."~~ [illegible]

to undergo trial by Court-Martial.

Station Tweedsmuir Camp.

Date 13 November. 1946.

[illegible]

RCAMC
Medical Officer
"1" Wing #1 Cdn Repat Dep

Note: (All deletions and alterations will be initialled by the M.O.)

EXHIBIT "A"
ENTRY No 224

RECORD of the Declaration of a Court of Inquiry assembled at No 4 (Gen Rft) Wing No 1 Cdn Repat Depot on the 20th day of MARCH 1946, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-36641 PTE. GOUTHRO, M.G.

DECLARATION

The Court declare that No. F-36641 PTE. GOUTHRO, M.G. No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot. illegally absented himself without leave from 4 (Gen Rft) Wing, No 1 Cdn Repat Depot. at 2300 hrs. on the 19th day of Feb 46, that he is still so absent, and that on the 20th Mar 46 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

Capt. W.J. Kirby, CIC, 1 Cdn Repat Depot, 4 (Gen Rft) Wing — President

Lieut. J.F.W. Collinson, CIC 1 Cdn Repat Depot, (4 Gen Rft) Wing. — Member

Signed at Bramshott.

Member

this day of MARCH 1946

Signature of Commanding Officer C.O. 4 (Gen Rft) Wing, 1 Cdn Repat Depot

Certified true copy C.E. Ennis
Signature of Officer having custody of original record

(C.E. ENNIS) LIEUT, RCA
LEGAL OFFICER
NO 4 (Gen Rft) Wing
NO 1 Cdn Repat Depot

3 608 MFB 375-AFB 115 40/P&S/392 (8/03)

Ex. B.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
F36641	Pte.	GOUTHRO, M.G.	No 1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
For	AA Sec 15(1)	times	4	times
For	AA Sec 40	times	1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct.~~

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 6 days in military custody, making a total of 6 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 yrs. 6 mos.

6. The date of his ~~declaration~~ attestation specified in his ~~record of service~~ attestation paper is 22 Jan 1944

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or [illegible] in respect of~~ ~~[illegible]~~

9. ~~The accused is entitled to reckon~~ ~~[illegible]~~ ~~service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, ~~or entitled to, or [illegible] decoration or military award~~ (or ~~is in possession of or~~ entitled to (*state any military decoration or reward*). CVSM & Clasp, Defence Medal, War Medal. France & Germany Star.

11. ~~(If the accused is a warrant officer.) The accused [illegible] a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ ~~dated~~ ~~and in his regiment (or [illegible] department) the rank of~~ ~~dated~~

Wt.57637/1519 20M. 5/44. P. Ltd. T51-2.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F36641 Rank Pte. Name GOUTHRO, M.G. of 1 Repat Depot Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	4-7-45	AA Sec 15(1) AWL.	120 dys Detention.	40 dys.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of Nov 46.

J. G. Rivers Lt. R.C.A.C.
1 Cdn Repat. Depot.

~~(In the second has served as a common F.G.R. office continuously without reduction, to the present date.~~

In the rank of F.G.R. years, Date of Promotion.

In the rank of F.G.R. years,

~~In the rank of F.G.R. years.~~

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

PLEA IN MITIGATION

IN THE CASE OF

P.36641 Pte CASTRO, M.G. --- 1 Cdn Repat Depot

Gentlemen of the Court:

This soldier enlisted in Jan 44. He came overseas shortly after enlisting, went to the continent in Jul 44. He has been a good soldier was wounded in September 44 and came back to this country in Nove of the same year as you will see by his documents. This soldier, the same as many other Canadian soldier got a girl in trouble, he cannot marry her at the present time as her divorce will not be through till Feb she was up against it, there was nothing he could do, he went A.W.L. and took a job to support her. He is in the same position as many of others with this divorce not being through until Feb he is pretty helpless. He plans on coming back to this country and marry her as soon as possible. He hopes that he will be able to get out in the spring and come back here and marry this girl. That is the reason he left and I hope you will take that into consideration when sentencing this man. He did the manly thing and in not letting this girl suffer alone he has done all in his power to help her. He evidently loves her or he wouldn't have gone to such lengths to help her by going A.W.L.

Will you kindly take that into consideration when sentencing this man.

Ex. C. Vith

3/17 MFM 6
(AFB 122)
40/PAS/138 (5413)

No. F36641 Name GOUTHRO, M.G. Sqn, Battery, or Company Corps CIC Date of enlistment GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		AA Sec 15(1) AWL.		14 dys Detn.	15-1-45		
"		"		AA Sec 40.		7 dys pay	5-2-45		
"		"		AA Sec 15(1) AWL.		14 dys F.P.	24-2-45		
"		"		AA Sec 15(1) AWL.		14 dys F.P.	6-3-45		
"		"		AA Sec 15(1) AWL.		120 dys Detn.	4-7-45	F.G.C.M.	40 dys Remis
"		"		AA Sec 15(1) AWL.		27 dys Detn.	2-1-45		

CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4 HELD IN MY POSSESSION

A.G.R.
13 NOV 46 F. G. Rivers Lt

(F G RIVERS) Lieut. RCAC. Legal Officer,
No 1 Wing, No 1 Cdn Repat Depot,
Canadian Army Overseas.

OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT.

(PTO)

RRR-35

PTE GRACEY GE

RECORDED AT CMHQ IN RE 100 KAK 36 1

CFAPS (In lieu of AF A3) 40/P.R.R./1008 (2954)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt. Col. D.W. Robertson A/Comd 5 Hy Grnd Bde dated 1 Jan 44
Robinson

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K 48053	Pte		George Ivan	Gracey	Westmr Rgt (MG)

PROCEEDINGS REVIEWED
J.C. Campbell Capt
for OC JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Remarks (if any) by reviewing officer: ____ on (date(s)) 14 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 2. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 09.45 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Capt. L. Bendelle as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to Capt. D.W. Kerrigan as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187(MML p 742.))

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Major	J.V. Lecard	9 Grnd Rgt (Can)
Member	Capt.	J.B. Braithwaite	3 Recce Rgt (SD)
Member	Capt.	L.A. McEwan	7 Grnd Rgt (E. Ont)
Judge-Advocate	Capt.	Gen. Morrison	HQ 5 Cdn Armd Div
Prosecutor	Lt	W.K. Delaney	Westmr R. (MG)
Defending Offr	Lt	R.B. Fountain	Westmr R (MG)

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Govt Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused NIL before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes. 3. RP 62. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to less etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 1 para 3. MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (his) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first and second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the both charge(s), and allowed on the ~~...~~ charge(s), and accused is (are) found ~~Not Guilty on the former~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I wish to make Statement under oath. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. N/A.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 197(A). See Notes in Part I of Schedule. 2. RP 44(A).) The President

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first and second charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(7) (b), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Defending Officer will give character evidence.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. With Defending Officer to do so.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 46, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 48053 Pte George Ivan Gracey Weston R. (Tm)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 40. A.A.	Not Guilty	Guilty	Confirmed [signature]
2nd Sec 10(3) A.A.	Not Guilty	Guilty	Confirmed [signature]
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N.A. beginning on (date) N.A. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo imprisonment with hard labour for a period of One year.

(Sgd) [signature] Capt. 14 Jan 43 (Sgd) [signature] Major

Judge-Advocate, ~~if any~~. Date awarded. President (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding & Sentence Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Brig.

Date 27 Jan 1944 Commanding 15 [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K-48053 Pte. Gracey, G.I.	29 Jan 44	[signature] (J.M. Grant) Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Ex "A" 29

"I.S.S."

M.F.B. 355
22M—5-41 (579-3)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K48053	Pte.	Gracey G.I.	The Westminister Regt.(M)

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Cond to the Prej. Sec. 40 1	times	3 times
For AWL Sec. 15 (1)	1 times	4 times
For Breaking out Barracks	times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct "GBR"

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

"GBR" ~~Previous convictions~~ of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ "GBR" beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and no days in military Air Force custody, making a total of Nil days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is "GBR" 23

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is "GBR"

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 6 mos.

8. The accused is entitled to reckon 2 yrs 6 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (~~or is in possession of or entitled to~~). State any air force decoration or reward. "GBR" military / military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force ..... unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of Jan 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "G.E. Robertson. Capt & Adjt" signed by the president, and annexed to the proceedings.

SUMMARY OF EVIDENCE

in the case of

K-48053 Pte. Gracey, G.I. of
The Westminister Regiment (M), CA OS
charged with

CONDUCT TO THE PREJUDICE: of good order and military discipline - AA 40 - in that he, IN THE FIELD, on 28th December 43. at approximately 1835 hrs. created a disturbance involving several civilians in Matera.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: K-47428 L/Cpl. Brown, R.D. of The Westmister Regiment (M), having been duly sworn, states:

I am K-47428 L/Cpl. Brown, R.D. of The Westminister Regiment (M). Three of us were proceeding back to barracks on the evening of 28th December 43. - Pte Gracey, Pte, Butcher and myself. We were causing no trouble when a big Italian came up and asked Gracey for a cigarette, which was refused. On being refused the Italian persisted however and did not go away. The next thing I saw was my friend Gracey on the ground with the Italian bending over him. I immediately went to Gracey's assistance and grappled with the Italian; I pushed him aside and helped Gracey to his feet. The street was well filled with people milling around, as if we had happened upon a group of some kind. By this time the gathering around us was noticable; and as I was helping Gracey to push our wat through the crowd I was hit on the head by a woman with a big stick. I started in the direction of the woman, Gracey and I were seperated, and a general fight developed. This continued until the Provost arrived.

QUESTION by Officer conducting the summary
Was the crowd you mention in the the street attracted by the fight you were in with the Italians?
A. No, Sir, the crowd was there before we arrived.
QUESTION by Officer conducting the summary.
Did you hit or otherwise molest the Italian woman you mentioned?
A. No Sir.
Q by O.
Did you hit anyone else?
A. Yes, sir, I hit the Italians who were attacking us; this was self defence.

The accused had no questions to ask the witness.

"R.D. Brown"

SECOND WITNESS K-42933 Pte. Butcher, C.A. The Westminister Regiment (M) CA OS
I am K-42933 Pte. Butcher, C.A. The Westminister Regiment (M). On the night of 28th December 43., at approximately 1830 hrs. I was accompanying Pte. Gracey and L/Cpl. Brown back to the barracks. I met I had met them a few minutes before and found that Gracey was noticeably under the influence of liquor and needed help to get home. ~~L/Cpl. Brown was also and needded help to get home.~~ L/Cpl. Brown war also pretty tight but he was helping to hold up Gracey as they walked. I decided to steer the two of them home as I had not been drinking at all. When we were, just a short distance past the enterance to our Officer's Mess, an Italian approached us and as Gracey was the nearest to him he asked him for a cigarette, Gracey did not give him one and I walked on a bit to where

there where some vehicles parked. I looked back and called for the two to come along. I saw a bit of a scuffle taking place in the light of the lamp shining down upon the four of them, since by now there were two Italians there. I saw one of them hit L/Cpl. Brown with his fist, and I ran back to help. As I did so one of the Italians ran away. When I got there I found Gracey lying on the ground and moaning about his wrist. L/Cpl. Brown and the other Italian wre still fighting. So I grabbed hold of L/Cpl. Brown and as I did so the other Italian ran away and disappeared. I got L/Cpl. Brown to help me get Gracey to his feet. Just as we did so about eight or a dozen Italian mixed men and woman (all civiliana) rushed at us. There was one especially big Italian man who kicked Gracey's feet out from under him as he attacked from the rear. Then the fight started and the crowd kicked Gracey on the ground and hit him with several sticks. I saw two knives being wielded by the Italians. L/Cpl Brown was now out of sight in the melee. Then the Provost arrived, about five of them I would say. The big Italian above mentioned tryed to hit the Provost Sergeant with the club he had.

We found L/Cpl. Brown fighting off several Italians including a couple of woman, who had backed him into a corner. The Provost scattered these and we got L/Cpl. Brown out of the corner. I assisted the Provost to bring Gracey home to barracks as he was bleeding from a wound in his head, made by a knife Ithink. We took him tc our R.A.P. for treatment and then I assisted one of the Provost to put him to bed.

QUESTION by the accused to the witness:
Was there a crowd there before we entered the spot where the fight took place?
A. There was quite a number of people there standing in groups talking and some were walking past all the time.
Q. by the accused to the witness:
Were there woman fighting using sticks?
A. Yes, most definately, sveral of them.
Q. by the accused to the witness:
Did I offer resistance to the Provost or yourself as I was being taken home?
A. No Sir, he did not. We just led him home, with no trouble at all. Iwas supporting the arm that was hurt and that was paining him. He was also complaining about the wound on the head.

..."Charles Alfred Butcher"....

THIRD WITNESS: Lieut. F.N. Clifford, 2nd. Armd Regt., CA OS - Commander of the Matera Town Guard 28th December 1943.
- Evidence as submitted in his guard report, confirmed and sworn to this date:
At 1822 hrs 28 Dec, 43 an Italian national informed the sentry that a fight was in progress in town. Upon this being reported to me, I immediately malled out a strong patrol and led them to the scene of the fight at the double. When I arrived by the Strathcona lines, our guide told us that the fight was over, and that the civilians involved had proceeded down to the school where the WESTER Regt is stationed. I proceeded to this place and there found an Italian civilian with a cur over the right eye. He gave his name as Porsa Francensco. His nephew, Loperfido Giuseppe was there and since he spoke French I obtained the following information from him,
At 1815 hrs or there abouts his uncle Francensco, accompanied by is wife was on the Via Ridolla. Three Canadian soldiers alleged to be drunk accosted them in a belligerent manner and spoke also to his wife. A fight ensued in which Francensco sustained this cut apparently superficial but extensive. He described the soldiers thus:

one - tall and slim, about 20 - 24
one - ditto
one shorter and slim, about the same age.

He further stated he could not distinguished the unit, or the colour of the berets, but said that these sodiers lived in the school. This information was given to me in French and Italian and may not be absolutely correct since my command of either is not perfect.

Both the Italiansnamed were highly excited and indifnant; and they indicated that they wished this incident brought to the attention of the appropriaate authorities. I informed them that I would submit my report and a strict investigation would be held and the wrong-doers, if any, fittingly punished.

Lieut. Tattersall, the orderly officer, Westmr Regt, was present and assisted me in the interrogation. I received from him the appended report at apprx 2000 hrs the same night.

At 1920 hrs, in compliance with Guard Orders , I reported the disturbance to the duty officer at Bde HQ, and again to the Bde Staff Captain at 2130 hrs.

"F.N. Clifford, Lieut."

FOURTH WITNESS: M-3658 L/Cpl. Blouin, F.O., C Sec. 5 Provost Coy.
CA 08
I am .-3658 L/Cpl. Blouin, F.O. C Sec. 5 Provost Coy. On the 28th December 1943 at about 1830 hrs. an Italian civilian came into our barracks and warned us of some trouble outside. L/Cpl. Gruer, and I proceeded down to the corner store not far away where the trouble was supposed to be. Sergeant O'Niell and Cpl. Arbuckle of our section were also with us. When we arrived at the store we were told by the Italian civilians that the soldiers had proceeded down the street. Just then we heard a woman scream; we all ran in that direction. Sgt. O'Neil went into an alley and I followed him. He grabbed one Westminister Chap and held him from fighting. I saw on Westminister coming around the corner, starting to fight with civilians. L/Cpl. Gruer and I had a slightly built Westminister lad proceeded to stop this fight.. We then took the Westminiser we had seized., whom I Recognize as the accused here present. Pte, Gracey to the Westminister Regt. R.A.P. On the way the man rsisted fairly strongly but we subdued him and he came along with us. We took him to the R.A.P. and later to his quarters. I obtained from the Orderly Corporal a receipt for the delivery of Pte, Gracey.

Q. by O. conducting the Summary:
Did you see any provocation into fighting of the Westminister Regt. Soldiers by the Italian civilians?
A. No Sir, I arrived too late; the fighting was going on when we got on the scene.

The accused declined to ask any questions of the witness.

"F.O. Blouin."

FIFTH WITNESS: D-110266 L/Cpl. Gruer, W. C Sec, 5 Cdn. Provost Coy. CA 08. having been duly sworn states:
I am D-110266 L/Cpl. Gruer, W. On the night of the 28 December 1943 at approximately 1830 hrs., we were informed by an Italian civilain that soldiers were fighting at a near by store. I accompanied Sgt. O'Neil, Cpl. Arbuckle and L/Cpl. Blouin to the store whwere the soldiers were supposed to be fighting. We were told there by the store keeper that the soldiers were fighting fur-down the street. I went down with Sgt. O'Neil to the scene of the fight. The Sgt. stopped one of the soldiers and I helped L/Cpl. Blouin to stop the other soldier from fighting. I saw that this soldier was wounded and suggested that he should be taken to a R.A.P. A third Westminister soldier who was not fighting, suggested taking the injured man to his own lines. The injured soldier was resisting strongly. L/Cpl. Blouin and I took him to the Westminister Regt R.A.P. and later to his room and L/Cpl. Blouin took the particulars of name, number etc. We saw the Orderly Corporal on the way out and obtained a receipt. That is all, Sir.

Q. by O. conducting summary
Did you hear a woman's scream as you first approached the scene of the fight?
A. Yes Sir.
A. by O. conducting summary
Do you recognize the accused here present, Pte Gracey, as the injured man you took to the R.A.P.
A. Yes Sir, I do.
Q. by O. Conducting summary
Are you certain that the injured man offered resistance when you wished to lead him away? It was not the pains from his wounds that made the scuffling?
A. No Sir, He definately resisted.

The accused declined to ask the witness any questions.

"W. Gruer."
.....

The accused having been duly warned as follows:
"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so ; but whatever you say or any evidence you give will be taken down in writing and may be used in evidence".
"G.I. Gracey"

The accused declined to make a statement of his own on the case.

I certify that Rules of Procedure 4 (b)(c)(d)(e) and (f) have been complied with. "M.G. Klinkhamer" Lt.
"Undecipherable"

Taken by me in the field, in the presence and hearing of the accused, this 4th day of January 1944.
"M.G. Klinkhamer" Lt
"Undecipherable"
.....

THE WESTMINISTER REGIMENT (M)

2000 Hrs. 28 Dec, 43.

K-47428 L/Cpl. Brown, R.D. was brought into the Barracks at 1900 hrs by G-23001 Sgt. O'Neil, R.J. of the Provost Corps . He had injuries on head and face and he states that he was coming home with Pte. Gracey and Butcher, both of the Westminister Regt (M) when he was stuck from an alleyway near the Strathcona Lines, at approximately 1815 hrs. They began fighting and the next thing knew was that he was being treated in the R.A.P. at the Ld S.H. lines and was brought in by the Provost Sgt.

"J. Tattersall."
(Signed) .....Lieut
(J. Tattersall) Lieut.
The Westminister Regiment (M)

CERTIFIED TRUE COPY

"M.G. Klinkhamer."
.....Lieut
(M.G. Klinkhamer) Lieut.
The Westminister Regiment (M)

Supplimentary Summary of Evidence in the Case of K48053 Pte. Gracey, G.[illegible]., The Westminister Regt (M), in the Field this 11th Jan 1944.

Charged with Creating a Disturbance. A.A. Sec 40.

The Commanding Officer directs that evidence be taken on oath.

First Witness: Perzia Francesco, having been duly sworn states: On 28 Dec 43, at about six o'clock two youths named Joseph and Eustachie Laperfido were escorting some young girls to their house. Two or three Cdn soldiers approached the girls, it was dark and the girls were afraid and ran away into the house of one Frangrorce. The two young men stayed at the door and the Cdn soldiers started to fight with them. The civilians started to fight back and shout. One of the girls went out of the back entrance of the house and fetched her Mother an Father, The Mother arrived first and the Cdn soldiers knocked the old lady down in the street, meanwhile the Father arrived and one of the soldiers grabbed the old man and knocked him to the ground where he cracked his forehead and received a small wound which bled. The mans name is Francesco Perzia. The Cdn soldiers then moved away.

" Perzia Francesco."
.....

The accused declines to cross examine the witness.

Second Witness Lugi Morelli, having been duly sworn states: At about six o'clock two Cdns came into my store. Not wanting to purchase anything, one molested a civilian who was in my store. I speak English and told him to behave. My wife was in the back of the counter. The tall soldier pushed the civilian, the small Cdn said to the tall Cdn " Give it to him". I told to stop. The tall one came toward me, then knocked a box off my counter and kicked a glass out of my show case. The small Cdn then said George come on out. They went out and I locked the door.

"Lugi Morelli."
.....

The accused declines to cross examine the witness.

Question by Officer taking Summary.

Q. Do you know the civilian?
A. I do not know him.
Q. Could you identify the Cdn soldiers?
A. No, one was tall the other was short. The tall one's name is George.

I certify that Rules of Procedure 4 (b)(c)(d)(e) and (f) have been complied with.

"W.L. Delaney. Lt."
.....

On 29 December 1943 G23001 Sgt. O'Neil, R.J. 5 Pro. Coy requested an Identification Line-Up so the Italian storekeeper and two other Italian witnesses could prove the identity of K48053 Pte. Gracey. G.I. as one of the Canadian soldiers who had molested the storekeeper. Although the civilians were sure that they could identify the soldiers concerned, they failed to pick from the Identification Line-Up, Pte. Gracey, G.I. or any other soldiers arrested by the Provost

" H.F. Hoskin. Capt."

I G23001 Sgt. O'Neil, R.J. attended the a/m Identification parade and agree withthe above statement.

"R.J. O'Neil."
R.J. O'Neil Sgt.

LIST OF WITNESSES

For defence

Nil.

For prosecution

1. K47428 L/Cpl. Brown R.D., Westminister Regt. (M)
2. K42933 Pte. Butcher C.A. Westminister Regt. (M)
3. Lt. FN. Clifford, 2 Armd Regt.
4. M 3658 L/Cpl. Blouin, F.O., C Sec. 5 Cdn Prov. Coy.
5. D110266 L/Cpl. Gruer, W., C Sec. 5 Cdn Prov. Coy.

LIST OF EXHIBITS

Statement of Capt. H.F. Hoskin, The Westminister Regt, (M) in regards to Identification Line-Up, and seconded by Sgt. O'Neil, 5 Cdn Prov. Coys.

I desire the convening officer to detail an officer to defend me in my forthcoming trial by Field General Court Martial

"G.I. Gracey."
.....

I hereby acknowledge receipt of one copy of the Summary of Evidence and one copy of the Charge Sheet of my trial by Field General Court Martial

"G.I. Gracey."
.....

EVIDENCE FOR THE PROSECUTION

First Witness, K47428 L/Cpl BROWN, R.D. Westmr Regt (M), having been duly sworn is examined by the prosecuting Officer:

Q. 1 Will you tell the Court just exactly what happened on 28 December?

A. 1 On 27 December we had just come in from the field and on the afternoon of 28 December we received a pass from Sp Coy HQ. A number of us had made arrangements to go down town and have our picturestaken but on arriving down town we were disappointed to find that all stores were closed. The group of us, including the accused, wandered around town for quite some time and during our travels we came across this wine shop. We were only going to have a couple of drinks but in all such matters a couple leads to anothercouple and we had a couple too many. We left that place and proceeded down towards home where we went to a place where we take our laundry. We were there for quite some time and I noticed that the accused was feeling the effects of his alcohol and I thought it best that he should go home. We proceeded to do so and it was not until the night air hit the accused that I noticed how bad he was. We got to the AMGOT place and we met Pte Butcher and he, noticing the predicament we were in, proceeded to help us home. We were coming down the main street causing no trouble when this Italian came up and asked the accused for a cigarette. We told him to go away but he persisted in staying. I left the accused and proceeded a few yards away from him and the Italian then moved off. When I turned around there was another Italian with the accused and before I got back to the accused he was on the ground. Whether the accused was hit or pushed or just naturally fell down I do not know. When I got there the Italian was bending over him and I just gave the Italian a slight push and bent over the accused. Pte Butcher arrived on the scene about this time and as I was bending over the accused I was hit on the head with a stick. I looked up startled and saw this Italian woman with a stick in her hand and immediately went after her. One Italian inserted himself between the woman and me I just pushed him aside in order to take after her and the general fight started. It had no sooner got started when the provost arrived on the scene. They took me to the LSH RAP where I was fixed up and then the provost returned me to my own unit.

Q. 2 Did the accused talk to Pte Butcher when you met him?
A. 2 No, sir.

Cross Examination by the Defending Officer

Q. 3 Did you see the accused strike the Italian at all?
A. 3 No, sir.

No re-examination

By the Judge Advocate

Q. 4 Were you and the accused talking as you were coming along the street from the house?
A. 4 No, sir, I was just assisting him along.

Q. 5 How?
A. 5 He was on my left side and I had my arm locked in his as we were going down the street.

Q. 6 Was he talking?
A. 6 Very Little.

Q. 7 Do you remember anything he said?
A. 7 No, sir.

"C.M.M." Q. 8 I suppose you were quite intoxicated yourself?
A. 8 Yes, Sir.

Q. 9 Have you a clear recollection of everything that took place?
A. 9 Yes, sir, fairly clear.

Q. 10 Could things have happened on that occasion which you do not remember about?
A. 10 After I went after the woman who hit me on the head I did not see the accused until I got back to the room and he was back in bed.

Q. 11 You did not actually see anyone hit him?
A. 11 No, sir.

Q. 12 When you saw him on the ground was he complaining about being injured?
A. 12 He was moaning. I could not say wether it was the effects of his injuries or his drinking.

Q. 13 What time were you in the wine shop?
A. 13 From about quarter to three to about 4.15.

Q. 14 Did you recognizethis Italian witness, Morelli?
A. 14 No, sir.

Q. 15 Could you say wether you were in his shop?
A. 15 Definately I was not in his shop.

Q. 16 Would it not be impossible that Morelli was proprietor of that shop you were in?
A. 16 No, sir, he is not.

Q. 17 Who is?
A. 17 I do not know.

Q. 18 Would you recognize him?
A. 18 Yes, sir.

Q. 19 Where is that shop?
A. 19 When you come to the bottom of the street you turn right and it is just a short way from there.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83 (B).

The witness withdraws.

Second witness, K42933 Pte C.A. BUTCHER, Westr Regt (M) having been duly sworn is examined by the Prosecuting Officer:

Q. 20 Would you tell the Court exactly what happened on the night of 28 December?
A. 20 On the night of 28 December at approximately 1815 hrs I was accompanying the accused and L/Cpl Bown home. An Italian civilian approached and asked the accused for a cigarette. I walked on ahead a few yards to where the LSH have their vehicle parking lot. I looked back and saw another civilian join L/Cpl Brown and the accused and at the same time there was a lot of talking and a bit of a scuffle going on. As I got back there one of the civilians ran off and I saw the accused lying on the ground moaning about his wrist. L/Cpl Brown was struggling with another civilian. I saw at that time that L/Cpl Brown was bleeding from a wound over the eye. I got L/Cpl Brown to help me to assist the accused to his feet. Just as we got him to his feet, a civilian accompanied by others, kicked the accused's feet out from under him and the melee started again. I lost contact with L/Cpl Brown and saw several civilians strike the accused as he was lying on the ground. I saw several clubs and knives in their possession. Then the provost

A. 20 arrived and I accompanied the Provost Sgt into an alleyway where we saw L/Cpl Brown backed into a corner surrounded by civilians. The Provost Sgt took L/Cpl Brown away and I went over to assist two Provost Cpls to get the accused back on his feet. We then brought him back to our RAP and from there to his quarters and put him to bed.

Q. 21 Where did you meet the accused?
A. 21 Just before you got to the AMGOT Officers' mess.

Q. 22 Did you talk to the accused?
A. 22 Yes, sir.

Q. 23 Did the accused recognize you?
A. 23 Yes, sir, he did.

Q. 24 Did you hear the accused speak to any of the Italian civilians?
A. 24 Yes, sir.

Q. 25 What did he say when the civilian asked for a cigarette?
A. 25 I did not quite catch what he said.

Q. 26 Did he answer the civilian?
A. 26 Yes, sir,

Cross Examination by the Defending Officer

Q. 27 Could you describe a little further how you and the provost assisted the accused to his feet?
A. 27 One of the provost took one arm and I took hold of him by the other arm. From there one of the provost went on ahead with a light and I took the arm which he was complaining about.

Q 28 When the accused got to the RAP, did he complain about his wrist?
A. 28 I do not think he did, sir.

Q. 29 Before you came to the scene of this fight, was it necessary to support the accused?
A. 29 Yes. sir, it was.

Q. 30 Did you see the accused strike anyone?
A. 30 No, sir,

Re-examination by the prosecuting Officer

Q. 31 How far is it from where you met the accused to the scene of the fight?
A. 31 The pace we were going would take us about seven or eight minutes to arrive there.

Q. 32 Was the accused talking to you all the while?
A. 32 He was not actually talking, just mumbling away.

Q. 33 But he knew it was you who was helping him?
A. 33 Yes, sir.

Q. 34 Did he call you by name?
A. 34 Yes, sir, when I spoke to him.

By the Judge Advocate

Q. 35 How old would this Italian be who approached the accused for a cigarette?
A. 35 About 20 years of age.

Q. 36 How was he dressed?
A. 36 Pretty well dressed.

Q. 37 In civilian clothes?

A. 37 Yes, sir.

Q. 38 After you met the accused and L/Cpl Brown, what was the furthest distance you were away from him at any time?
A. 38 About 15 or 20 yards.

Q. 39 On the same street?
A. 39 Yes sir,

Q. 40 What was the first thing you saw happen after you walked ahead?
A. 40 I saw L/Cpl Brown being struck by an Italian.

Q. 41 By a man or a woman?
A. 41 By a man.

Q. 42 With his fist?
A. 42 Yes, sir.

Q. 43 Was he the man who was asking for a cigarette?
A. 43 Yes, sir.

Q. 44 Was he the only Italian there?
A. 44 No, sir, there was another one there.

Q. 45 Where was the other Italian?
A. 45 He was standing in a group together.

Q. 46 What was the other Italian doing?
A. 46 I did not notice. As soon as I saw thid fellow strike L/Cpl Brown, I ran back.

Q. 47 Did you see a woman strike L/Cpl Brown?
A. 47 No, sir, there was no woman there at the time.

Q. 48 How long before the woman arrived?
A. 48 After we got the accused back on his feet.

Q. 49 Are you prepared to say that that was the first blow struck?
A. 49 As far as I saw, Yes.

Q. 50 Would you have seen if any blows had been struck sooner?
A. 50 Yes, sir.

Q. 51 If there had been a previous blow struck by anyone, would you have seen it?
A. 51 Yes, sir. I would

Q. 52 What did the accused have to say when lying on the ground?
A. 52 He was moaning about his wrist. He said "Oh! my wrist".

Q. 53 After you came back?
A. 53 Yes, sir. I do not think he would have been able to get up alone.

Q. 54 Why did you leave them in the first place?
A. 54 I just walked ahead of them.

Q. 55 Do you figure the accused would have been able to get home without your assistance?
A. 55 No, sir., I do not think he could have.

Q. 56 You figured you would have to help him?
A. 56 Yes, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Third Witness, M3658 L/Cpl F.O. BLOUIN. C Sec, 5 Cdn Pro Coy, having been duly sworn is examined by the Prosecuting Officer:

Q. 57 Will you tell the Court what happened on the night of 28 December?
A. 57 On the night of 28 December we were called by some civilians who reported some fight which was going on in a nearby store. Accompanied by L/Cpl Gruer we proceeded to the store. When we arrived at the store we were informed that the soldiers had gone on down the street. We proceeded down the street and heard a woman scream. Sgt O'Neill who was with us started to run and I followed. He went into an alleyway and grabbed hold of one Westmr Regt soldier. Seeing everything was OK there I turned around and saw another Westmr Regt soldier staring to fight with more civilians. We stopped the fight and took the accused back to the RAP because he was very badly cut lip. About half way to the billets the accused broke away from me and Pte Butcher grabbed hold of him and proceeded to take him to the RAP with L/Cpl Gruer. I turned around and chased away the civilians who were wanting to fight. We arrived at the RAP and the accused's head was fixed up and I received a slip from the orderly Cpl for the accused.

Q. 58 Did you talk to the accused at all?
A. 58 I tried to question him?

Q. 59 Did he answer you?
A. 59 No, sir, he did not.

Cross Examination by the Defending Officer

Q. 60 Did you see the fight start in the street?
A. 60 No, sir.

Q. 61 Did the accused say anything to you about a sore wrist?
A. 61 No, sir.

Q. 62 When you saw the accused, was he standing up or lying down?
A. 62 He was standing up.

Q. 63 Did you ever see him lying down?
A. 63 No, sir.

Q. 64 Did you grab hold of the accused?
A. 64 Yes, sir.

Q. 65 How?
A. 65 By his arm.

Q. 66 Both Arms?
A. 66 No,Sir, just one.

Q. 67 Which one?
A. 67 His left arm.

Q. 68 Where was L/Cpl Gruer at the time?
A. 68 He was also helping me stop the accused from fighting.

Q. 69 Did he grab hold of the accused?
A. 69 Yes, sir, by his other arm.

Q. 70 Where was Pte Butcher?
A. 70 He was right there helping us stop the fight.

Q. 71 Did he help to take the accused in?
A. 71 On the way back to the barracks he did.

Q. 72 Aboutthow far from the scene of the fight?
A. 72 About 20 to 25 yards.

Q. 73 Did both of you and the other Cpl keep hold of the accused all the way to his billets?
A. 73 No, sir.

Q. 74 Will you describe how you came back to barracks?
A. 74 After the accused broke away, L/Cpl Gruer and Pte Butcher brought the accused to the RAP. From then on L/Cpl Gruer and I took him to his room.

Q. 75 Where were you when Pte Butcher and L/Cpl Gruer were bringing him to the RAP?
A. 75 I was right behind him.

Q. 76 Did you have a light?
A. 76 Yes, sir.

Q. 77 Did you tell the accused he was under arrest?
A. 77 Yes, after he had been taken to the RAP.

Q. 78 You did not tell him before that he was under arrest?
A. 78 No, sir.

Q. 79 Would you consider that he resisted being placed under arrest?
A. 79 No, sir.

Q. 80 When you came to this store was the door open or locked?
A. 80 It was open.

Q. 81 And the proprietor, was he inside or outside?
A. 81 He was right on the door step, just inside the door.

Q. 82 The door was open?
A. 82 Yes, sir.

Q. 83 What made you go down the street from the store?
A. 83 They told us that the soldiers who had been there had gone on down that way and then we heard a woman scream.

Q. 84 You supposed there was a fight down the street?
A. 84 Yes, sir.

No re-examination.

By the Court

Q. 85 What time of night was this?
A. 85 About 1830 hrs.

Q. 86 When you followed Sgt O'Neill into the alley and saw he had control of the person there, you say you turned around and saw another soldier. Was this the accused?
A. 86 Yes, sir.

Q. 87 What was he doing?
A. 87 He was swinging with his arms and fists.

Q. 88 He was on his feet?
A. 88 Yes, sir.

Q. 89 Did you have trouble subdueing him?
A. 89 A bit.

Q. 90 Did you tell him you were prvost?
A. 90 Yes, sir.

Q. 91 Did he know you were provost?
A. 91 I do not know whether he did.

Q. 92 You did tell him?
A. 92 Yes, sir.

Q. 93 Did he quit struggling then?
A. 93 Yes, a bit.

Q. 94 On the way back to the billets you say he broke away from you. Any reason?

A. 94 He wanted to fight with the civilians in the rear.

Q. 95 He wanted to go back?
A. 95 Yes, sir.

Q. 96 Who was the accused fighting with when you first saw him?
A. 96 An old man, a short dark one.

Q. 97 Do you remember what he looked like?
A. 97 I think I could recognize him.

Q. 98 Was he fighting with his fists?
A. 98 Yes, sir.

Q. 99 Were there many around the scene at the time?
A. 99 Several.

Q. 100 How many soldiers?
A. 100 About 8.

Q. 101 All of the Westmr Regt?
A. 101 I did not take particular notice.

Q. 102 Were they all fighting?
A. 102 No, sir, just standing around.

Q. 103 The only one fighting was the accused?
A. 103 Yes, sir.

Q. 104 Do you know L/Cpl Brown?
A. 104 I have known him since this case started.

Q. 105 Did you see him at the fight?
A. 105 Yes, sir, he was in the alley and was arrested by Sgt O'neill.

Q. 106 What was the accused's condition from the standpoint of intoxication?
A. 106 I could not say he was drunk and I could not say he was sober but he had had a few drinks.

Q. 107 Did he have any difficulty standing on his feet?
A. 107 No, Sir.

Q. 108 You are sure of that?
A. 108 Quite sure.

Q. 109 Did you have any conversation with him?
A. 109 No, none at all.

Q. 110 He did not tell you how the fight started?
A. 110 No, sir.

Q. 111 Did you help the accused get to bed?
A. 111 Yes, sir.

Q. 112 Why did you help him to bed if you did not consider him drunk?
A. 112 He did not seem to be able to help himself.

Q. 113 Why?
A. 113 I did not know, sir.

Q. 114 Did you notice any injuries that he had?
A. 114 Yes, a very bad cut on the back of the head.

Q. 115 Do you know how he received that?
A. 115 No, sir.

Q. 116 Any other injuries that you saw?
A. 116 No, sir.

Q. 117 When you assisted him to his billets was that because he could not walk or because assistance was necessary to get him to bed?

A. 117 Assistance to get him to bed.

Q. 118 That is you had to undress him?
A. 118 Yes, Sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Fourth Witness, D110266 L/Cpl W. GRUER, 5 Cdn Pro Coy, having been duly sworn is examined by the prosecuting Officer:

Q. 119 Will you tell the Court what happened on the night of 28 December?
A. 119 On the night of 28 December we were informed by a civilian that there was a fight going on down town. I followed Sgt O'Neill and L/Cpl Blouin down to the scene of the fight. We proceeded down the street and heard a woman scream. Sgt O'Neill got one of the soldiers who was fighting and L/Cpl Blouin got other soldier and I helped to stop the fight.

Q. 120 Do you recognize the accused as one of the soldiers?
A. 120 Yes, sir.

Q 121 Is that the soldier whom L/Cpl Blouin stopped fighting?
A. 121 Yes, sir.

Q. 122 What happened them?
A. 122 I saw that the soldier was wounded and suggested taking him to an RAP. Another Westmr Regt soldier suggested taking him to his own lines. He resisted strongly at first. We continued taking him to the RAP at the Westmr Regt lines. After fixing up the wound, we turned him over to the orderly cororal and received a slip for him.

Cross Examination by the Defending Officer

Q. 123 Could you say who started the fight?
A. 123 No, sir,

Q. 124 Were there Italians fighting with the accused?
A. 124 Not at the time we stopped them.

Q. 125 Did you see any blows struck?
A. 125 No, sir.

Q. 126 Was the accused on his feet or lying on the ground?
A. 126 He was on his feet when I got there.

Q. 127 Did you take hold of the accused?
A. 127 Yes, sir.

Q. 128 How?
A. 128 By the arm.

Q. 129 Which arm?
A. 129 I do not remember.

Q. 130 What was the other provost doing?
A. 130 He was holding him too.

Q. 131 How did he have a hold of him?
A. 131 I do not know. I know he had a hold of him but I do not know how.

Q. 132 Did you see another Westmr Regt soldier there?
A. 132 Yes, sir.

Q. 133 What was he doing?
A. 133 He was trying to stop the accused from fighting.

Q. 134 As soon as you grabbed the accused did you help him home?
A. 134 Yes, sir.

Q. 135 You on one side and the other provost on the other side?
A. 135 We started out that way but later the other Westmr Regt soldier took the accused by the other arm.

Q. 136 What did the other provost do then?
A. 136 Just walked behind us.

Q. 137 When you went to the store were you walking?
A. 137 Yes, sir.

Q. 138 About how far is it from your billets?
A. 138 About 300 yards.

Q. 139 Where was the store keeper at this time?
A. 139 In the store.

Q. 140 Inside the store?
A. 140 Yes, sir.

Q. 141 Did he have the doors locked?
A. 141 Yes, sir, I believe he did.

Q. 142 You went with L/Cpl Blouin and two other provosts?
A. 142 Yes, sir,

Q. 143 Did you place the accused under arrest?
A. 143 No, sir, L/Cpl Blouin placed him under arrest.

Q. 144 Where did this happen?
A. 144 Right at the scene of the fight.

Q. 145 When you brought him to the RAP what happened after that?
A. 145 We took him to his room and put him to bed,

Q. 146 Why did you put him to bed?
A. 146 He was wounded and we wanted to see that he was put to bed.

Q. 147 Did you help to undress him?
A. 147 Yes, Sir.

Q. 148 Was he able to do it himself?
A. 148 I do not know whether he would have been able to or not.

Q. 149 Did he have a very bad wound?
A. 149 Yes, sir, quite bad,. It was bleeding a lot.

Q. 150 Did he have that blood on him when youffirst saw him?
A. 150 Yes, sir.

No re-examination.

By the Judge Advocate

Q. 151 Where was the wound?
A. 151 On the back of his head.

Q. 152 I think you said he strongly resisted. What do you mean?
A. 152 He was determined to be allowed to get back to the fight.

Q. 153 What was he doing?
A. 153 Trying to get away from us.

Q. 154 Do you think he knew you were provost?
A. 154 I do not know.

Q. 155 How were you dressed?
A. 155 The same as I am now.

Q. 156 Did you have your arm band on?
A. 156 Yes, sir.

Q. 157 What was the accused doing when you first saw him?
A. 157 L/Cpl Blouin had hold of him trying to stop him from fighting.

Q. 158 Did you fellows treat him pretty roughly in order to subdue him?
A. 158 No, sir.

Q. 159 Was it possible that some injury might have come to him through your treatment of him?
A. 159 No, sir.

Q. 160 Did you know he had an injured wrist?
A. 160 No, sir. he did not complain about it.

Q. 161 How far was this store from the scene of the fight?
A. 161 About 300 yards.

Q. 162 On the same street?
A. 162 Yes, sir.

By the Court

Q. 163 When you apprehended the accused, what would you say as to intoxication?
A. 163 I would not say he was drunk although he had been drinking.

Q. 164 Did you have any conversation withhim?
A. 164 No, sir.

Q. 165 Was he ding any talking?
A. 165 Yes, sir, he was a bit angry from the fight.

Q. 166 Could you give us a general idea of what he was saying?
A. 166 I could not remember just exactly what he said but he was talking atthe time.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Fifth witness, Porzia Francesco, Matera, having been duly sworn is examined by the Prosecuting Officer:

Q. 167 Will you tell the Court what happened on the night of 28 December?
A. 167 At approximately quarter to six on the evening of the 28 December I returned to my home from work and on reaching home, I found several young ladies in my house so noticing that it was getting rather dark I warned them to get to their home. There were some young men in the house also among whom were two Italian officers. They offered to accompany the girls home. Them all left for home , the girls accompanied by the officers. After they had gone approximately 100 yards, my daughter ran back to me and as a result of what she said I immediately went out to check on a commotion about 100 metres away from my house. On reaching there I saw quite a crowd gathered and I started calling for my nephews but got no answer from them. I then heard somone calling "Help, help". Then I suddenly noticed that a soldier dressed in civilian clothes was being attacked by several Canadian soldiers. He called to me to help him but I ignored him as I was only interested in looking for my two nephews. I then asked some police if they had seen my nephews but none seemed to have seen them so I decided tp walk towards my house and on reaching the corner of the building I was attacked by six or seven Canadian soldiers. I am not sure how many but there might have been five, six or seven. They were all around me and trying to tell me something but I did not understand them. I tried to tell them I was a good Italian and that they were good Canadians

A. 167 and that I was coming home from work minding my own business and I did not want to argue with them. My wife and daughter came out to find out what was going on. Then my wife tried to intervene and one of the soldiers gave her a push and knocked her to the ground. When I saw my wife knocked to the ground I swung my arms to the side to try to get the soldiers out of the way and went to the aid of my wife and at the same time keep an eye on the soldiers. As bent down to help my wife get up, one of them gave me a shove and knocked me down also. As a result I was injured in the forhead, nose and had some teeth broken. Just then the Canadian Military police intervened.

Q. 168 Could you recognize the soldier or soldiers who knocked your wife down?

A. 168 No, because it was away too dark. It would be impossible for me to recognize them.

Cross Examination by the Defending Officer

Q. 169 You say this was about quarter to six?
A. 169 Yes.

Q. 170 Where was this fight in relation to the alleyway which leads to the street?

A. 170 It is right at the corner of the lane.

Q. 171 You say you elbowed your way to get to your wife. How many soldiers were there which you pushed aside?

A. 171 As I said before there must have been five or six. They seemed to be all on top of me.

Q. 172 You say your daughter came back to tell you something. Does your daughter live somewhere else?

A. 172 My daughter or two or three of my daughters were going to accompany these girls home and that is how I got the information about this disturbance.

Q. 173 In the summary of evidence you said that one one of your daughters ran into the house of Frangorsi. Did your daughter run back to this house from the scene of the fight?

A. 173 My daughter came from her friend's place and warned me about this disturbance.

Q. 174 How far is this house from the scene of the fight?
A. 174 Some ten or fifteen metres distance.

Q. 175 Which way from the alleyway?
A. 175 Facing the alleyway it would be approximately 15 or 20 metres on the left hand side.

Q. 176 Do you live in the alleyway?
A. 176 Yes.

Q. 177 Was the fight in front of this friend's house which is 15 or 20 metres from the alleyway?

A. 177 It was right in front, exactly where some guns are.

Q. 178 How far from this friend's house?
A. 178 15 or 20 metres.

Q. 179 You said in the summary of Evidence that the girls were afraid and ran away into the house of a friend. The two young men stayed at the door and fought with them. Can you explain why you now say the fight was some 15 or 20 metres away?

A. 179 This is right. The fight was right in front of the door.

Q. 180 Was there any fighting when you came out to the road from your house?

A. 180 As soon as I got on the scene they seemed to be surrounding this young chap and were grabbing him by his clothes as

A. 180 if to open his jacket but I went on to look my nephews.

Q. 181 Do you know who this fellow was?
A. 181 No, sir, I did not know it was a soldier dressed as a civiilain.

Q. 182 Is this man in this town?
A. 182 No he is no longer here but has gone back to his duties.

Q. 183 What did you do when the military police came on the scene?
A. 183 When the military police arrived on the scene I decided to follow them to find out who these Canadian soldiers were. I accompanied them as far as the school and the military police turned me over to the Italian police and told them to take me to their armoury. At the armoury they took my perticulars and offered to dress my wounds but I did not think it necessary and was sent home.

Q. 184 You followed the fellows who knocked you down up to this school?
A. 184 Yes.

Q. 185 Where was this school?
A. 185 Just in front of the carabinieri armoury.

No re-examination.

By the Judge Advocate

Q. 186 Why were you looking for you r nephews?
A. 186 Because of what my daughter told me about them being attacked.

Q. 187 Do you know where they had been attacked?
A. 187 They did not tell me where they had been attacked as they got away adn when I saw them later they did not tell me.

Q. 188 You did not see them fighting with Canadian soldiers?
A. 188 No, I was not sure what did happen.

Q. 189 When you first got to the scene was there only one Italian involved in the disturbance?
A. 189 No, there were several in the group.

Q. 190 Were these soldiers in your house, your nephews?
A. 190 Yes, they were.

Q. 191 Dressed in Civilian clothes that evening?
A. 191 Yes.

Q. 192 Where are they now?
A. 192 One is in Betonto near Bari and the other here in Matera.

Q. 193 You say you were attacked when you left the scene of this disturbance. What do you mean by that?
A. 193 I mean I was grabbed by these soldiers by the arms and as they surrounded me I was with my back to the wall.

Q. 194 Who did you ask if they had seen your nephews?
A. 194 A man by the name of Morelli. He was standing there.

Q. 195 Who is Morelli?
A. 195 He is a contractor.

Q. 196 Did you notice where your wife went after she was attacked?
A. 196 As far as I knew my wife went back home but I found out later that she was accompanied by her cousin and had looked for me.

Q. 197 Did you use a knife on any of the Canadian soldiers?
A. 197 No, I never use knives and do not keep any.

Q. 198 Did you see any other civilians use knives on the soldiers?
A. 198 It was too dark to see that.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Sixth Witness. Lugi Morelli, 18 Via Domanico, Matera. having been duly sworn is examined by the Prosecuting Officer:

Q. 199 What is your occupation?
A. 199 I have a grocery store.

Q. 200 Will you tell the Court exactly what happened on the 28th December?
A. 200 I was in the store with my wife and three civilians. These three civilians are my customers. They wanted to buy some things. The one was near the door and at the same time two soldiers came in the store drunk as hell. One of these soldiers came right into the store and the other stayed by the door. The one stopped near the civilian and grabbed hold of him and wanted to fight with him. The civilian was afraid and they took his coat off him and threw it out of the door. I went to them and told them "this is a store, you should not do that here". I also said "you have no right to do that in my store." Then this fellow, the tall one, left the civilian and came over and got hold of me by the jacket and started to shake me. He asked me to take off my coat as he wanted to fight with me. I did not say anything as I was too frightened. I told him "Do not do that because I am an American Like you". I was afraid and my wife was afraid too. After this he went over and broke my glass in the glass case in the store. After this they went to the right side of the store and my wife was behind the counter. There was something on the counter and they threw that down and broke the counter. The short fellow was saying "George, what are you doing, come on out, come on out". He got hold of him and pushed him out with him. The one fellow says "Close up the door" and then they left.

Q. 201 Did you report this to the military police?
A. 201 No, some of the other fellows outside must have. The three civilians left when the fellow let go of them.

Q. 202 Could you recognize any of these soldiers?
A. 202 No, I know one was tall and the other was short. The only thing I remember is that the short one called "George" to the tall one.

Cross Examination by the Defending Officer

Q. 203 About what time did this happen?
A. 203 I do not know but Ithink it was about six in the evening.

Q. 204 Was there a light in the store?
A. 204 Yes.

Q. 205 Did you go any place to an indentification line-up to try to pick out these fellows, the next day?
A. 205 Yes.

Q. 206 And you could not pick them out?
A. 206 No, I could not recognize them because I was afraid at the time.

No re-examination

By the Judge Advocate

Q. 207 Will you take a look at the accused and say whether you have ever seen him before?
A. 207 I could not tell you for sure.

Q.208 You are not in the possition to say whether he was one of the men in your store?
A. 208 No.

Q. 209 How many soldiers came into your store?
A. 209 Two.

Q. 210 Did you see the Canadian Military Police that evening?
A. 210 Yes, when they came to my store.

Q. 211 What did you tell them?
A. 211 I told them the story.

Q. 212 Were the soldiers in the store when the police came?
A. 212 No, they went away.

Q. 213 Where did they go?
A. 213 I do not know.

Q. 214 Do you know Porzia Francesco?
A. 214 Yes.

Q. 215 Did you see him that evening?
A. 215 No, just this morning.

Q. 216 Did the tall one call the short soldier by any name that you can remember?
A. 216 No, I just heard the short one call the tall one George.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Prosecution is closed.

The Defending Officer submits that the Prosecution have failed to set up a prima facie case and that the accused should, therefore not be called upon for his Defence, and gives the following arguemant:

"The first charge is for being unlawfully involved in a disturbance which the Court could take either as starting a disturbance or continueing to fight when he did not have to in self defence.

The provost witnesses have both said that they came to the scene and saw the accused fighting but they both said he was bleeding at this time . He had received this cut or blow from some Italian before they saw him fighting. It is the duty of the Prosecution to prove before the Court that the accused was the one who started the fight to make unlawful. I submit he was acting in self defence and that the Prosecution has not brought in any witnesses to show that the accused started the fight.

From the witnesses you have been able to see that the accused had a svere cut on the head and it was later found he had a broken wrist. As he is quite a large man, the Court could assume that he was set upon by several Italians at least and thus beat up. So there is no evidence to show the accused started the fight.

On the second charge of resisting arrest, it has been shown that the accused was not placed under arrest until he was at the RAP. The witness who placed him under arrest has said that and he has said that he did nor resist after that. The evidence of the two provosts as to bringing the accused back to barracks is definately contradictory. You have the statement of both L/Cpl Blouin and L/Cpl Gruer that they grabbed hold of the accused and led him back to barracks. This is contradictory and also the provost contradict themselves as to the store being open or closed and whether the store keeper was inside or outside.

So I would like to ask the Court to take these points Into consideration and to remember that there is no prima facie case on either of the cherges against the accused."

The Prosecuting Officer declines to reply.

The Court is closed to consider the motion.

The Court is re-opened and the President announces that the motion has been dis-allowed.

EVIDENCE FOR THE DEFENCE

D-5

First Witness, K48053 Pte G.I. GRACEY, Westmr Regt (M), having been duly sworn is examined by the Defending Officer:

Q. 217 Will you tell the Court just what happened starting out from the afternoon of 28 December until next morning?
A. 217 On the afternoon of 28 December we had a pass from the Coy Comd and we proceeded to have our picture taken. We looked in some stores and found none of them open to have our pictures taken. We wandered around town and found a wine shop open and in there we had a few drinks which led to a few more. From there we went to a house where we have friends and I started to feel my liquor and then I decided I should go home. On the way home I picked up one of my friends and from then on I do not remember anything until two o'clock the next morning when I woke up finding that my head was injured and had been treated by the RAP and also my wrist was giving me great pain. I never slept for the rest of the night and I reported sick at 7 o'clock in the morning. I was treated for my wrist and a splint was put on and my head was re-examined. I was admitted to the 7 Fd Amb and from there on the 30 December to the hospital at Altamura and they sent to 1 Cdn General Hospital. At 1045 hrs on 30 December I was X-rayed and it was found that I had a broken wrist. I was then permitted to come back to my unit carrying out my normal duties.

Cross Examination by the Prosecuting Officer.

Q. 218 Where did you meet Pte Butcher that night?
A. 218 Up near the officers' mess and on the street where AMGOT is and we take our laundry up that way. I remember meeting him but I could not exactly remember where.

Q. 219 You knew it was Pte Butcher?
A. 219 Yes, sir.

No re-examination.

By the Judge Advocate

Q. 220 Did your mind suddenly go blank?
A. 220 Yes, sir,

Q. 221 How long after meeting Pte Butcher did your mind go blank?
A. 221 I just remember meeting him.

Q. 222 Has your mind ever gone blank before?
A. 222 Yes, sir, it has.

Q. 223 Is that common when you drink wine?
A. 223 I do not drink much liquor and I blame this wine.

Q. 224 Have you a fairly clear recollection of everything that happened up to the time you met Pte Butcher?
A. 224 Yes, sir.

By the Court

Q. 225 Do you remember anyone coming up to you and asking for a cigarette or anything like that?

A. 225 No, Sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Defence is closed.

CLOSING ADDRESS BY THE PROSECUTING OFFICER

In the evidence which the two provost gave they say that they saw the accused in a fight with civilians in the town of Matera and the two of them stated that the accused strongly resisted arrest. Although it has been brought out that he was under the influence of liquor, yet being under the influence of liquor does not excuse a person of crime.

CLOSING ADDRESS BY THE DEFENDING OFFICER

I would like to state that with the evidence which has been brought before this Court, the accused states that he does not remember anything that heppened from the time he met Pte Butcher until two o'clock the next morning when he was awakened by his wrist paining him. A man can be pretty well drunk and still recognize a friend of his by his voice, that is the voice pierces to the mind especially such a distinctive voice as Pte Butcher has.

The provost did not state definately that the accused resisted and they said that they thought it necessary that they should help put him to bed and even went so far as to undress him. When the accused was brought to the RAP he was treated for a wound on the head which was bleeding profusely but he did not say anything at that time about his broken wrist although it must have been hurting him very much. Therefore he must not have been in a state to know that his wrist was hurting him or otherwise he certainly would have reported it at the RAP.

I would like to state that there has been no evidence brought forward to show that the accused started any disturbance of any kind and I would like to remind the Court that it is the duty of the Prosecution to prove the charge against the accused which has not been done.

The Cpl of the provost has said that he placed the accused under arrest when at the RAP and he has stated that the accused did not resist after he was placed under arrest. The other provost has said that he was not sure whether the accused recognized them as provost so I would ask the Court to find the accused not guilty on both the first and second charges.

Evidence has been given by the Italian store keeper Morelli that he saw two men coming into his store in artificial light and therefore he must have seen them for sometime and that he was trying to reason with these two men. There was an identification parade on which both the accused and L/Cpl Brown were present. Morelli was at that parade and he failed to pick out either the accused or L/Cpl Brown as the men in his shop. As both these men are fairly distinctive looking men, certainly they could have been identified by that store keeper. Also in his evidence Morelli stated that he immediately locked the door of his store. When the provost came down they stated that the door of his store was open, Morelli states in his evidence that he did not see which one of the two soldiers wrecked his store but the provost said that it was Morelli who directed

them down the street towards the fight. I suggested that Morelli took for granted that these two men who were in the fight were the men who wrecked his store and that they had then gone down the street.

In the case of the other Italian witness Prozia Francesco, he has stated that around quarter to six he came home and told some young ladies in his house to go home accompanied by his daughter. He has stated they were going along a street and then his daughter went into the house of a friend about 15 or 20 metres on the side of the alleyway where the fight took place. He has stated that this fight was going on in front of this house but that his daughter ran out the back and that he and his wife came on the street, coming out of the

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alleyway. When he came out to the alleyway it must have been at least ¾ or 1 hour later from the time the girl ran into this house so I would like to suggest that there were two fellows who wrecked Morelli's store carried on down the street, got into this fight and then went away from there. The fact that they went away could be proved by the fact that the two Italians who were with the girls were not there when Porzia got there. So it has been shown that the accused was not engaged in the fight which the provost interrupted.

PLEA IN MITIGATION OF PUNISHMENT BY THE DEFENDING OFFICER

I would like the Court in considering this case to Act with as much leniency as possible in considering their sentence. The accused was greatly under the influence of liquor at the time he was unfortunate enough to be involved with a bunch of Italians and was therefore haedly accountable for any of his actions which must have taken place. When he was taken to the RAP he had a broken wrist but was so far under the influence of liquor that he did not feel it and could not report it at that time. So therefore I cannot see that he was responsible for any of his actions before that. As he says himself, his mind was completely blank.

With regard to the accused's conduct sheet, the Court will note that practically all the crimes on it are of a petty nature and I have known the accused for quite a few years since we have been together in the Westmr Regt and I have always known him to be a good and reliable soldier and it is unfortunate that the effects of this Italian wine are such that they make a man do things whichhe does not realize he is doing, so I would ask the Court to be as lenient as possible in considering their sentence.

FIELD GENERAL COURT-MARTIAL (in lieu of CFA 95

ACCUSED

K-48053 Pte. - - - George, Ivan GRACEY Westminister R

CONVENING ORDER

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 11 Jan 44 endorsed by me, (~~or by an offr of my staff for me~~), TO BE TRIED BY FIELD GENERAL COURT MARTIAL".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

	PRESIDENT	
MAJ	I.S. SECORD	9 Armd Regt (BCD)
	MEMBERS	
Capt	F.C. Brathwaite	3 Recce Regt (GGHG)
Capt	C.A. McEwen	5 Armd Regt (SNSH)
	WAITING MEMBER	
Lt	To be detailed	5 Armd Regt (SNSH)
	JUDGE-ADVOCATE	
Capt	G.M. Morrison	HQ 5 Cdn Armd Div

On Active Service in the Fd

in ITALY

Date 11 Jan 44

"G.W. Robinson, Lt-col"
Commanding (G.W. Robinson) Lt-col
A/Comd 5 Cdn Armd Bde

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

"I.S.S." 7

MEDICAL OFFICER'S CERTICICATE

K.R. (Can). Para 552.

I certify that ~~have~~ I have this morning examined

No. K48053 Pte. GRACEY G.I.

Westminister Regt (M)

and in my opinion he is fit to undergo trial by

Court-Martial.

Station Field

Date 14 Jan 44

"C.W. Wilder" Capt

~~"Undesipherable"~~

Medical Officer.

CHARGE SHEET

The accused, K48053, Pte. George Ivan GRACEY the Westminister Regiment (Motor) a soldier of the Canadian Army Overseas is charged with:

First Charge
Sec. 40 A.A. WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

in the field, on the 28th day of December 1943 unlawfully became involved in a disturbance with Italian civilians in the town of MATERA.

Second Charge
Sec. 10(3) AA WHEN ON ACTIVE SERVICE RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM

In that he

in the field, on the 28th day of December 1943 resisting M-3658 L/Cpl. Blouin F.C. and D110266 L/Cpl. Gruer W. both of C Sec. 5 Cdn Provost Company whose duty it was to apprehend him, by struggling.

In the Field
11 Jan. 44.

"R.L. Tindall"
(R.L. Tindall) Lt.-col.
Comd
The Westminister Regt. (M)

To be tried by F.G.C.M.

"G.W. Robinson" Lt-col.
A/Comd. 5 Cdn Armd Bde.
LL Jan 44

CERTIFIED TRUE COPY Spare copy CFA 96

S. MacDougall CAPT. RRR 35

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-col. G.W. ~~Robertson~~ ROBINSON, A/Comd. 5 Cdn Armd Bde, "ISS" 11 Jan 44.

ACCUSED.

K-48053 Pte. George Ivan GRACEY, Westmr Regt (M)

PROCEEDINGS OF TRIAL

Held in the Fd in Italy, on 14 Jan 44.

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT

A. 1. No alterations.

A. 2 's' in word Sheet(s), line 1, deleted. 'are', line 2 deleted. "ISS"

A. 3 The Court is opened. The accused is brought before the Court. At 09.45 hours trial commences.

A. 4 'are', line 1, deleted. 2nd and 3rd lines deleted. "ISS"

A. 5 Cpl. DeBenedetti, is interpreter. Sgt. B.W.Heneffer is Shorthand writer, and no objections to either.

A. 6 No alterations. Answer reads: "NO".

A. 7 No alterations.

President.	Major	I.S.Secord	9 Armd Regt (BCD)
Member	Capt.	F.C.Brathwaite	3 Recce Regt (GGHG)
Member	Capt.	C.A.McEwan	5 Armd Regt (8NBH)
Judge-Advocate	Capt.	G.M.Morrison	HQ. 5 C.A.Div
Prosecutor	Lt	W.L.Delaney	Westmr. R (M)
Defending Offr.	Lt.	R.B.Fountain	Westmr. R. (M)

Neither Prosecutor or Defending Offr lawyers.

A. 8 "N/A"

A. 9 Words 'are' and 'do', line 1 deleted. "ISS"

A.10 The Court is closed and considers the Instrs on Procedure after Arraignment at top of p.2. The Proceedings are continued on Record Form D.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

(NO ALTERATIONS OR INSERTIONS)

RECORD FORM B-PROCEEDINGS OF TRIAL BY JURY IN ALL CASES

DELETED "ISS"

RECORD FORM C-PROCEEDINGS IN TRIAL BY JURY OF GUILTY AND NOT GUILTY

DELETED "ISS"

CHARGE SHEET

The accused, K48053, Pte. George Ivan GRACEY the Westminster Regiment (Motor) a soldier of the Canadian Army Overseas is charged with:

First Charge
Sec. 40 A.A.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

in the field, on the 28th day of December 1943 unlawfully became involved in a disturbance with Italian civilians in the town of MATERA.

Second Charge
Sec. 10 (3) AA

WHEN ON ACTIVE SERVICE RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM

In that he

in the field, on the 28th day of December 1943 resisted M-3658 L/Cpl. Blouin F.O. and D110266 L/Cpl. Gruer W. both of C Sec. 5 Cdn Provost Company whose duty it was to apprehend him, by struggling.

In the Field
11 Jan. 44.

R.L. Tindall
(R.L. Tindall) Lt.-col.
Comd
The Westminster Regt. (M)

To be tried by F.G.C.M.
G.W. Robinson Lt Col.
a/Comd. 5 Cdn Arm'd Bde
11 JAN 44.

RECORD FORM D-PROCEEDINGS ON PLEADS NOT GUILTY TO ALL CHARGES.

D. 1 No alterations. Answer reads: "NO"

D. 2 The Prosecutor makes no opening address. "ISS"

D. 3 No alterations.

D. 4 The Prosecution is closed. The defending offr submits that the evidence for the prosecution does not establish a prima facie case against the accused on the First and Second charges. The Court is closed, and considers the submission. The Court is re-opened, and the President announces that the submission is disallowed on the both charges, and that, accordingly, the trial will proceed. "ISS"
(Rest of para deleted)

D. 5 No alterations. 1st Ans: "I wish to make statement under oath"
2nd Ans: "NO"
3rd Ans: "N/A"

D. 6 Consequent on the answers recorded in para D5 the procedure for the defence is followed. In the opinion of the Court and the Judge Advocate it is unnecessary for the Judge Advocate to sum up "ISS"

D. 7 No alterations.

D. 8 The President states to the accused that the findings of the Court on the First and Second charges, being subject to confirmation, will be promulgated later. Part I of the Schedule is dated and signed. "ISS" "ISS"
(Rest of para deleted)

D. 9 No alterations.

RECORD FORM E-PROCEEDINGS ON CONVICTION BEYOND SENTENCE.

E. 1. No alterations. Ans. reads: "No, Defending officer will give character evidence." "ISS"

E. 2 ~~xxx~~ 's' in Statement(s), line 1, deleted.
'(copies)' and 's' in Sheets, line 2, deleted.
's' in soldier(s), line5, deleted.
Line 6 reads: "marked Ex "A" and Ex "B" respectively. "ISS"

E. 3 President to accused: Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment? Ans. "Wish defending officer to do so" "ISS"

E. 4 No alterations.

E. 5 No alterations.

SCHEDULE

PART I. PLEA, FINDING AND SENTENCE.

Accused: K-48053 Pte. George Ivan GRACEY, Wastar R. (M)

1st Charge, Sec 40 A.A.	Not Guilty,	Guilty.	Confirmed "GRB"
2nd Charge, Sec 10 (3)AA	Not Guilty.	Guilty.	Confirmed "GRB"

At present under sentence for N/A beginning on N/A.

Time in confinement awaiting present trial-a total of Nil days, of which Nil days were spent in hospital.

Sentence Awarded by the Court:

"TO UNDERGO IMPRISONMENT WITH HARD LABOUR FOR A PERIOD OF ONE YEAR"

(Sgd) "G.M.Morrison" Capt. Judge-Advocate. 14 Jan 43. Date awarded (Sgd) "I.S.Record" President

PART II. MINUTE WHERE CONFIRMATION IS SERVED.

NO ALTERATIONS OR INSERTIONS

PART III. DECISION OF CONFIRMING OFFER ON FINDING(S) AND SENTENCE

My decision on the finding(s) and sentence set forth in Part I is:

"FINDING & SENTENCE CONFIRMED"

I direct that the accused be not committed to prison or detention barracks until further orders.

"G.R.Bradbrooke" Brig.

Dated 27 Jan 1944.

Commanding 5 Cdn Armd Bde.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN

K-48053 Pte. GRACEY, G.I. 29 Jan 44. "J.M.Grant"

(J.M.Grant) Major

6a 'A' 41 29

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
6483053	Pte.	GRACEY G.I.	The Westminster Regt. (M)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, [illegible] given to the most serious offence in each entry and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Cond to the Presd. Sec. 40 I	times	3 times.
For A.W. Sec. 15(2)	1 times	4 times.
For Breaking out barracks	times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused. Nil

2. The accused has not been previously convicted, *or*

Previous convictions Nil of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence as~~ Nil

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and no days in military custody, making a total of Nil days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper Nil is 23

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper Nil is

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 6 mos

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 6 mos. service.

9. The accused is entitled to reckon 2 yrs 6 mos. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~is in possession of or entitled to~~ Nil (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or department*) the rank of dated

[illegible] WL 16540/902 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~21st~~ 14th day of Jan 44

E.O.K. Shelton Capt & Adjt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion
In the rank of ____ years,	
In the rank of ____ years	
In the rank of ____ years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

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No K48053 Name Gracey G.I. Sqn., Battery, or Company | Corps Westmr Regt (M) Date of enlistment 3-6-41 G.C. Badges | Ex. "B" Service or Proficiency Pay | "I.S.S." A.F.M. 6 (A.F.B. 122) 40/P & S/126 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fins | Sheet No. 1 | Signature O.C. Company, etc. | Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	1-8-41	Pte		AWL(5.d.18 hrs. 15 min(AA Sec15 till 0630 22.9.41 (1)	Sgt Wilson	J.E. 10 days Pay (AA46 d)	7-8-41	J.E. Sager Lt-col	6 days pay FR&I 149 (1)
" "	19-9-41	"		AWL 0100, 19-9-41 (AASec 15 (1)	Sgt Brumpton W.C.	1 days C.B.	22-9-41	J.E. Sager Lt-col	(a).4 days pay FR&I 149 (1)(a)
Camp Sussex	22-10-41	"		Unshaven on parade (AASec 40)	Sgt Shawcros	3 days C.B.	23-10-41	D.B.MacKenzie Maj	
Camp Sussex	3-11-41	"		Breaking Barracks (AA 16-4) AWL from 0630 hrs 1-1141 till 0630 hrs 3-11-41 (2 days (AA 15 (1))	Sgt Rennie	forf 3 days pay (AA 46) FR&I	3-11-41	J.E. Sager Lt-col	forf 2 days pay FR&I 149 (1)(a)
Field	9-9-42	"		Cond to the Prej etc- Acted in slovenly manner on par. (AASec 40	Capt Shawcross	2 days ~~pay~~ C.C.	10-9-42	Capt F. Shawcross.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	22-3-43	Pte		AA Sec 40 attempted to break out of barracks after lights out.	Lt J.O. Hall	7 days C.B.	24-3-43	Major D.B. MacKenzie	
Field	10May 43	"		AA Sec 15(1) AWL from 1700 hrs 10 May 43 till he returned at 1100 hrs 11May43 (16 hours)	Sgt. Godwin	Forf 3 days pay FR&I 149 2 7 days C.B.	12 May 43	Lt-col R.L. Tindall	Forf one days pay FR&I 149 (1) (a)

CERTIFED TRUE COPY FROM THE REGT. BOOKS IN MY CUSTODY

"E.B. Robertson Capt. & Adjt"

No K48053 Name Gracey G.I. Sqn. Battery or Company | Corps Westmr Regt (M) | Date of enlistment 3-6-41 | OC Badges | Ex. "B" | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

MFM 6 (APR 1941) 40/P&S/136 (3438)

Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	1-8-41	Pte		AWL (5 d 18 hr 15 m) AA (Sec 15)	Sgt Dalton J.C.	10 Days Pay (AA46,2 d)	9-8-41	J.E. Sager Lt col	6 d Pay FR&S 149(1)A 4 149(1)A
" "	19-9-41	"		AWL, 0000 19-9-41 till 0600 22-9-41 (AA Sec 15)	Sgt Brampton W.C.	1 day C B	22-9-41	J.E. Sager Lt col	
Camp Sussex	22-10-41	"		Unshaven on parade (AA Sec 40)	Sgt Shawcross	3 days C B	23-10-41	D.E. MacKenzie Major	
" "	3-11-41	"		Breaking Barracks (AA 10-4) AWL from 0630 hr 1-11-41 till 0630 hr 3-11-41 (2 days (AA 15(1))	Sgt Kennie	Forf 3 days pay (AA46) FR&S	3-11-41	J.E. Sager Lt col	for lwr days pay FR&S 149(1)A
Field	9-9-42	"		Cond. to the Prej. etc - Acted in slovenly manner on par. (AA Sec 40)	Capt F Shawcross	2 days C B	10-9-42	Capt F Shawcross	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22-3-43	Pte		AA Sec 40 - Attempted to break out of barracks after lights out	Lt J.C. Hall	7 days C.B.	24-3-43	Major D.B. MacKenzie	
Field	11 May 43			AA Sec (5 (c) AWL from 1700 hrs 11 May 43 till he returned at 1101 hrs 11 May 43 16 hours	Sgt Dodwin	Forf 3 days pay F.R.S. 149, 2 7 days C.B.	12 May 43	Col. R.L. Kendall	Forf one day pay F.R.S. 149, 2

CERTIFIED TRUE COPY FROM THE REGT. BOOKS IN MY CUSTODY

E.B. Robertson Capt & adjt

THE WESTMINSTER REGIMENT (MOTOR)

115

On 29 December 1943 G23001 Sgt. O'Neil, R.J. 5 Pro. Coy. requested an Identification Line-Up so that the Italian Storekeeper and two other Italian witnesses could prove the identity of K48053 Pte. Gracey, G.I. as one of the Canadian soldiers who had molested the storekeeper. Although the civilians were sure that they could identify the soldiers concerned, they failed to pick from the Identification Line-Up, Pte. Gracey, G.I. or any of the soldiers arrested by the provost

H. A. Hoskin Capt

I G23001 Sgt. O'Neil, R.J. attended the s/m Identification parade and agree with the above statement.

R.J. O'Neil

R.J. O'Neil Sgt.

J.M. 7

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557.

I certify that I have this morning examined

No. K48053 Pr GRACEY G.I.

Lieutenant Regt (M)

and in my opinion he is ~~unfit~~ fit to undergo trial by court-martial.

Station Field

Date 14 Jan 44

Medical Officer.

WESTMINSTER REGIMENT
JAN 14 1944
ORDERLY ROOM

I desire the convening officer to detail an officer to defend me in my forthcoming trial by Field General Court Martial

G. L. Gracey

I hereby acknowledge receipt of one copy of the Summary of Evidence and one copy of the Charge Sheet of my trial by Field General Court Martial

G. L. Gracey

THE WESTMINSTER REGIMENT (M)

44

2000 Hrs. 28 Dec. 43.

K-47428 L/Cpl. Brown, R.D. was brought into the Barracks at 1900 hrs by G-23001 Sgt. O'Neil, R.J. of the Provost Corps. He had injuries on head and face and he states that he was coming home with Ptes. Gracey and Butcher, both of the Westminster Regt (M) when he was struck from an alleyway near the Strathcona Lines, at approximately 1815 hrs. They began fighting and the next thing knew was that he was being treated in the R.A.P. at the La S.H. lines and was brought in by the Provost Sgt.

(Signed).....Lieut.
(J. Tattersall) Lieut.
The Westminster Regt. (M)

CERTIFIED TRUE COPY

..... Lieut.
(M.G. Klinkhammer) Lieut.
The Westminster Regiment (M)

CLOSING ADDRESS BY THE PROSECUTING OFFICER

In the evidence which the two provost gave they say that they saw the accused in a fight with civilians in the town of Matera and the two of them stated that the accused strongly resisted arrest. Although it has been brought out that he was under the influence of liquor, yet being under the influence of liquor does not excuse a person of crime.

CLOSING ADDRESS BY THE DEFENDING OFFICER

I would like to state that with the evidence which has been brought before this Court, the accused states that he does not remember anything that happened from the time he met Pte Butcher until two o'clock the next morning when he was awakened by his wrist paining him. A man can be pretty well drunk and still recognize a friend of his by voice, that is the voice pierces to the mind especially such a distinctive voice as Pte Butcher has.

The provost did not state definitely that the accused resisted and they said that they thought it necessary that they should help put him to bed and even went so far as to undress him. When the accused was brought to the cage he was strapped for a wound on the head which was bleeding profusely but he did not say anything at that time about his broken wrist although it must have been hurting him very much. Therefore he must not have been in a state to know that his wrist was hurting him or otherwise he certainly would have reported it at the RAP.

I would like to state that there has been no evidence brought forward to show that the accused started any disturbance of any kind and I would like to remind the Court that it is the duty of the Prosecution to prove the charge against the accused which has not been done.

The cpl of the provost has said that he lashed the accused under arrest when at the RAP and he has stated that the accused did not resist after he was placed under arrest. The other provost has said that he was not sure whether the accused resisted them as provost or I would ask the Court to find the accused not guilty on both the first and second charges.

Evidence has been given by the Italian store keeper Morelli that he saw two men coming into his store in artificial light and therefore he must have seen them for sometime and that in an attempt to reason with these two men. There was an identification parade on which both the accused and L/Cpl Brown were present. Morelli was at that parade and he failed to pick out either the accused or L/Cpl Brown as the men in his shop. As both these men are fairly distinctive looking men, certainly they could have been identified by that store keeper. Also in his evidence Morelli stated that he immediately locked the door of his store. When the provost came down they stated that the door of his store was open. Morelli states in his evidence that he did not see which one of the two soldiers wrecked his store but the provost said that it was Morelli who directed them down the street towards the fight. I suggest that Morelli took for granted that these two men who were in the fight were the men who wrecked his store and that they had then gone down the street.

In the case of the other Italian witness Proia Francesco, he has stated that around quarter to six he came home and told some young ladies in his house to go home accompanied by his daughter. He has stated they were going along a street and then this daughter went into the house of a friend about 15 or 20 metres on the side of the alleyway where the fight took place. He has stated that this fight was going on in front of this house but that his daughter ran out the back and that he and his wife came on the street, coming out of the

CLOSING ADDRESS BY THE PROSECUTING OFFICER

In the evidence which the two provost have they say that they saw the accused in a fight with civilians in the town of Waters and the two of them stated that the accused strongly resisted arrest. Although it has been brought out that he was under the influence of liquor, yet being under the influence of liquor does not excuse a person of crime.

CLOSING ADDRESS BY THE DEFENDING OFFICER

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I would like to state that there has been no evidence brought forward to show that the accused started any disturbance of any kind and I would like to remind the Court that it is the duty of the Prosecution to prove the charge against the accused which has not been done.

The Cpl of the provost has said that he placed the accused under arrest when at the MAP and he has stated that the accused did not resist after he was placed under arrest. The other provost has said that he was not and whether the accused resisted them as provost or I would ask the Court to find the accused not guilty on both the first and second charges.

Evidence has been given by the Italian store keeper Morelli that he saw two men coming into his store in artificial light and therefore he must have seen them for sometime and that in was trying to reason with these two men. There was an identification parade on which both the accused and L/Cpl Brown were present. Morelli was at that parade and he failed to pick out either the accused or L/Cpl Brown as the men in his shop. As both these men are fairly distinctive looking men, certainly they could have been identified by that store keeper. Also in his evidence Morelli stated that he immediately locked the door of his store. When the provost came down they stated that the door of his store was open. Morelli states in his evidence that he did not see which one of the two soldiers wrecked his store but the provost said that it was Morelli who directed them down the street towards the fight. I suggest that Morelli took for granted that these two men who were in the fight were the men who wrecked his store and that they had then gone down the street.

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Bryant.
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alleyway. When he came out to the alleyway it must have been at least ½ or 1 hour later from the time the girl ran into this house so I would like to suggest that there were two fellows who wrecked Morelli's store carried on down the street, got into this fight and then went away from there. The fact that they went away could be proved by the fact that the two Italians who were with the girls were not there when Forzia got there. So it has been shown that the accused was not engaged in the fight which the provost interrupted.

Form No. 3
27

PLEA IN MITIGATION OF PUNISHMENT BY DEFENDING OFFICER.

I would like the Court in considering this case to act with as much leniency as possible in considering their sentence. The accused was greatly under the influence of liquor at the time he was unfortunate enough to be involved with a bunch of Italians and was therefore hardly accountable for any of his actions which must have taken place. When he was taken to the RAP he had a broken wrist but was so far under the influence of liquor that he did not feel it and could not report it at that time. So therefore I cannot see that he was responsible for any of his actions before that. As he says himself, his mind was completely a blank.

With regard to the accused's conduct sheet, the Court will note that practically all the crimes on it are of a petty nature and I have known the accused for quite a few years since we have been together in the Westmr Regt and I have always known him to be a good and reliable soldier and it is unfortunate that the effects of this Italian wine are such that they make a man do things which he does not realize he is doing, so I would ask the Court to be as lenient as possible in considering their sentence.

SUMMARY OF EVIDENCE

in the case of

K-48053 Pte. Gracey, G.I. of
The Westminster Regiment (M), CA OS
charged with

CONDUCT TO THE PREJUDICE: of good order and military discipline - AA 40 - in that he, IN THE FIELD , on 28th December 43. at approximatley 1835 hrs. created a disturbance involving several civilians in Matera.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: K-47428 L/Cpl. Brown, R.D. of The Westminster Regiment (M), having been duly sworn, states:

I am K-47428 L/Cpl. Brown, R.D. of The Westminster Regiment (M). Three of us were proceeding back to barracks on the evening of 28th December 43. - Pte. Gracey, Pte. Butcher and myself. We were causing no trouble when a big Italian came up and asked Gracey for a cigarette, which was refused . On being refused the Italian persisted however and did not go away. The next thing I saw was my friend Gracey on the ground with the Italian bending over him. I immediatley went to Gracey's assistance and grappled with the Italian; I pushed him aside and helped Gracey to his feet. The street was well filled with people milling around, as if we had happened upon a group of some kind. By this time the gathering around us was noticeable; and as I was helping Gracey to push our way through the growd I was hit on the head by a woman with a big stick. I started in the direction of the woman, Gracey and I were separated, and a general fight developed. This continued until the Provost arrived.

QUESTION by Officer conducting the summary
Was the crowd you mention in the street attracted by the fight you were in with the Italians?
A. No Sir, the crowd was there before we arrived.
QUESTION by Officer conducting the summary.
Did you hit or otherwise molest the Italian woman you mentioned?
A. No Sir.
Q by C.
Did you hit anyone else?
A. Yes Sir, I hit the Italians who were attacking us; this was in self defence.

The accused had no questions to ask the witness.

R.D. Brown.....

SECOND WITNESS: K-42933 Pte. Butcher, C.A. The Westminster Regiment (M) CA OS
I am K-42933 Pte. Butcher, C.A. The Westminster Regiment (M). On the night of 28th December 43., at approximately 1830 hrs. I was accompanying Pte. Gracey and L/Cpl. Brown back to the barracks. I had met them a few minutes before and found that Gracey was noticeably under the influence of liquor and needed help to get home. L/Cpl. Brown was also pretty tight but he was helping to hold up Gracey as they walked. I decided to steer the two of them home as I had not been drinking at all. When we were just a short distance past the entrance to our Officer's Mess, and Italian approached us and as Gracey was the nearest to him he asked him for a cigarette. Gracey did not give him one and I walked on a bit to where

there where some vehicles parked. I looked back and called for the two to come along. I saw a bit of a scuffle taking place in the light of the lamp shining down upon the four of them, since by now there were two Italians there. I saw one of them hit L/Cpl. Brown with his fist, and I ran back to help. As I did so one of the Italians ran away. When I got there I found Gracey lying on the ground and mouning about his wrist. L/Cpl. Brown and the other Italian were still fighting. So I grabbed hold of L/Cpl. Brown and as I did so the other Italian ran away and disappeared. I got L/Cpl. Brown to help me get Gracey to his feet. Just as we did so about eight or a dozen Italian mixed men and women (all civilians) rushed at us. There was one especially big Italian man who kicked Gracey's feet out from under him as he attacked from the rear. Then the fight started and the crowd kicked Gracey on the ground and hit him with several sticks. I saw two knives being [redacted] wielded by the Italians. L/Cpl. Brown was now out of sight in the melee. Then the Provost arrived, about five of them I would say. The big Italian above - mentioned tryed to hit the Provost Sergeant with the club he had.

We found L/Cpl. Brown fighting off several Italians including a couple of women, who had him backed into a corner. The Provost scattered these and we got L/Cpl. Brown out of the corner. I assisted the Provost to bring Gracey home to barracks as he was bleeding from a wound in his head, made by a knife I think. We took him to our R.A.P. for treatment and then I assisted one of the Provost to put him to bed.

QUESTION by the accused to the witness:
Was there a crowd there before we entered the spot where the fight took place?
A. There was quite a number of people there standing in groups talking and some were walking past all the time.
Q by accused to the witness:
Werethere women fighting using sticks?
A. Yes, most definately, several of them.
Q by accused to witness:
Did I offer resistance to the Provost or your self as I was being taken home?
A. No Sir, he did not. We just led him home, with no trouble at all. I was supporting the arm that was hurt and that was paining him. He was also complaining about the wound on the head.

Charles Alfred Butcher.

THIRD WITNESS: Lieut. F.N. Clifford, 2nd. Arm'd Regt., CA OS - Commander of the Matera Town Guard 28th December 1943.
- Evidence as submitted in his guard report, confirmed and sworn to this date:
At 1822 hrs 28 Dec. 43 an Italian national informed the sentry that a fight was in progress in town. Upon this being reported to me, I immediately called out a strong patrol and led them to the [redacted] scene of the fight at the double. When I arrived by the Strathcona lines, our guide told us that the fight was over, and that the civilians involved had proceeded down to the school where the WESTMR Regt is stationed. I proceeded to this place and there found an Italian civilian with a cut over the right eye. He gave his name as Porsa Francensco. His nephew, Loperfido Giuseppe was there and since he spoke French I obtained the following information from him.

At 1815 hrs or there abouts his uncle Francensco, accompanied by his wife was on the Via Ridolla. Three Canadian soldiers alleged to be drunk accosted them in a belligerent manner ad spoke also to his wife. A fight ensued in which Francensco sustained this cut apparently superficial but extensive. He described the soldiers thus:

one - tall and slim, about 20 - 24
one - ditto
one shorter and slim, about the same age.

He further stated he could not distinguish the unit, or the colour of the berets, but said that these soldiers lived in the school. This information was given to me in French and Italian and may not be absolutely correct since my command of either is not perfect.

Both the Italians named were highly excited and indignant; and they indicated that they wished this incident brought to the attention of the appropriate authorities. I informed them that I would submit my report and a strict investigation would be held and the wrong-doers, if any, fittingly punished.

Lieut. Tattersall, the Orderly Officer, Westmr Regt, was present and assisted me in the interrogation. I received from him the appended report at apprx 2000 hrs the same night.

At 1920 hrs, in compliance with Guard Orders, I reported the disturbance to the Duty Officer at Bde HQ, and again to the Bde Staff Captain at 2130 hrs.

H. Clifford, Lieut.

FOURTH WITNESS: M-3658 L/Cpl. Blouin, F.O., C Sec. 5 Provost Coy.
CA OS
I am M-3658 L/Cpl. Blouin, F.O. C Sec. 5 Provost Coy. On the 28th December 1943 at about 1830 hrs. an Italian civilian came into our barracks and warned us of some trouble outside. L/Cpl. Gruer, and I proceeded down to the corner store not far away where the trouble was supposed to be. Sergeant O'Neil and Cpl. Arbuckle of our section were also with us. When we arrived at the store we were told by the Italian civilains that the soldiers had proceeded down the street. Just then we heard a woman scream; we all ran in that direction. Sgt. O'Neil went into an alley and I followed him. He grabbed one Westminster chap and held him from fighting. I saw one Westminster coming around the corner, starting to fight with civilians. L/Cpl. Gruer and I and a slightly built Westminster lad proceeded to stop this fighting. We then took the Westminster we had seized, whom I recognize as the accused here present. Pte. Gracey, to the Westminster Regt. R.A.P. On the way the man resisted fairly strongly but we subdued him and he came along with us. We took him to the R.A.P. and later to his quarters. I obtained from the Orderly Corporal a receipt for the delivery of Pte. Gracey.

.....

Q by O. conducting the Summary:
Did you see any provocation into fighting of the Westminster Regt. soldiers by the Italian civilians?
A. No Sir, I arrived too late; the fighting was going on when we got on the scene.

The accused declined to ask any questions of the witness.

F. L. Blouin

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FIFTH WITNESS: D-110266 L/Cpl. Gruer, W. C Sec. 5 Cdn. Provost Coy., CA OS. Having been duly sworn states:
I am D-110266 L/Cpl. Gruer, W. On the night of the 28 December 1943 at approximately 1830 hrs., we were informed by an Italian civilian that soldiers were fighting at a near by store. I accompanied Sgt. O'Neil, Cpl. Arbuckle and L/Cpl. Blouin to the store where the soldiers were supposed to be fighting. We were told there by the store keeper that the soldiers were fighting further down the street. I went down with Sgt. O'Neil to the scene of the fight. The Sgt. stopped one of the soldiers and I helped L/Cpl. Blouin to stop the other soldier from fighting. I saw that this soldier was wounded and suggested that he should be taken to a R.A.P. A third Westminster soldier who was not fighting, suggested taking the ingured man to his own lines. The injured soldier was resisting strongly. L/Cpl. Blouin and I took him to the Westminster Regt R.A.P. and later to his room and L/Cpl. Blouin took the particulars of name, number etc. We saw the Orderly Corporal on the way out and obtained a receipt. That is all, Sir.

Q by O conducting summary
Did you hear a woman's scream as you first approached the scene of the fight?
A. Yes Sir.
Q by O conducting summary
Do you recognize the accused here present, Pte. Gracey, as the injured man you took to the R.A.P.
A. Yes Sir, I do.
Q by O conducting summary
Are you certain that the injured man offered resistance when you wished to lead him away? It was not the pains from his wounds that made the scuffling?
A. No Sir, He definitely resisted.

The accused declined to ask the witness any questions.

....W. Gruer.....

The accused having been duly warned as follows:
" Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so; but whatever you say or any evidence you give will be taken down in writing and may be used in evidence." G. P. Gracey

The accused declined to make a statement of his own on the case.

I certify that Rules of Procedure 4 (b)(c)(d)(e) and (f) have been complied with. W. G. Blinkhaney, Lt.

Taken by me in the field, in the presence and hearing of the accused, this 4th day of January 1944.

W. G. Blinkhaney Lt.....

Supplementary Summary of Evidence in the Case of K48053 Pte. Gracey, G.I., The Westminster Regt (M), in the Field this 11th Jan 1944.

Charged with Creating a Disturbance. A.A. Sec 40.

The Commanding Officer directs that evidence be taken on oath.

First Witness; Perzia Francesco, having been duly sworn states; On 28 Dec 43, at about six o'clock two youths named Joseph and Eustachie Laperfido were escorting some young girls to their house. Two or three Cdn soldiers approached the girls, it was dark and the girls were afraid and ran away into the house of one Frangrorce. The two young men stayed at the door and the Cen soldiers started to fight with them. The civilians started to fight back and shout. One of the girls went out of the back entrance of the house and fetched her Mother and Father. The Mother arrived first and the Cdn soldiers knocked the old lady down in the street, meanwhile the Father arrived and one of the soldiers grabbed the old man and knocked him to the ground where he cracked his forehead and received a small wound which bled. The mans name is Francesco Perzia. The Cdn soldiers then moved away.

Perzia Francesco

The accused declines to cross examine the witness.

Second Witness Lugi Morelli, having been duly sworn states; At about six o'clock two Cdns came into my store. Not wanting to purchase anything, one molested a civilian who was in my store. I speak English and told him to behave. My wife was in back of the [illegible] counter. The tall soldier pushed the civilian, said to the tall Cdn "Give it to him". I told him to stop. The tall one came toward me, then knocked a box off my counter and kicked a glass out of my show case. The Small Cdn then said George come on out. They went out and I locked the door.

Lugi Morelli

The accused declines to cross examine the witness.

Questions by Officer taking Summary.
Q. Do you know the civilian?
A. I do not know him.
Q. Could you idnetify the Cdn soldiers?
A. No, one was tall the other short. The tall one's name is George.

I certify that Rules of Procedure 4 (b)(c)(d)(e) and (f) have been complied with.

[illegible] Lt

Lunch

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Q. 225 Do you remember anyone coming up to you and asking for a cigarette or anything like that?

A. 225 No, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(3).

The witness withdraws.

The Defence is closed.

No I would like to ask the Court to take these points into consideration and to remember that there is no prima facie case on either of the charges against the accused."

The Prosecuting Officer declines to reply.

The Court is closed to consider the motion.

The Court is re-opened and the President announces that the motion has been disallowed.

EVIDENCE FOR THE DEFENCE

First Witness, K48053 Pte G.I. GRACEY, Westmr Regt (M), having been duly sworn is examined by the Defending Officer:

Q. 217 Will you tell the Court just what happened starting out from the afternoon of 28 December until next morning?
A. 217 On the afternoon of 28 December we had a pass from the Coy Comd and we proceeded to have our pictures taken. We looked in some stores and found none of them open to have our pictures taken. We wandered around town and found a wine shop open and in there we had a few drinks which led to a few more. From there we went to a house where we have friends and I started to feel my liquor and then I decided I should go home. On the way home I picked up one of my friends and from then on I do not remember anything until two o'clock the next morning when I woke up finding that my head was injured and had been treated by the RAF and also my wrist was giving me great pain. I never slept for the rest of the night and I reported sick at 7 o'clock in the morning. I was treated for my wrist and a splint was put on and my head was re-examined. I was admitted to the 7 Fd Amb and from there on the 30 December to the hospital at Altamura and they sent me to 1 Can General Hospital. At 1045 hrs on 30 December I was X-rayed and it was found that I had a broken wrist. I was then permitted to come back to my unit carrying out my normal duties.

Cross Examination by the Prosecuting Officer

Q. 218 Where did you meet Pte Butcher that night?
A. 218 Up near the officers' mess and on the street where AMGOT is and we take our laundry up that way. I remember meeting him but I could not exactly remember where.

Q. 219 You knew it was Pte Butcher?
A. 219 Yes, sir.

No re-examination.

By the Judge Advocate

Q. 220 Did your mind suddenly go blank?
A. 220 Yes, sir.

Q. 221 How long after meeting Pte Butcher did your mind go blank?
A. 221 I just remember meeting him.

Q. 222 Has your mind ever gone blank before?
A. 222 Yes, sir, it has.

Q. 223 Is that common when you drink wine?
A. 223 I do not drink much liquor and I blame this wine.

Q. 224 You have a fairly clear recollection of everything that happened up to the time you met Pte Butcher?
A. 224 Yes, sir.

By the Court

Brown D.3

A. 20 arrived and I accompanied the Provost Sgt into an alleyway where we saw L/Cpl Brown backed into a corner surrounded by civilians. The Provost Sgt took L/Cpl Brown away and I went over to assist two Provost Cpls to get the accused back on his feet. We then brought him back to our RAP and from there to his quarters and put him to bed.

Q. 21 Where did you meet the accused?
A. 21 Just before you get to the AMGOT officers' mess.

Q. 22 Did you talk to the accused?
A. 22 Yes, sir.

Q. 23 Did the accused recognise you?
A. 23 Yes, sir, he did.

Q. 24 Did you hear the accused speak to any of the Italian civilians?
A. 24 Yes, sir.

Q. 25 What did he say when the civilian asked for a cigarette?
A. 25 I did not quite catch what he said.

Q. 26 Did he answer the civilian?
A. 26 Yes, sir.

Cross Examination by the Defending Officer

Q. 27 Could you describe a little further how you and the provost assisted the accused to his feet?
A. 27 One of the provost took one arm and I took hold of him by the other arm. From there one of the provost went on ahead with a light and I took the arm which he was complaining about.

Q. 28 When the accused got to the RAP, did he complain about his wrist?
A. 28 I do not think he did, sir.

Q. 29 Before you came to the scene of this fight, was it necessary to support the accused?
A. 29 Yes, sir, it was.

Q. 30 Did you see the accused strike anyone?
A. 30 No, sir.

Re-examination by the Prosecuting Officer

Q. 31 How far is it from where you met the accused to the scene of the fight?
A. 31 The pace we were going would take us about seven or eight minutes to arrive there.

Q. 32 Was the accused talking to you all the while?
A. 32 He was not actually talking, just mumbling away.

Q. 33 But he knew it was you who was helping him?
A. 33 Yes, sir.

Q. 34 Did he call you by name?
A. 34 Yes, sir, when I spoke to him.

By the Judge Advocate

Q. 35 How old would this Italian be who approached the accused for a cigarette?
A. 35 About 20 years of age.

Q. 36 How was he dressed?
A. 36 Pretty well dressed.

Q. 37 In civilian clothes?

So I would like to ask the Court to take these points into consideration and to remember that there is no prima facie case on either of the charges against the accused."

The Prosecuting Officer declines to reply.

The Court is closed to consider the motion.

The Court is re-opened and the President announces that the motion has been dis-allowed.

EVIDENCE FOR THE PROSECUTION

First Witness, R48053 Pte G.I. GRACEY, Westmr Regt (M), having been duly sworn is examined by the Defending Officer:

Q. 217 Will you tell the Court just what happened starting out from the afternoon of 28 December until next morning?
A. 217 On the afternoon of 28 December we had a pass from the Coy Comd and we proceeded to have our pictures taken. We looked in some stores and found none of them open to have our pictures taken. We wandered around town and found a wine shop open and in there we had a few drinks which led to a few more. From there we went to a house where we have friends and I started to feel my liquor and then I decided I should go home. On the way home I picked up one of my friends and from then on I do not remember anything until two o'clock the next morning when I woke up finding that my head was injured and had been treated by the RAF and also my wrist was giving me great pain. I never slept for the rest of the night and I reported sick at 7 o'clock in the morning. I was treated for my wrist and a splint was put on and my head was re-examined. I was admitted to the 7 Fd Amb and from there on the 30 December to the hospital at Altamura and they sent me to 1 Cdn General Hospital. At 1045 hrs on 30 December I was X-rayed and it was found that I had a broken wrist. I was then permitted to come back to my unit carrying out my normal duties.

Cross Examination by the Prosecuting Officer

Q. 218 Where did you meet Pte Butcher that night?
A. 218 Up near the officers' mess and on the street where A4305T is and we take our laundry up that way. I remember meeting him but I could not exactly remember where.

Q. 219 You knew it was Pte Butcher?
A. 219 Yes, sir.

No re-examination.

By the Judge Advocate

Q. 220 Did your mind suddenly go blank?
A. 220 Yes, sir.

Q. 221 How long after meeting Pte Butcher did your mind go blank?
A. 221 I just remember meeting him.

Q. 222 Has your mind ever gone blank before?
A. 222 Yes, sir, it has.

Q. 223 Is that common when you drink wine?
A. 223 I do not drink much liquor and I blame this wine.

Q. 224 You have a fairly clear recollection of everything that happened up to the time you met Pte Butcher?
A. 224 Yes, sir.

By the Court

Q. 225 Do you remember anyone coming up to your unit asking for a cigarette or anything like that?

A. 225 No, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(3).

The witness withdraws.

The Defence is closed.

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Brown

A. 37 Yes, sir.

Q. 38 After you met the accused and L/Cpl Brown, what was the furthest distance you were away from him at any time?
A. 38 About 15 or 20 yards.

Q. 39 On the same street?
A. 39 Yes, sir.

Q. 40 What was the first thing you saw happen after you walked ahead?
A. 40 I saw L/Cpl Brown being struck by an Italian

Q. 41 By a man or a woman?
A. 41 By a man.

Q. 42 With his fist?
A. 42 Yes, sir.

Q. 43 Was he the man who was asking for a cigarette?
A. 43 Yes, sir.

Q. 44 Was he the only Italian there?
A. 44 No, sir, there was another one there.

Q. 45 Where was the other Italian?
A. 45 He was standing in a group together.

Q. 46 What was the other Italian doing?
A. 46 I did not notice. As soon as I saw this fellow strike L/Cpl Brown, I ran back.

Q. 47 Did you see a woman strike L/Cpl Brown?
A. 47 No, sir, there was no woman there at the time.

Q. 48 How long before a woman arrived?
A. 48 After we got the accused back on his feet.

Q. 49 Are you prepared to say that that was the first blow struck?
A. 49 As far as I saw, yes.

Q. 50 Would you have seen if any blow had been struck sooner?
A. 50 Yes, sir.

Q. 51 If there had been a previous blow struck by anyone, would you have seen it?
A. 51 Yes, sir, I would.

Q. 52 What did the accused have to say when lying on the ground?
A. 52 He was moaning about his wrist. He said "Oh! my wrist".

Q. 53 After you came back?
A. 53 Yes, sir. I do not think he would have been able to get up alone.

Q. 54 Why did you leave them in the first place?
A. 54 I just walked ahead of them.

Q. 55 Do you figure the accused would have been able to get home without your assistance?
A. 55 No, sir, I do not think he could have.

Q. 56 You figured you would have to help him?
A. 56 Yes, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(3).

The witness withdraws.

Third Witness, M3658 L/Cpl F.O. BLOUIN, C Sec, 5 Cdn Pro Coy, having been duly sworn is examined by the Prosecuting Officer:

A. 20 arrived and I accompanied the Provost Sgt into an alleyway where we saw L/Cpl Brown backed into a corner surrounded by civilians. The Provost Sgt took L/Cpl Brown away and I went over to assist two Provost Cpls to get the accused back on his feet. We then brought him back to our RAP and from there to his quarters and put him to bed.

Q. 21 Where did you meet the accused?
A. 21 Just before you get to the ANZAC officers' mess.

Q. 22 Did you talk to the accused?
A. 22 Yes, sir.

Q. 23 Did the accused recognise you?
A. 23 Yes, sir, he did.

Q. 24 Did you hear the accused speak to any of the Italian civilians?
A. 24 Yes, sir.

Q. 25 What did he say when the civilian asked for a cigarette?
A. 25 I did not quite catch what he said.

Q. 26 Did he answer the civilian?
A. 26 Yes, sir.

Cross Examination by the Defending Officer

Q. 27 Could you describe a little further how you and the provost assisted the accused to his feet?
A. 27 One of the provost took one arm and I took hold of his by the other arm. From there one of the provost went on ahead with a light and I took the arm which he was complaining about.

Q. 28 When the accused got to the RAP, did he complain about his wrist?
A. 28 I do not think he did, sir.

Q. 29 Before you came to the scene of this fight, was it necessary to support the accused?
A. 29 Yes, sir, it was.

Q. 30 Did you see the accused strike anyone?
A. 30 No, sir.

Re-examination by the Prosecuting Officer

Q. 31 How far is it from where you met the accused to the scene of the fight?
A. 31 The pace we were going would take us about seven or eight minutes to arrive there.

Q. 32 Was the accused talking to you all the while?
A. 32 He was not actually talking, just mumbling away.

Q. 33 But he knew it was you who was helping him?
A. 33 Yes, sir.

Q. 34 Did he call you by name?
A. 34 Yes, sir, when I spoke to him.

By the Judge Advocate

Q. 35 How old would this Italian be who approached the accused for a cigarette?
A. 35 About 20 years of age.

Q. 36 How was he dressed?
A. 36 Pretty well dressed.

Q. 37 In civilian clothes?

Q. 57 Will you tell the Court what happened on the night of 28 December?

A. 57 On the night of 28 December we were called by some civilian who reported some fight which was going on in a nearby store. Accompanied by L/Cpl Gruer we proceeded to the store. When we arrived at the store we were informed that the soldiers had gone on down the street. We proceeded down the street and heard a woman scream. Sgt O'Neill who was with us started to run and I followed. He went into an alleyway and grabbed hold of one Westmr Regt soldier. Seeing everything was OK there I turned around and saw another Westmr Regt soldier starting to fight with more civilians. We stopped the fight and took the accused back to the RAF because he had a very bally cut lip. About half way to the billets the accused broke away from me and Pte Butcher grabbed hold of him and proceeded to take him to the RAF with L/Cpl Gruer. I turned around and chased away the civilians who were wanting to fight. We arrived at the RAF and the accused's head was fixed up and I received a slip from the orderly cpl for the accused.

Q. 58 Did you talk to the accusal at all?
A. 58 I tried to question him.

Q. 59 Did he answer you?
A. 59 No, sir, he did not.

Cross Examination by the Defending Officer

Q. 60 Did you see the fight start in the street?
A. 60 No, sir.

Q. 61 Did the accused say anything to you about a sore wrist?
A. 61 No, sir.

Q. 62 When you saw the accused, was he standing up or lying down?
A. 62 He was standing up.

Q. 63 Did you ever see him lying down?
A. 63 No, sir.

Q. 64 Did you grab hold of the accused?
A. 64 Yes, sir.

Q. 65 How?
A. 65 By his arm.

Q. 66 Both arms?
A. 66 No, sir, just one.

Q. 67 Which one?
A. 67 His left arm.

Q. 68 Where was L/Cpl Gruer at the time?
A. 68 He was also helping me stop the accused from fighting.

Q. 69 Did he grab hold of the accused?
A. 69 Yes, sir, by his other arm.

Q. 70 Where was Pte Butcher?
A. 70 He was right there helping us stop the fight.

Q. 71 Did he help you to take the accused in?
A. 71 On the way back to barracks he did.

Q. 72 About how far from the scene of the fight?
A. 72 About 20 to 25 yards.

Q. 73 Did both you and the other cpl keep hold of the accused all the way to his billets?
A. 73 No, sir.

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Q. 74 Will you describe how you came back to barracks?
A. 74 After the accused broke away, L/Cpl Gruer and Pte Butcher brought the accused to the RAP. From then on L/Cpl Gruer and I took him to his room.

Q. 75 Where were you when Pte Butcher and L/Cpl Gruer were bringing him to the RAP?
A. 75 I was right behind him.

Q. 76 Did you have a light?
A. 76 Yes, sir.

Q. 77 Did you tell the accused he was under arrest?
A. 77 Yes, after he had been taken to the RAP.

Q. 78 You did not tell him before that he was under arrest?
A. 78 No, sir.

Q. 79 Would you consider that he resisted being placed under arrest?
A. 79 No, sir.

Q. 80 When you came to Pte's store was the door open or locked?
A. 80 It was open.

Q. 81 And the proprietor, was he inside or outside?
A. 81 He was right on the door step, just inside the door.

Q. 82 The door was open?
A. 82 Yes, sir.

Q. 83 What made you go down the street from the store?
A. 83 They told us that the soldiers who had been there had gone on down that way and then we heard a woman scream.

Q. 84 You supposed there was a fight down the street?
A. 84 Yes, sir.

No re-examination.

By the Court

Q. 85 What time of night was this?
A. 85 About 1830 hrs.

Q. 86 When you followed Sgt O'Neill into the alley and saw he had control of the person there, you say you turned around and saw another soldier. Was this the accused?
A. 86 Yes, sir.

Q. 87 What was he doing?
A. 87 He was swinging with his arms and fists.

Q. 88 He was on his feet?
A. 88 Yes, sir.

Q. 89 Did you have much trouble subduing him?
A. 89 A bit.

Q. 90 Did you tell him you were provost?
A. 90 Yes, sir.

Q. 91 Did he know you were provost?
A. 91 I do not know whether he did.

Q. 92 You did tell him?
A. 92 Yes, sir.

Q. 93 Did he quit struggling then?
A. 93 Yes, a bit.

Q. 94 On the way back to billets you say he broke away from you. Any reason?

A. 94 He wanted to fight with the civilians in the rear

Q. 95 He wanted to go back?
A. 95 Yes, sir.

Q. 96 Who was the accused fighting with when you first saw him?
A. 96 An old man, a short dark one.

Q. 97 Do you remember what he looked like?
A. 97 I think I could recognize him.

Q. 98 Was he fighting with his fists?
A. 98 Yes, sir.

Q. 99 Were there many around the scene at the time?
A. 99 Several.

Q. 100 How many soldiers?
A. 100 About 6.

Q. 101 All of the Westmr Regt?
A. 101 I did not take particular notice.

Q. 102 Were they all fighting?
A. 102 No, sir, just standing around.

Q. 103 The only one fighting was the accused?
A. 103 Yes, sir.

Q. 104 Do you know L/Cpl Brown?
A. 104 I have known him since this case started.

Q. 105 Did you see him at the fight?
A. 105 Yes, sir, he was in the alley and was arrested by Sgt O'Neill.

Q. 106 What was the accused's condition from the standpoint of intoxication?
A. 106 I could not say he was drunk and I could not say he was sober but he had had a few drinks.

Q. 107 Did he have any difficulty standing on his feet?
A. 107 No, sir.

Q. 108 You are sure of that?
A. 108 Quite sure.

Q. 109 Did you have any conversation with him?
A. 109 No, none at all.

Q. 110 He did not tell you how the fight started?
A. 110 No, sir.

Q. 111 Did you help the accused get to bed?
A. 111 Yes, sir.

Q. 112 Why did you help him to bed if you did not consider him drunk?
A. 112 He did not seem to be able to help himself.

Q. 113 Why?
A. 113 I did not know, sir.

Q. 114 Did you notice any injuries he had?
A. 114 Yes, a very bad cut on the back of the head.

Q. 115 Do you know how he received that?
A. 115 No, sir.

Q. 116 Any other injuries that you saw?
A. 116 No, sir.

Q. 117 When you assisted him to his billets was that because he could not walk or because assistance was necessary to get him to bed?

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A. 117 Assistance to get him to bed.

Q. 118 That is you had to undress him?
A. 118 Yes, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Fourth Witness, D110266 L/Cpl W. GRUEN, 5 Cdn Pro Coy, having been duly sworn is examined by the Prosecuting Officer:

Q. 119 Will you tell the Court what happened on the night of 28 December?
A. 119 On the night of 28 December we were informed by a civilian that there was a fight going on down town. I followed Sgt O'Neill and L/Cpl Blouin down to the scene of the fight. We proceeded down the street and heard a woman scream. Sgt O'Neill got one of the soldiers who was fighting and L/Cpl Blouin got the other soldier and I helped to stop the fight.

Q. 120 Do you recognize the accused as one of those soldiers?
A. 120 Yes, sir.

Q. 121 Is that the soldier whom L/Cpl Blouin stopped fighting?
A. 121 Yes, sir.

Q. 122 What happened then?
A. 122 I saw that the soldier was wounded and suggested taking him to an RAP. Another Westmr Regt soldier suggested taking him to his own lines. He resisted strongly at first. We continued taking him to the RAP at the Westmr Regt lines. After fixing up the wound, we turned him over to the orderly corporal and received a slip for him.

Cross Examination by the Defending Officer

Q. 123 Could you say who started the fight?
A. 123 No, sir.

Q. 124 Were there Italians fighting with the accused?
A. 124 Not at the time we stopped them.

Q. 125 Did you see any blows struck?
A. 125 No, sir.

Q. 126 Was the accused on his feet or lying on the ground?
A. 126 He was on his feet when I got there.

Q. 127 Did you take hold of the accused?
A. 127 Yes, sir.

Q. 128 How?
A. 128 By the arm.

Q. 129 Which arm?
A. 129 I do not remember.

Q. 130 What was the other provost doing?
A. 130 He was holding him too.

Q. 131 How did he have a hold of him?
A. 131 I do not know. I know he had a hold of him but I do not know how.

Q. 132 Did you see another Westmr Regt soldier there?
A. 132 Yes, sir.

Q. 133 What was he doing?
A. 133 He was trying to stop the accused from fighting.

Q. 134 As soon as you grabbed the accused did you help him front?
A. 134 Yes, sir.

Q. 135 You on one side and the other provost on the other side?
A. 135 We started out that way but later the other Westmr Regt soldier took the accused by the other arm.

Q. 136 What did the other provost do then?
A. 136 Just walked behind us.

Q. 137 When you went to the store were you walking?
A. 137 Yes, sir.

Q. 138 About how far is it from your billets?
A. 138 About 200 yards.

Q. 139 Where was the storekeeper at this time?
A. 139 In the store.

Q. 140 Inside the store?
A. 140 Yes, sir.

Q. 141 Did he have the doors locked?
A. 141 Yes, sir, I believe he did.

Q. 142 You went with L/Cpl Blouin and two other provosts?
A. 142 Yes, sir.

Q. 143 Did you place the accused under arrest?
A. 143 No, sir, L/Cpl Blouin placed him under arrest.

Q. 144 Where did this happen?
A. 144 Right at the scene of the fight.

Q. 145 When you brought him to the RAP what happened after that?
A. 145 We took him to his room and put him to bed.

Q. 146 Why did you put him to bed?
A. 146 He was wounded and we wanted to see that he was put to bed.

Q. 147 Did you help to undress him?
A. 147 Yes, sir.

Q. 148 Was he able to do it himself?
A. 148 I do not know whether he would have been able to or not.

Q. 149 Did he have a very bad wound?
A. 149 Yes, sir, quite bad. It was bleeding a lot.

Q. 150 Did he have that blood on him when you first saw him?
A. 150 Yes, sir.

No re-examination.

By the Judge Advocate

Q. 151 Where was the wound?
A. 151 On the back of his head.

Q. 152 I think you said he strongly resisted. What d you mean?
A. 152 He was determined to be allowed to get back to the fight.

Q. 153 What was he doing?
A. 153 Trying to get away from us.

Q. 154 Do you think he knew you were provost?
A. 154 I do not know.

Q. 155 How were you dressed?
A. 155 The same as I am now.

Q. 156 Did you have your arm band on?
A. 156 Yes, sir.

Q. 157 What was the accused doing when you first saw him?
A. 157 L/Cpl Blouin had hold of him trying to stop him from fighting.

Q. 158 Did you fellows treat him pretty roughly in order to subdue him?
A. 158 No, sir.

Q. 159 Was it possible that some injury might have come to him through your treatment of him?
A. 159 No, sir.

Q. 160 Did you know he had an injured wrist?
A. 160 No, sir, he did not complain about it.

Q. 161 How far was this store from the scene of the fight?
A. 161 About 200 yards.

Q. 162 In the same street?
A. 162 Yes, sir.

By the Court

Q. 163 When you apprehended the accused, what would you say as to intoxication?
A. 163 I would not say he was drunk although he had been drinking.

Q. 164 Did you have any conversation with him?
A. 164 No, sir.

Q. 165 Was he doing any talking?
A. 165 Yes, sir, he was a bit angry from the fight.

Q. 166 Could you give us a general idea of what he was saying?
A. 166 I could not remember just exactly what he said but he was talking at the time.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.F. 83(3).

The witness withdraws.

Fifth Witness, Persia Francesco, Matera, having been duly sworn is examined by the Prosecuting Officer:

Q. 167 Will you tell the Court what happened on the night of 25 December?
A. 167 At approximately quarter to six on the evening of 25 December I returned to my home from work and on reaching home, I found several young ladies in my house so noticing that it was getting rather dark I warned them to get to their home. There were some young men in the house also among whom were two Italian officers. They offered to accompany the girls home. Then all left for home, the girls accompanied by the officers. After they had gone approximately 100 yards, my daughter ran back to me and as a result of what she said I immediately went out to check on a commotion about 100 metres away from my house. On reaching there I saw quite a crowd gathered and I started calling for my nephews but got no answer from them. I then heard someone calling "Help, help". Then I suddenly noticed that a soldier dressed in civilian clothes was being attacked by several Canadian soldiers. He called to me to help him but I ignored him as I was only interested in looking for my two nephews. I then asked some police if they had seen my nephews but none seemed to have seen them so I decided to walk towards my house and on reaching the corner of the building I was attacked by six or seven Canadian soldiers. I am not sure how many but there might have been five, six or seven. They were all around me and trying to tell me something but I did not understand them. I tried to tell them I was a good Italian and that they were good Canadians

A. 167 and that I was coming home from work minding my own business and I did not want to argue with them. My wife and daughter came out to find out what was going on. Then my wife tried to intervene and one of the soldiers gave her a push and knocked her to the ground. When I saw my wife knocked to the ground I swung my arms to the side to try to get the soldiers out of the way and went to the aid of my wife and at the same time keep an eye on the soldiers. As I bent down to help my wife get up, one of them gave me a shove and knocked me down also. As a result I was injured in the forehead, nose and had some teeth broken. Just then the Canadian military police intervened.

Q. 168 Could you recognize the soldier or soldiers who knocked your wife down?
A. 168 No, because it was away too dark. It would be impossible for me to recognize them.

Cross Examination by the Defending Officer

Q. 169 You say this was about quarter to six?
A. 169 Yes.

Q. 170 Where was this fight in relation to the alleyway which leads to the street?
A. 170 It is right at the corner of the lane.

Q. 171 You say you elbowed your way to get to your wife. How many soldiers were there which you pushed aside?
A. 171 As I said before there must have been five or six. They seemed to be all on top of me.

Q. 172 You say your daughter came back to tell you something. Does your daughter live somewhere else?
A. 172 My daughter or two or three of my daughters were going to accompany these girls home and that is how I got the information about this disturbance.

Q. 173 In the summary of evidence you said that one of your daughters ran to the house of Prongorai. Did your daughter run back to this house from the scene of the fight?
A. 173 My daughter came from her friend's place and warned me about this disturbance.

Q. 174 How far is this house from the scene of the fight?
A. 174 Some ten or fifteen metres distant.

Q. 175 Which way from the alleyway?
A. 175 Facing the alleyway it would be approximately 15 or 20 metres on the left hand side.

Q. 176 Do you live in the alleyway?
A. 176 Yes.

Q. 177 Was the fight in front of this friend's house which is 15 or 20 metres from the alleyway?
A. 177 It was right in front, exactly where some guns are.

Q. 178 How far from this friend's house?
A. 178 15 or 20 metres.

Q. 179 You said in the Summary of Evidence that the girls were afraid and ran away into the house of a friend. The two young men stayed at the door and fought with them. Can you explain why you now say the fight was some 15 or 20 metres away?
A. 179 This is right. The fight was right in front of the door.

Q. 180 Was there any fighting when you came out to the road from your house?
A. 180 As soon as I got on the scene they seemed to be surrounding this young chap and were grabbing him by his clothes as

A. 180 ...r to open his jacket but I went on to look for my nephews.

Q. 181 Do you know who this fellow was?
A. 181 No, sir, I did know it was a soldier dressed as a civilian.

Q. 182 Is this man in this town?
A. 182 No he is no longer here but has gone back to his duties.

Q. 183 What did you do when the military police came on the scene?
A. 183 When the military police arrived on the scene I decided to follow them to find out who these Canadian soldiers were. I accompanied them as far as the school and the military police turned me over to the Italian police and told them to take me to their armoury. At the armoury they took my particulars and offered to dress my wounds but I did not think it necessary and was sent home.

Q. 184 You followed the fellows who knocked you down up to this school?
A. 184 Yes.

Q. 185 Where was this school?
A. 185 Just in front of the carabinieri armoury.

No re-examination.

By the Judge Advocate

Q. 186 Why were you looking for your nephews?
A. 186 Because of what my daughter told me about them being attacked.

Q. 187 Do you know where they had been attacked?
A. 187 They did not tell me where they had been attacked as they got away and when I saw them later they did not tell me.

Q. 188 You did not see them fighting with Canadian soldiers?
A. 188 No. I was not sure what did happen.

Q. 189 When you first got to the scene was there only one Italian involved in the disturbance?
A. 189 No, there were several in the group.

Q. 190 Were these soldiers in your house, your nephews?
A. 190 Yes, they were.

Q. 191 Dressed in civilian clothes that evening?
A. 191 Yes.

Q. 192 Where are they now?
A. 192 One is in Potenza near Bari and the other here in Matera.

Q. 193 You say you were attacked when you left the scene of this disturbance. What do you mean by that?
A. 193 I mean I was grabbed by these soldiers by the arms and as they surrounded me I was with my back to the wall.

Q. 194 Who did you ask if they had seen your nephews?
A. 194 A man by the name of Morelli. He was standing there.

Q. 195 Who is Morelli?
A. 195 He is a contractor.

Q. 196 Did you notice where your wife went after she was attacked?
A. 196 As far as I knew my wife went back home but I found out later that she was accompanied by her cousin and had looked for me.

Q. 197 Did you use a knife on any of the Canadian soldiers?
A. 197 No, I never use knives and do not keep any.

Q. 198 Did you see any other civilians use knives on the soldiers?
A. 198 It was too dark to see that.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Sixth Witness, Lugi Morelli, 18 Via Domenico, Matera, having been duly sworn is examined by the Prosecuting Officer:

Q. 199 What is your occupation?
A. 199 I have a grocery store.

Q. 200 Will you tell the Court exactly what happened on the 28th December?
A. 200 I was in the store with my wife and three civilians. These three civilians are my customers. They wanted to buy some things. The one was near the door and at the same time two soldiers came in the store drunk as hell. One of these soldiers came right into the store and the other stayed by the door. The one stopped near the civilian and grabbed hold of him and wanted to fight with him. The civilian was afraid and then took his coat off him and threw it out the door. I went to them and told them "This is a store, you should not do that here". I also said "You have no right to do that in my store." Then this fellow, the tall one, left the civilian and came over and got hold of me by the jacket and started to shake me. He asked me to take off my coat as he wanted to fight with me. I did not say anything as I was too frightened. I told him "Do not do that because I am an American like you". I was afraid and my wife was afraid too. After this he went over and broke my glass in the glass case in the store. After this they went to the right side of the store and my wife was behind the counter. There was something on the counter and they threw that down and broke the counter. The short fellow was saying "George, what are you doing, come on out, come on out". He got hold of him and pushed him out with him. The one fellow says "Close up the door" and then they left.

Q. 201 Did you report this to the military police?
A. 201 No, some of the other fellows outside must have. The three civilians left when the fellow let go of them.

Q. 202 Could you recognize any of these soldiers?
A. 202 No, I know one was tall and the other was short. The only thing I remember is that the short one called "George" to the tall one.

Cross Examination by the Defending Officer

Q. 203 About what time did this happen?
A. 203 I do not know but I think it was about six in the evening.

Q. 204 Was there a light in the store?
A. 204 Yes.

Q. 205 Did you go any place to an identification line-up to try to pick out these fellows, the next day?
A. 205 Yes.

Q. 206 And you could not pick them out?
A. 206 No, I could not recognize them because I was so afraid at the time.

No re-examination.

By the Judge Advocate

Q. 207 Will you take a look at the accused and say whether you have ever seen him before?
A. 207 I could not tell you for sure.

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Q. 208 You are not in a position to say whether he was one of the men in your store?
A. 208 No.

Q. 209 How many soldiers came into your store?
A. 209 Two.

Q. 210 Did you see the Canadian military police that evening?
A. 210 Yes, when they came to my store.

Q. 211 What did you tell them?
A. 211 I told them the story.

Q. 212 Were the soldiers in the store when the police came?
A. 212 No, they went away.

Q. 213 Where did they go?
A. 213 I do not know.

Q. 214 Do you know Forsia Francesco?
A. 214 Yes.

Q. 215 Did you see him that evening?
A. 215 No, just this morning.

Q. 216 Did the tall one call the short soldier by any name that you can remember?
A. 216 No, I just heard the short one call the tall one George.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Prosecution is closed.

D.4

The Defending Officer submits that the Prosecution have failed to set up a prima facie case and that the accused should, therefore not be called upon for his Defence, and gives the following argument:

"The first charge is for being unlawfully involved in a disturbance which the Court could take either as starting a disturbance or continuing to fight when he did not have to in self defence.

The provost witnesses have both said that they came to the scene and saw the accused fighting but they both said he was bleeding at this time. He had received this cut or blow from some Italian before they saw him fighting. It is the duty of the Prosecution to prove before the Court that the accused was the one who started the fight to make it unlawful. I submit he was acting in self defence and that the Prosecution has not brought in any witnesses to show that the accused started the fight.

From the witnesses you have been able to see that the accused had a severe cut on the head and it was later found he had a broken wrist. As he is quite a large man, the Court could assume that he was set upon by several Italians at least and thus beat up. So there is no evidence to show the accused started the fight.

On the second charge of resisting arrest, it has been shown that the accused was not placed under arrest until he was at the RAP. The witness who placed him under arrest has said that and he has said that he did not resist after that. The evidence of the two provosts as to bringing the accused back to barracks is definitely contradictory. You have the statement of both L/Cpl Blouin and L/Cpl Gruner that they grabbed hold of the accused and led him back to barracks. This is contradictory and also the provost contradict themselves as to the store being open or closed and whether the store keeper was inside or outside.

D.3

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EVIDENCE FOR THE PROSECUTION

First Witness, K47430 L/Cpl BROWN, R.D., Wester Regt (M), having been duly sworn is examined by the Prosecuting Officer:

Q. 1 Will you tell the Court just exactly what happened on 28 December?

A. 1 On 27 December we had just come in from the field and on the afternoon of 28 December we received a pass from Sp Coy HQ. A number of us had made arrangements to go down town and have our pictures taken but on arriving down town we were disappointed to find that all stores were closed. The group of us, including the accused, wandered around town for quite some time and during our travels we came across this wine shop. We were only going to have a couple of drinks but in all such matters a couple leads to another couple and we had a couple too many. We left that place and proceeded down towards home where we went to a place where we take our laundry. We were there for quite some time and I noticed that the accused was feeling the effects of his alcohol and I thought it best that he should go home. We proceeded to do so and it was not until the night air hit the accused that I noticed how bad he was. We got to the ANCOT place and we met Pte Butcher and he, building the predicament we were in, proceeded to help us home. We were coming down the main street causing no trouble when this Italian came up and asked the accused for a cigarette. We told him to go away but he persisted in staring. I left the accused and proceeded a few yards away from him and the Italian then moved off. When I turned around there was another Italian with the accused and before I got back to the accused he was on the ground. Whether the accused was hit or pushed or just naturally fell down I do not know. When I got there the Italian was bending over him and I just gave the Italian a slight push and bent over the accused. Pte Butcher arrived on the scene about this time and as I was bending over the accused I was hit on the head with a stick. I looked up startled and saw this Italian woman with a stick in her hand and immediately went after her. One Italian inserted himself between the woman and me but I just pushed him aside in order to take after her and the general fight started. It had no sooner got started when the provost arrived on the scene. They took me to the Lst Aid where I was fixed up and then the provost returned me to my own unit.

Q. 2 Did the accused talk to Pte Butcher when you met him?
A. 2 No, sir.

Cross Examination by the Defending Officer

Q. 3 Did you see the accused strike any Italian at all?
A. 3 No, sir.

No re-examination.

By the Judge Advocate

Q. 4 Were you and the accused talking as you were coming along the street from the house?
A. 4 No, sir, I was just assisting him along.

Q. 5 How?
A. 5 He was on my left side and I had my arm locked in his as we were going down the street.

Q. 6 Was he talking?
A. 6 Very little.

Q. 7 Do you remember anything he said?
A. 7 No, sir.

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Q. 8 I suppose you were quite intoxicated yourself?
A. 8 Yes, sir.

Q. 9 Have you a clear recollection of everything that took place?
A. 9 Yes, sir, fairly clear.

Q. 10 Could things have happened on that occasion which you do not remember about?
A. 10 After I went after the woman who hit me on the head I did not see the accused until I got back to the room and he was back in bed.

Q. 11 You did not actually see anyone hit him?
A. 11 No, sir.

Q. 12 When you saw him on the ground was he complaining about being injured?
A. 12 He was moaning. I could not say whether it was the effects of his injuries or his drinking.

Q. 13 What time were you in this wine shop?
A. 13 From about quarter to three to about 4.15.

Q. 14 Did you recognize this Italian witness, Morelli?
A. 14 No, sir.

Q. 15 Could you say whether you were in his shop?
A. 15 Definitely I was not in his shop.

Q. 16 Would it not be possible that Morelli was proprietor of that shop you were in?
A. 16 No, sir, he is not.

Q. 17 Who is?
A. 17 I do not know.

Q. 18 Would you recognize him?
A. 18 Yes, sir.

Q. 19 Where is that shop?
A. 19 When you come to the bottom of the street you turn right and it is just a short way from there.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Second Witness, K42933 Pte C.A. BUTCHER, Westmr Regt (M), having been duly sworn is examined by the Prosecuting Officer:

Q. 20 Would you tell the Court exactly what happened on the night of 28 December?
A. 20 On the night of 28 December at approximately 1815 hrs I was accompanying the accused and L/Cpl Brown home. An Italian civilian approached and asked the accused for a cigarette. I walked on ahead a few yards to where the LSH have their vehicle parking lot. I looked back and saw another civilian join L/Cpl Brown and the accused and at the same time there was a lot of talking and a bit of a scuffle going on. I turned back and saw one civilian strike L/Cpl Brown. As I got back there one of the civilians ran off and I saw the accused lying on the ground moaning about his wrist. L/Cpl Brown was struggling with another civilian. I saw at that time that L/Cpl Brown was bleeding from a wound over the eye. I got L/Cpl Brown to help me to assist the accused to his feet. Just as we got him to his feet, a civilian accompanied by others, kicked the accused's feet out from under him and the melee started again. I lost contact with L/Cpl Brown and saw several civilians strike the accused as he was lying on the ground. I saw several with clubs and knives in their possession. Then the provost

LIST OF WITNESSES

For defence

.Nil.

For prosecution

1. A47428 L/Cpl. Brown R.D., Westminster Regt. (M)
2. A42933 Pte. Butcher C.A., Westminster Regt. (M)
3. Lt. FW. Clifford, 2 Armd Regt.
4. M 3658 L/Cpl. Blouin, F.O. , C Sec. 5 Cdn Prov. Coy..
5. D110266 L/Cpl. Gruer, W., C Sec. 5 Cdn Prov. Coy.

LIST OF EXHIBITS

Statement of Capt. H.F. Hoskin, The Westminster Regt. (M) in regards to Indentification Line-up, and seconded by Sgt. O'Neil, 5 Cdn Prov. Coys.

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Can 562, RP 26, 29, 111.*)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 763, RP 82, 111.*)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*RO (Can) 2693.*)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:
First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (*or*, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 83(B) complied with.
2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 93 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.
3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.
4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:
(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.
2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 557.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 580. As to certified copies of regimental books see AA 163 (1) (g) (b).*)
(vi) Summary of Evidence, if not already an exhibit.
3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 794.*)
4. The President or JA, if *any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

5.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&R/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-48059	Pte.	- - -	George, Ivan	GRACEY	Westmr R (M)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 11 Jan 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~ RWR

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ RWR

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJ (Rank.)	I.S. SECORD (Must be named. RP 106.)	9 Armd Regt (BCD) (Unit.)

MEMBERS.

Capt	F.C. Brathwaite	3 Recce Regt (GGHG)
Capt (Rank.)	C.A. McEwen (Named or detailed. RP 106.)	5 Armd Regt (SNBH) (Unit.)

WAITING MEMBER.

Lt (Rank.)	To be detailed (Named or detailed, if any. RP 106.)	5 Armd Regt (SNBH) (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	G.M. Morrison (Must be named, if any. RP 106.)	HQ 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in ITALY (Country.)

G.W. Robinson (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 11 Jan 44

Commanding (G.W. Robinson) Lt-Col A/Comd 5 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

IN THE MATTER OF A FIELD GENERAL COURT-MARTIAL CONVENED BY ORDER OF COMD 5 CDN ARMD BDE, DATED 11 JAN 44, FOR TRIAL OF K-48053 PTE GRACEY, G.I., WESTMR R(M),

WHEREAS the a/m soldier was tried by Field General Court-Martial pursuant to a/m order in Field in Italy on 14 Jan 44 upon the following charges:

"First Charge — When on active service conduct to the prejudice of good order and military discipline.

in that he

in the field, on the 28th day of December 1943 unlawfully became involved in a disturbance with Italian civilians in the town of MATERA.

Second Charge — When on active service resisting an escort whose duty it was to apprehend him.

in that he

in the field, on the 28th day of December 1943 resisting K-3656 L/Cpl. Blouin W.O. and D110266 L/Cpl. Gruer W. both of C Sec. 5 Cdn Provost Company whose duty it was to apprehend him, by struggling.

AND WHEREAS the a/m soldier was found guilty of the First and Second charges and was sentenced to be imprisoned with hard labour for one year.

AND WHEREAS the findings and sentence were confirmed by Comd 5 Cdn Armd Bde on 27 Jan 44 and promulgated on 29 Jan 44.

The Judge Advocate General, Canadian Army Overseas, having advised that the convictions on the First and Second Charges in the a/m proceedings are invalid, I hereby direct that the record of the convictions on the said charges be and the same are hereby removed and the accused relieved from all consequences of his trial thereon.

In the Field
17 JUN 44.

COMD 5 CDN ARMD BDE

Promulgated and Extracts taken in the case of K-48053 Pte Gracey, G.I., Westmr R(M) this 26 day of June 44.

A/Adjt.

Minute of quashing and minute of commutation and remission promulgated to the accused and extracts taken in the field in Italy this .7.. day of May 1944.

..G.B.R. Julian Capt

Whereas K48053 Pte George Ivan GRACEY, Westmr Regt (M) was on the 14th January 44 awarded a sentence of imprisonment with hard labour for one year, after conviction by FGCM on two charges (1) under Sec 40 AA and (2) under Sec 10(3) AA, and whereas the confirming authority on the advice of the JAG Overseas has quashed the conviction on the first charge,

Now, therefore, I, the undersigned, being by reference to RP 126(B), a prescribed officer under the provisions of AA 57(2), do hereby commute the sentence to detention and remit .10.. months.

B M Hoffmeister

(B M Hoffmeister) Maj Gen
GOC 5 Cdn Armd Div

In the Field,
24. Apr 44.

"[illegible] Army Overseas, having advised that the conviction on the first charge in these proceedings is invalid, I hereby direct that the record of the conviction on the said first charge be and the same is hereby removed and the accused relieved of all consequences of the trial thereon."

In the Field,
20 Apr 44.

J D B Smith

(J D B Smith) Brig
Comd 5 Cdn Armd Bde

4424-32

Pte. Gracey C.K.

RECEIVED 15 NOV 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160.. 4444-32

FIELD GENERAL COURT-MARTIAL

CFAB8 (to Illus of AFAB) 10 P.E.F. 1668 2m/44

Convened by Order of Col AS Pearson, OBE, ED A/Comd "D" Gp, CRU dated 11 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.147469	Pte	Orville Kenneth	GRACEY	CIC 3 CIRU

PROCEEDINGS REVIEWED 28 Aug 44

W A Thurston Major

JAG. REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 12 Aug 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant foss ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number bearing reference to appropriate or preceding para number herein. See back of Convening Order, CF AB1, for oaths and instrs as lower to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 2. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans N.A.

The Interpreter is sworn.(1) Do you object to N.A. as shorthand writer? Ans N.A.
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.M. Bowman	48th Highrs 3 CIRU
Member	Capt	M.R. Medland	Tor Scot 3 CIRU
Member	Lieut	T.W. Brumley	CIC 3 CIRU
Judge-Advocate			
Prosecutor	Capt	J.W. Huxley	H&I of C. 3 CIRU
Defending Offr	Lieut	W.G.A. Gillespie	QOR of C. 3 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused Bdr/Pte Orville Kenneth Gracey before arraignment make(s) (no) X plea (2)

(1. If a special plea is made for separate trial or one or more charges (RP 62(E), (GE), or as to the jurisdiction of the Court (RP 36, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 3 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Band E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.147469 Pte Orville Kenneth GRACEY - CIC - 3 CIRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 40	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 6 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for —NIL— beginning on (date) —NIL— (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year.

(Sgd) N.A. Judge-Advocate, if any. 12 Aug 44 Date awarded. (Sgd) J.M. Bowman Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding of the Court but commute the sentence to read "To forfeit all ordinary pay for a period of ninety days" & confirm the sentence as so commuted.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 13 Aug 44 (Sgd) H. Stewart Tomkins Brig Commander "D" Group Commanding Cdn. Reinforcement Units C.A. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.147469 Pte GRACEY, O.K. Part II D.O. 190 6/14 Aug 44		Macdonald Capt (R. G. Moore) Lieut Asst/Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(D), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N.O (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on N.A charge(s). The accused is (are) so informed, and he (they) (does) change(s) his (their) plea(s) on N.A charge(s). Part I of the Schedule is amended accordingly. JWB
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) JWB
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. JWB

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (is not) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character) whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 165. 2. RP 40(A), see 80(B). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(B). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. AFB 255 or AFB 296. 2. AFB 96. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans yes in mitigation by my defending officer.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 84(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 322, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 66(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. JWB

Ex. "A"

CHARGE SHEET

The accused Number B.147469 Private Orville Kenneth GRACEY, Canadian Infantry Corps, on the strength of 3 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE WHILE ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

ARMY ACT
SEC. 40

in that he

In the Field, between 14 Dec 43 and 8 Aug 44 did alter his PULHESMS profile in his MEM 1, Part 1, on page 13 from L-1 to L-4.

A.B. Noble
(A.B.Noble) Lt.-Col.
A/Comdr
3 Cdn Inf Rft Unit

In the Field,
8th day of August
1944.

To be tried by Field General Court Martial.

A. Pearson
(A. S. Pearson) Colonel
A/Comdr
"D" Group, Cdn Rft Units
Convening Offr

In the Field
11 Aug 1944.

JWB

Ex. "B."

CFA95 (In lieu of AFA3)
40/FGCM/1637 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.147469	Pte		Orville Kenneth	GRACEY	CIC 3 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Aug 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint an Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	J.F. Bowman	48 Highrs	3 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by Commanding Officer	3 CIRU
A Lieutenant	to be detailed by Commanding Officer	3 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieutenant	to be detailed by Commanding Officer	3 CIRU

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

[signature] (Signed personally. RP 105 fn 2.)

Colonel (Rank.)

Date 11 Aug 44

A/Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

JWB

Ex. 'K'

Plea for Mitigation

re B147469 Pte Gracey, O.R.

Pte Gracey is 28 yrs of age, enlisted voluntarily on the 27 May. 43. He arrived in England on the 23 of Feb 44. He was originally in the Tank Corps, but was re-allocated to inf.

As indicated by the accused, since he joined the Army he has had word of the death of two of his sisters and a nephew. These deaths are reported in the attached letters. He also received word that his wife was ill, and asking for him. Unfortunately this letter was inadvertently destroyed. He attempted to get compassionate leave while at CBRG, but it was refused. Being very anxious of his wife's condition, after having had such disturbing news of his sisters and nephew, he attempted, by means of changing his book, to get back to see her. He is not the criminal type, as his documents will prove, and I plead that the Court consider his worry over his wife in fixing a punishment.

A.G. Gillespie Lt.

JWB

Ex. 'D'

SUMMARY OF EVIDENCE

In the case of Number B147469, Private Orville Kenneth GRACEY, Canadian Infantry Corps, on the strength of 3 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

By Direction of the Commanding Officer this Summary is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. J.H. Galloway, Canadian Infantry Corps, Assistant Records Officer, 3 Canadian Infantry Reinforcement Unit, having been duly sworn states:-

I am Lieut. J.H. Galloway, Canadian Infantry Corps, employed as Assistant Records Officer, 3 Canadian Infantry Reinforcement Unit. I produce MBM 1, Part 1, of B.147469, Pte. Gracey, O.K. whom I now recognize, and direct attention to page 13. The evidence on this page pertains to the charges against the accused. This document is marked Exhibit "A". I also produce a Certified True Extract of Pulhems' Profile on M.F.M.2 of B.147469, Pte. Gracey, O.K. signed by Capt. R.C.A. Johnson for Colonel A.M. Brown, O i/c Records, C.M.H.Q. This document is marked Exhibit "B". I also produce a voluntary statement given by the accused, B147469, Pte. Gracey, O.K., whom I now recognize, and who after being duly cautioned, volunteered this statement at approximately 1330 hours on the 7th of August, 1944. This statement was signed by the accused in my presence and witnessed by Lieut. W.G. Moore, Assistant Adjutant, 3 Canadian Infantry Reinforcement Unit. The evidence contained in this statement pertains to the charges against the accused. This document is marked Exhibit "C".

J.H. Galloway Lieut.
(J.H. Galloway) Lieut.

The accused declines to cross examine this witness.

The accused having been warned according to Rules of Procedure 4(E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of One Page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure (4(c) (d) (e) (f) and (g) have been complied with.

(Thomas E. Rogers) Major
Officer detailed to take
Summary of Evidence.

In the Field
11th day of August,
1944.

JHGB

Ex. "E"

Exhibit "C"
J.H.G.

VOLUNTARY STATEMENT BY - B147469, PTE. GRACEY, O.K.

I have been cautioned by Lieut. J.H. Galloway, Assistant Records Officer, that I need not say anything, but that anything I do say may be taken down in writing and used as evidence. To show that I understand this caution, I sign my name here.

B147467 Pte Gracey O.K.
(B147469, Pte. Gracey, O.K.)

I simply wish to state, and this evidence I give voluntarily that I altered my Pulhems' Profile in my MEM 1, Part 1, page 13, in such a manner to show a 4 under the "L" in place of a 1. The reason that I have made this alteration is that I have had three deaths in my family since I came Overseas, and I have asked for a compassionate leave for a month to go home, and have been refused every time; and I got word that my wife was sick recently, and that was two months ago, and she asked me if I could get home at all, and I could not get a leave for that, and I could not get home and I let her know, and I have not heard from her since, and I think that she thinks that I do not want to go home, and I kind of feel that I have lost her.
I have read over this statement and it is true. There is nothing further I wish to add.

B147467 Pte Gracey O.K.
(B147469, Pte. Gracey, O.K.)

WITNESS:

W.G. Moore Lieut.
(W.G. Moore) Lieut.
Asst Adjt, 3 Cdn Inf Rft Unit.

EXHIBIT "C"

Ex. 'G'

Exhibit B

CANADIAN MILITARY HEADQUARTERS.

RECORDS OFFICE.

B.147469 - Pte. GRACEY, O.K.

	Year of Birth	P	U	I	H	E	M	S
14-12-43	17	1	1	1	1	1	1	1

CERTIFIED TRUE EXTRACT OF PULHEMS PROFILE ON M.F.M.2. in my possession.

(A.F. BROWN) Colonel
OIC RECORDS,
CANADIAN MILITARY HEADQUARTERS.

3 Aug. 44.

Ex. 'C'

MEDICAL CERTIFICATE

This is to certify that this morning I have examined, No. B 144769

Name GRACEY, O.K. etc. and found him fit/~~[illegible]~~ to undergo TRIAL

Detention.

BY COURT-MARTIAL

Time: 1000 hrs

Date: 12 Aug 44

E. Feldman Capt.

N.C.A.M.C.

Ex "J"

No. B-147469 Name GRACEY, O.K. Sqn, Battery, or Company Corps C.A.C. Date of enlistment 27 May 43 Badges Service or Proficiency Pay N.A. 3/17 MFM 6 (AFB 122) 40/PAR/136 (2412)

Date of last entry in Company Conduct Sheet No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No One Signature OC Company, etc R.F.Moore Lt. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discharging with trial	By whom awarded	Remarks
Field	6Feb44	Tpr		~~Original sheet destroyed 27-Nov-43~~ Blood Donor	Improper entry deleted J.E.Eardley-Wilson Capt.		29 Feb 44	J.E.Eardly-Wilson Capt	
Field	30Apr44	Rfn.		AWL from 2359 hrs. 30 Apr 44 to 0910 hrs. 1 May 44(Absent 9hr 11 Min) AA15 (1)	Documentary	Forf 14 days pay	3 May 44	A.T.Law Lt.-Col.	Forf 1 days Pay
Field	7 May44	Rfn.		AA9(2) Disobeying a lawful Command given by his superior Officer.	Sgt.Ouellette Pt. Landry A.J.	Forf 10 days Pay	17 May 44 149 (2)	A.T.Law Lt.-Col.	

CERTIFIED TRUE COPY

(W.E. Thorne) Captain,
Records Officer,
3 Cdn Inf Reinf Unit.

Ex. 1

M.F.B. 333
22M—5-41 (272-2)
B.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-147469	Private	GRACEY O.K.	Canadian Infantry Corps

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA 15(1)	1 times	1	times
For	AA 9(2)	1 times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 16 days in Air Force military custody, making a total of 16 days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 2 Jun 17

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27 May 43

7. The service which the accused is allowed to reckon towards discharge is 1 year 2 months

8. The accused is entitled to reckon 1yr 2 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit dated ..... and in his regiment (or corps), the rank of ~~dated~~ .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the~~ present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

~~In the rank of~~ ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~ Unit ~~Regiment~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B-147469 Rank Private Name GRACEY O.K. of Canadian Infantry Corps

NOTE.—A verbatim extract from the regimental books stating those convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Eighth day of August 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(W.E.THORNE) Captain,
Records Officer,
3 Cdn. Inf. Bft. Unit.

~~Ex "D" (1)~~ JMB

Ex. F.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Nawton, Yorks, on the 8th day of August, 1944, preliminary to my Court-Martial.

I further acknowledge that I have been served with a true copy of the Charge under which I am being brought to Court Martial.

~~B147469 Pte Tracy O.R.~~
(B147469, Pte. GRACEY, O.R.)

Dated at Nawton, Yorks,
this 8th day of August, 1944.

I hereby request that the Convening Officer appoint an Officer to represent me at my Trial.

I desire the services of Capt W. F. Vint - C.I.C. 3 C I R U if he is available.

~~B147469 Pte Tracy O.R.~~
(B147469, Pte. GRACEY, O.R.)

Dated at Nawton, Yorks,
this 8th day of August, 1944.

JMB

WW-18

GNR GRAFF. H.S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L18350 Gnr Harold Samuel GRAFF, 3 LAA Regt RCA.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not guilty	Not guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as to list of kit see RP 44 fn 6.)

~~At present under evidence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of days, of which days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: N/A

(Sgd) W M W Shaw Capt — Judge-Advocate, if any.
25 Nov 43. — Date awarded.
(Sgd) J G Wren Mayr. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 7xx.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd)
Date
Commanding
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

WW-18

FIELD GENERAL COURT-MARTIAL (CFA86 (in lieu of AFA2) 40 P.A. R.1695 (3864))

Convened by Order of RA Keeffler Comd RCA 2 Cdn Div dated 24 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L18350		Gnr Harold Samuel	GRAFF	3 Cdn LAA Regt RCA

Proceedings Reviewed

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 805, for oaths and instrs on how to record addresses, evidence, etc, which latter are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~
~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans.~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J G Wren	4 Cdn Fd Regt RCA
Member	Capt	WH Rudge	6 Cdn Fd Regt RCA
Member	Lt	D Davies	6 Cdn Fd Regt RCA
Judge-Advocate	Capt	WMW Shaw	HQ 2 Cdn Div
Prosecutor	Capt	HM Sandiu	3 LAA Regt.
Defending Offr	Lt	HAP Aldwinsey	3 LAA Regt.

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment makes(~~s~~) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 886 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court itself see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin Here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, Sir .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first charge(s), ~~and allowed on the ..... charge(s), and thatr~~ accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Give evidence Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans No
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 304, 323, MML p 60, 752-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 60(1), KR Can 564. 2. RP 50. As to reasons to be given by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAG BRANCH - REVIEW RECORD

Accused

L-18350 Gnr Graff H S
3 Edn LAA Regt

Remarks	Date
Trial in (Country) England	25 Nov 43
Charges AA 40	
Sentence Acquittal.	
Rec'd from CR at JAG Branch	10 Dec
To Rev for (pre)(post) rev	10 Dec
Recommendations by Rev.	
(1) Pass and record.	
(2) ~~Ltr on irregularities~~	
(3) ~~Quash~~ Charge(s).	
(4) ~~Sent~~	
Ret'd to JAG Rev 1 by Rev III	10 Dec
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal Record, file	
	10 Dec
Instrs completed by	

THE ACCUSED ELECTED TRIAL BY COURT MARTIAL

CHARGE SHEET

The accused, No.L18350 Gnr. GRAFF, HAROLD SAMUEL, 3 Cdn LAA Regiment, a soldier of the Canadian Army Overseas on active service, is charged with:-

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

FIRST CHARGE

Sect.40 Army Act

in the field, on 12 Aug 43, so negligently drove Canadian Vehicle No.CC4201669 that he was involved in an accident, thereby causing damage to the said Canadian Vehicle amounting to £15-7-0.

A.M. Clarke

(A.M.CLARKE) Major, R.C.A.
A/Commanding Officer,
3 Cdn LAA Regiment,
Cdn Army, Overseas.

In the Field
21 Nov 43.

21st day of Nov

Brigadier

FIELD GENERAL COURT-MARTIAL

CFA 35 (In lieu of AF A 35)
40/PAM/1697 [2nd ed.]

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L18560	Gunner		Harold Samuel	RAPP	3 Cdn LAA Regt, RCA

CONVENTING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Nov 43 endorsed by me, for H.Q. an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, [b] a Fd Offr as President, for the reasons I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.G. Tran	4 Cdn Fd Regt, RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	W.H. Fudge	6 Cdn Fd Regt, RCA
Lieut.	L.A. Verdiel	4 Cdn Fd Regt, RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	D. Davied	6 Cdn Fd Regt, RCA

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	W.M.M. Shaw	2 Cdn Inf Div

On Active Service in the Fd

in England
(Country.)

(Signed personally, RP 105 fn 2.) Commanding CRA, 2 Cdn Div. (Rank.)

Date 24 Nov 43

Commanding
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can) Para 557

I certify that I have this morning examined

No L18350 Gnr. Graff H.S.

of 3rd Cdn. Lt. A-A Regt.

and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station Field

Date 25 Nov 43

J. Percival Capt.

Medical Officer

Prosecution

1st Wit Pros^n] Alfred Joseph Magness, Market Gardener, 5 Northfield Rd, Worthing, Sx, duly sworn, states: on 12 aug 43 -
Was cycling home on Findon Rd when I heard a MC going by at a speed I estimated at anything up to 60. a little further on I came to a scene of an accident where I saw a MC lying on rd + a soldier lying there. She man at the car talked to me there. I waited until they took the soldier away. I could not recognize him again. - Did not pay much attn to MC. MC had been going very fast in direction of Worthing accid 5 mins after MC passed me.
Cross-exam - Might have been going less than 60 - I sd 60 to owner of car - Think he was going faster than 35 - exhaust making a lot of noise - He might have slowed down after he passed me. It was 8.30 p.m. - might have been someone different involved in accid - accid 1/4 mi from where passed me.
Re-exam - nil
Court - Only one bike passed me as far as I can recollect.

2nd Wit Pros^n] Mr Edward Rackett, Littlecote, Newling Way, High Salvington, Worthing, Sx, duly sworn, states -
Was proceeding along Findon rd toward Findon valley on 12 aug 43 at approx 8.30 p.m. Was on my way to my private house no 4 Mayfield close, which is a turning on the right off the Findon rd - Was travelling at about 15 mph + before turning I noticed an army lorry at my rear but this was some distance off - I put out my right hand to warn the driver that I was turning to the rt, he apparently saw me + was travelling very slowly - when I arrived at entrance to my rd I looked ahead for oncoming traffic but saw nothing, which appeared to me a matter of seconds my car was hit by a MC which was a DR I understand I received a shook but altho my car was thrown 14'9" off the rd towards Mayfield close I was uninjured except the following morning I found my rt arm stiff + my left leg by the ankle bruised - after the impact the police were quickly on the scene + as far as I can ascertain they were endeavouring to take particulars from various members of the force including a Cdn Sgt/maj whose name I do not know nor could police offr obtain the info. This Sgt maj spoke to me + I gave him brief particulars of what had happened + he drew a sketch on army paper + made notes of the names of the rds + I think dimensions. after the Cdn DR had been looked after + was taken away in an amb the police measured the distance from where MC hit my car to where he fell + it was 71 ft - there were no signs of skidding by the MC. I do not recognize the acsd. Rear part of my rich was skewed around 14'9".
Cross-exam - Had my hand out all time - Didn't see anything coming - quite a bend in rd - can see 3 or 400' up the rd. Did not see him at all. - Car itself not "thrown" it was "skewed" around. I was only going about 2 mph, practically dead stopped - changed down to 2 gear - Had changed down - put my hand out + drew it in to change down then put it out again. Think car will go 2 mph in second. Only coming about 15 mph maybe less.

Roundabout at Findon – quite flat to mayfield close – could see 150" behind & as much in front saw rd in front clear so 2 turned in – 2 didn't see cyclist.
Re-exam – Driving 15 to 20 yrs – gave signal.
Court: – Have flying Standard 1936 – Don't know weight of car. 9.8 horsepower with 12 hp body – commonly known as 10 hp. my car hit on left rear. – 2 ~~got~~ got over on the right side 12" to 15" over centre of the rd when hit. Light was good. Sun did not affect my vision altho the rd is shaded by trees. It was before sundown. Sun would not affect any driver on this rd – it would set to the left of the rd
Rd single 40' wide – sweeping bend.

3rd Wit Prosn] PC 254 Arthur Sidney James Tickner, Police Stn, Worthing, Sx, duly sworn, states:
Was standing at Offington corner, worthing, 12 Aug 43 at about 9.25 pm & saw veh BPX523 proceeding on Findon rd from south to north at a moderate speed. Shortly after 2 heard a crash – 2 went in direction & arrived at scene of an accd. 2 saw a soldier lying in the centre of the rd & a MC on its side near him. Also saw the same car stationary on east side of rd facing north, the junctn of mayfield close. After soldier removed to hospital 2 took measurements. Width of rd 30'. Mark on rd from point of impact to where car stationary 19'9". Point of impact to where MC lying 81'. Examined rd north of point of impact but could see no marks in the rd which would indicate that MC had made effort to brake. Gnr Graff, the accd, was the DR. Civilian veh a standard 12 hp – about 1 ton in weight. Took measurements with a tape. Point of impact near white line on MC's side of rd.
Cross-exam: – Used 60' tape measure – Mr Rackett supplied tape & was there when taken. If car less than 10 hp weigh about 15 cwt.
Re-exam: Scraping mark, quite wide a part of it – one place 10" to 12" wide.
Court: – Could see good 300" up rd. Another army lorry (a small truck) passed me going in same direction as civilian car. Small truck belonged to Fus MR. – were several soldiers around – was a Sgt Gagne of Fus MR. Skid mark commenced near centre of rd, caused by rear near wheel.
Harley Davidson MC No CC 4201669. – Solo.

4th Wit Prosn] Capt R C Sentance, RCOC, 3 LAA Wkshp, duly sworn, states: – In charge 3 LAA regt. At time of accid was on exercise – MC picked up by Wkshp sub-sec. 2 did not see MC, 2 phoned wkshp to give me the damage & from their report estimated damage at £15-7-0.
Cross-exam: – Have not seen bike since – Texas evacuated – 2 cannot say that all the repairs required. Possible that some of things might have been wrong with bike before action.
Re-exam: – nil.
Court: – List of damages taken over telephone.

Prosecution closed.

Def offr. moves for dismissal on grounds of no prima facie case. accid apparently caused by civilian car cutting across. Nothing to show cause of accid to be due to negligent handling of MC by DR.

Prosecutor in reply:- Point out measurements, Distance car moved indicates great speed & that is negligence.

Court closed — court re-opened

1st Wit Defence] The accused, duly sworn, states:

On 12 Aug proceeding towards Worthing - saw vehs approaching - when got very near the civilian car, giving no signal 2 saw, turned up minor rd - could either have slammed on brakes or gone behind - started to go behind but army veh coming & could not get around so hit the rear end of civilian. Just split second from time civilian pulled over, could not go in front, tried to go behind but couldn't make it & was knocked out - saw civilian car approaching

Sindon rd major rd - minor rd only has about 8 houses on it. Going between 35 & 40 mph. Have known bike since March 42 & speeds working & knowing machine know was going that speed.

Cross-exam:- side rd 3 or 400' long - curb on both sides, it is gravel rd - don't know width. Struck civilian in preference to head on with army veh. Don't know if 2 attempted to slacken speed. Hit the rear wheel. Could have braked but then would have gone under him. Wouldn't hazard guess as to speed of civilian. When 2 saw car crossways 2 knew there was a rd - knew there was a rd there - no signs to show. Would have skidded if 2 braked because was laying my bike on the side. If straight up brakes can be used full on without danger but when on side will skid.

Re-exam - nil

Court:- Was riding middle of my half of rd before accid - usually ride there. 2 judged 30 to 35' away when he first started to turn.

2nd Wit Def] A 3183 Pte Earhart J C, Essex Scot R, duly sworn, states:- Was on Sindon rode, following civilian car, fairly close to it. Observed DR coming toward us on his own side. So my surprise the civilian car turned to the right - saw no signals. Remarked to driver that going to be accid - driver began drawing up - accid happened - DR rolled over & over - 2 rendered first aid. MC doing 70 to 35, civilian about 20 - after accid MC was in gear & engine at top speed, whenever wheel hit ground it jumped forward - am DR, ridden 3 yrs, qualified of on bike & ride Norton but have ridden Harleys. Graff could not avoid accid - would have hit us if had come over white line. He did try to get by but couldn't make it. If civilian had cleared white line enough could have avoided accid. DR riding according to rules, riding on seat & in position to control bike - saw no signal from car ahead. Was first to reach bike - it was laying on side cross-way of rode - rear wheel spinning - DR still held handle bars & one leg partly under bike. Skid marks on rd made by spinning wheel - were not just skid marks -

Cross-exam. 2 was sitting beside driver. Were following 35 to 40 ft behind civilian. Always watch for signals because DR and always notice. 2 estimate MC 30 to 35 mph. 2 first saw MC 100' away. Visibility was very good.
Went considerable distance after impact — It helped itself get there, it was on its side & wheel jumped MC every time it hit the rd. — 2 sent our driver for amb to our unit just up rd.
Positive not approaching at more than 35 mph.
Re-exam: nil
Court: — Harley weights about 675 to 700 lbs.
We slowed up before civilian turned up — were approaching intersection & driver was careful. Think civilian passed us back the road away — say civilian was doing about 20 mph.
* Did NOT slow up because of civilian signal.

3rd Wit Defence] Lt Alex Perley-Robertson, 16 LAA Bty, 3 LAA Regt RCA, duly sworn, states:
BHQ subaltern. Graff & DR with fifty off & on for 20 mths & consecutively for 1 yr. — He is best DR we have got — he was on duty at time of accid.
Cross-exam — nil
Court — nil.

Defence closed.

Def offr in closing: — From evid aosd proceeding south, civilian car followed by army lorry approx 40' behind — no veh going at excessive speed — Civilian car suddenly turned across rd — just previous civilian states looked & saw no vehs, DR must have been approaching. DR did take best possible opening, did not apply brakes otherwise would have been in pathway of lorry. Bike leant over & could not apply brakes — struck rear of civilian car — bike 500 to 700 lbs & at 35 mph would give great momentum, swing crury around. Fact of 71 ft from impact has no bearing on speed since it helped itself along & show of car no indication. Bike being handled properly. Did see civilian — would not expect a turn. Civilian says held hand out whole time he made turn but witness behind veh saw no signal.

Prosecutor: — aosd saw entry to minor rd & did not expect veh to go up it. Suggests the moving of civilian car so far & still continued indicates excessive speed. Passenger in veh behind not in good position to note signal & was watching MC approaching. Evidence as to measurements & weight of vehs indicates considerable speed.

Judge advocate: — Points out presumption of innocence, burden on prosecution, definition of neglect, rules of the road; RP 44(D); credibility of witnesses.

Court closed

Summary of Evidence
in the case of

L. 18350 Gnr Graff. H. S.
16 Bty 3rd Cdn H.A.A. Regt. Canadian
Army Overseas.

The accused demands the
evidence be taken on oath.

First Witness for Prosecution

Mr. Edward Lackett; Littlecote, Newling Way, High Salvington, Worthing, Sussex; having been duly sworn, states:

I was proceeding along the Findon road in the direction of Findon Valley and I was preparing to turn into Mayfield Close where I lived at the time. (8.30 evening 12 Aug 43).

I was travelling at a very slow rate, approx 15 m.p.h., I put out my right arm to give warning of my crossing into Mayfield Close, to the lorry which was at rear of my car, some long distance back. They were also travelling at a very slow speed. While my right arm was still extended, I looked ahead for any traffic, but none was seen, and I thereupon, turned to the right, to enter my road. As soon as I had done this I felt the impact, and afterwards found out that my car had been hit by a motorcyclist whom, I was informed afterwards,

was a Canadian despatch rider.

The police were very soon in attendance and they took measurements and informed me that the distance from where the Canadian soldier was found, was 81' from my car, and there were no signs of any skidding. My car was thrown back 14' 9". Two hours after I found that my arm and leg were slightly bruised but my injuries amounted to shock mostly. I am not sure how far across the road I was at time of impact but measurements by police constable showed that my car had been thrown back 14' 9".

E. Rachele

Cross examination by officer taking summary:-

Q. Would you say that your car was "thrown back" or twisted around 14' 9"

A. It was twisted around, the rear end being skewed round by that amount.

E. Rachele

Page 7.

Alfred Joseph Magness, Market Gardener, 5 Northfield Road, Worthing, having been duly sworn states:-

Second Witness for Prosecution

I was coming down the Findon road about half way between Cissbury Hotel and the cemetery, on my cycle, about 8.30 in the evening, & when I saw a motor cyclist pass me going in direction of Worthing. In a few minutes I arrived at the scene of an accident. I saw a motorcyclist lying injured beside his bike. He was removed to an ambulance.

Alfred J. Magness

Cross examination by officer taking summary:-

Q. Did you see the two vehicles collide?

A. No I did not.

Alfred J. Magness

Third Witness for Prosecution

P.C. 254 Arthur Sidney James
Pickner
Police Station Worthing.
Having been duly sworn states:-
On Thurs. 12 Aug 43 at 8.25 P.M.
I was standing at Offington Corner when I saw a motor car index no. B.P.X. 523 proceeding northwards along Findon Road at a very moderate speed. Shortly after I heard a terrific bang. I cycled in direction of the noise and arrived at the scene of an accident. I saw a motor cyclist lying at the side of the road, and the motor car which had passed me at Offington corner badly damaged on the east side of the road facing north at the entrance to Mayfield Close.

After the motor cyclist had been removed to hospital, I took the following measurements:-

The width of Findon Road, from east to west pavement, is 30'. There was a mark on the road made by the wheel sliding sideways which measured 14' 9" from the point of impact to where the motorcycle was lying on its side, was 81'.

Page 6.

I examined the road on the north side of the point of impact, and found no mark that would indicate any attempt on the part of the motorcyclist to brake. I did not see the accident when it happened.

Archer S. J. Ticknor.
P.C. 264.

The accused declines to cross examine this witness.

Fourth Witness for Prosecution

Capt. R. C. Sentance, R.C.O.C. having been duly sworn states:

While on exercise pickaxe, 12 Aug 43., Harby. Davidson C/4201669 having been involved in an accident, was evacuated by the Ord. sub. sec. attached 16th Cdn L AA Bty, to 4th Cdn Inf. Bde. W/S. R.C.O.C.

Upon completion of the scheme I was asked for an estimate of damages. I had not seen the M.C. and therefore got details of damage from 4 C.I.B. W/S. Estimated cost of repair was then compiled from catalogue prices in the usual way. The cost thus estimated amounted to £15.7.0.

Accused declines to cross examine this witness. R.C. Sentance Capt.

First Witness for the Defence. Lieut Alex. Perley. Robertson Bty. H.Q. Subaltern 16 Cdn 6 AA Bty, having been duly sworn, states:-

19350 Gnr Graff H. S.

was on Battery D. L. duty at 2030 hrs on 12 Aug 43 when he was involved in an accident.

Alex Perley. Robertson Lt.

The accused declines to cross examine this witness.

Second Witness for the Defence.

A3183 Pte Carhart J. C.
Essex Scottish Regt., having been duly sworn states:-

On the 12th Aug 43 I was riding in a truck along Findon Worthing Road late in the afternoon. We were following a civilian car. I saw a D.R. approaching on his own side of the road. Next thing I saw was the civilian car turning across the road. I was surprised because I saw no signal and the D.R. was already about 25' from the intersection. By this time it was too late to attempt braking and if he had avoided the civilian car, he would hit us head on. The D.R. attempted to avoid the civilian car without proceeding over the white line, but there was not room. He had no alternative but to side swipe the rear right hand side of the civilian car. I would judge the D.R's speed to be about 35 m.p.h. and that of the civilian car at 20 to 25 m.p.h.

J. C. Carhart

Page 10.

Cross Examination by accused:-

Q. How long have you been riding a motor bike.

A. I have ridden a bike a lot, in fact about 25000 miles.

J.C. Enlart

Page. 9.

Statement by accused after having been cautioned according to R.P. 4.(E)

L 18350 Gnr Graff H. S.
16 Cdn L A A Bty 3 Cdn L A A Regt,
Cdn Army Overseas, having been duly cautioned in accordance with R. P. 4. (E). states;

On evening of Aug 12/43 at approx 8 o'clock, while on duty during "Pickaxe" scheme, I was travelling towards Worthing when I noticed veh. coming toward me. We approached on my left a road which was not a thoroughfare, but only an entry to a street of residences about 400 x long, while Findon, Worthing road is a main highway.

When I was very close to the road on my left, the civilian car turned up this road on my left. An army veh. directly behind the civilian car, made it impossible for me to pass him on the right, and he was too far over on my part of the road, for me to get by on the left. Realizing that I could not avoid both vehs, I collided with the rear wheel of the civilian car, and even then, I had not crossed the white line.

When we collided, my head hit something, I was knocked out and froze to the machine. My speed was between 35 & 40 m.p.h.

H. S. Graff

I certify that the foregoing Summary of Evidence, consisting of nine pages, was taken down by me in the presence of the accused, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

H.M. Gander Capt
3 Cdn L.A.A. Regt
Cdn Army Overseas

In the Field
19 Nov. 43.

Headquarters
16 Cdn. Lt. A.A. Bty.

24 Nov 43

Commanding Officer
3 Cdn. Lt. A.A. Regt.

Application for Defending Officer
L.18350 Gnr. Graff, H.S.

1. I hereby apply to have Lt. H.A.P. Aldersey act as my Defending Officer at forthcoming Court Martial.

H.S. Graff

(H.S. GRAFF) Gunner
L.18350

I have been given a copy of the Charge Sheet and the Summary of Evidence.

I wish a defending officer.

I desire the services of one of the following officers.

(1) Major McKenzie,
3 CARU

(2) Major Cumberly,
CMHQ.

(3) Lieut J.R.C. Dowdell,
3 CARU.

(4) Lieut.H.A. Moore,
3 Cdn LAA Regt .

(5) Capt. W.R. Tippett,
3 Cdn LAA Regt.

H. S. Graff

. . . . . .
L18350 Gnr. Graff,H.S.

Inquiries indicate that,Major McKenzie 3 C.A.R.U. and Lieut Dowdell are not available. Major Cumberly cannot be located. Lieut Moore will be available after 24 Nov 43.

Capt
. . . . . .
Adjt 3 Cdn LAA Regt

III 27

PTE GRAHAM D.S

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-11506 Pte GRAHAM, Douglas, Spencer - 1 CASCRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 153, and in loss of kit see RP 44 fn 6.)

FDT ~~At present under sentence for~~ ~~beginning on (date)~~ ~~.....~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for Two (2) years.

(Sgd) ..... Judge-Advocate, if any. 10 Mar 44 Date awarded. (Sgd) D.F.Tweedie Lt. Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court but mitigate the sentence to read, "to undergo detention for Eighteen (18) months.

~~I direct that the accused be not committed to prison or detention barracks until further order(s).~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) P.R. Shields Brig.

Date 12 Mar 44 Commanding "B" Gp. C.R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

Part II Order No.62 d/14 Mar 44

D. Roy Smith Lt. Col.
H.A. Stilwell Capt.
Officer i/c Records
1 Cdn. ASC Reinf. Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFAAB (to Sch of AFA3) (C.F.C. S/1808 (2884))

Convened by Order of Colonel H.R. Tyner A/Comd "B" Gp C.R.U. dated 8 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11506	Pte	Douglas Spencer	GRAHAM	1 CASCRU

Proceedings Reviewed
R. Dean Wills
28 Apr 44 Capt.
Reviewing Officer, JAG Branch, CMHQ

Certified true copy of original proceedings herein.

J.A.G. Rep. 44

PROCEEDINGS OF TRIAL 11 Aug 44

Held in the Fd in (country) England on (date(s)) 10 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

FDT A1. The President, Members, ~~waiting Members if any~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

FDT A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

FDT A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected or he tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Con 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

FDT A5. President to accused: ~~Do you object to ..... as interpreter. (The interpreter is sworn.)~~(1) Do you object to Sgt. J.F. Schultz as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 23, 71, 78, MML p 742.)

FDT A7. The President, Members, J.A., if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col.	F.D. Tweedie	HQ, CRU
Member	Capt.	N.J. Wermenlinger	1 CERU
Member	Lieut	D.R. Gaitens	1 CASCRU
Judge-Advocate			
Prosecutor	Lieut.	G.E. Miller	1 CASCRU
Defending Offr	Lieut.	O.M. Fisher	1 CASCRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 1 were not followed. See DI p 33.)

A8. The accused ..... before arraignment make(s) (no) (X) plea. FDT (1)

(1. If a special plea is made for separate trial on one or more charges (RP 63(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A2 rank and name of the accused making the plea.)

FDT A9. The accused is (are) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

FDT A10. The Court ~~adjourned~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ~~F~~ 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or recalling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

FDT B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~their~~ plea(s) of Guilty to Not Guilty on the charge(s). ~~The accused is (not arraigned) and is (not) charged in the (then) sheet of charges ; Part I of the Schedule is amended accordingly~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

FDT B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~Charge the charge(s) on which accused pleaded NOT GUILTY as read to him (them) in terms of RP 35(B)~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)
FDT

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. ~~President to accused : Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1) FDT
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do you intend to call witnesses on your behalf ?
Ans Are they witnesses as to character only ? Ans
(1. RP 155. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and
FDT marked Ex B and Ex C respectively.(3)
(1. MFB 103 or MFB 296. 2. MFB 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything heard or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which FDT is dated and signed by him ~~and thereafter (if any)~~.(2)
(1. When several accused tried separately see RP 108. One sentence only, comprised of the punishment or punishments laid down in AA 46, 64 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/PAS/1697 (2062)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11506	Pte		Douglas, Spencer	GRAHAM	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~XXX~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~X~~) attached and on (date) 8 Mar 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". T

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ T
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ T
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ T
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col.	F.D. Tweedie	HQ, CRU
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

A Captain	To be detailed by	1 CERU
A Lieutenant	To Be detailed by	1 CASCRU
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England	H.R. Tyner	Col.
(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)

Date 8 Mar 44

Commanding (H.R. Tyner) Col.
A/Comd "B" Gp. CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

FDT.

Medical Officer's Certif.
K.R.(Can) para 557

I certify that I have this morning examined No.C-11506 Pte. Graham D.S. and in my opinion he is fit to undergo trial by Court martial.

Station: Blenheim Barracks.

Date 10 March 44 FDT

W.F.A. Davies Capt.
(Medical Officer)
1 Cdn. A.S.C. Rft. Unit.

CHARGE SHEET

The accused, C-11506 Pte. Douglas Spencer GRAHAM, on strength of 1 Cdn. A.S.C. Reft. Unit a soldier of the Canadian Army Overseas, is charged with, When on Active Service:

1st. Charge
A.A.Sec.
15(I)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2230 hours 6th. September 1942 until approximately 2030 hours 22 February 1944 when he surrendered to the Civil Police at Harlesden, London. (Total time absent 533 days 22 hours)

H.P. Bonnick
(H.P.Bonnick) Colonel
Commanding,
1 Cdn. A.S.C. Rft. Unit.

Farnborough, Hampshire.
8 March 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

H.R. Tyner
(H.R. Tyner) Colonel.
T/Comd "B" Gp.
Cdn Rft. Units.

FDT

8 Mar 44

PLEA OF MITIGATION FOR C-11506 Pte. DOUGLAS SPENCER GRAHAM

Sir:-

I respectfully submit this plea in the interests of C-11506 Pte. Douglas Spencer Graham for the following reasons.

Pte. Graham joined the Army on the 11th. day of September 1939 and came overseas in February 1940. His M.F.M. 6 is not clean but the majority of the offences were well spread out. I do not know Pte. Graham personally but if you refer to his statement I am sure that you will agree that he has grounds for leniency.

I would like to suggest that his family troubles be inquired into and that he be informed as soon as possible what steps he will have to take in securing a divorce from his wife.

O.M. Fisher
(O.M. Fisher) Lieut.
Defending Officer.

DFT

EXHIBIT "B"

ARMY FORM O.1617

I certify that the man whose personal description is gi ven below surrendered himself to P. ~~Sgt.~~ 51x Davies W.C.D.

at Harlesden at (hour) 8.30 p.m. on the 22nd. day of Feb. 44

as being No.11506 (Rank and name) Pte. GRAHAM D.S.

a deserter (or absentee without leave) from 1st. Div Am. Coy. Canadian Army, and it appears to me from his confession that he is a deserter or absentee without leave.

Age 31 Height 5 feet 8 inches

Complexion Fresh hair D. Brown

Eyes Eyes

Marks Scar outside R. Eye.

In uniform or plain clothes Uniform.

Probable Date and place of attestation	11.9.39 Ottawa, Canada

---

Probable Date of Desertion or beginning of absence, and from what place.	6th. December 1942 (Not known)

L.H.D. Atkinson P.S.

Signature of Officer of Police in charge of

Metropolitan Police
HARLESDEN
W. Division.

22 Feb 1944 Date of signature.

LIST OF WITNESSES

Lt. J.R. Laurence — 1 Cdn. A.S.C. Rft. Unit.

LIST OF EXHIBITS

(a) Certified True Copy of Extract from Part 11 Orders by 1 Cdn. Div Amn. Coy. (1 Coy) R.C.A.S.C. issued by Cdn. Section, G.H.Q. 2nd. Echelon, showing Record of Declaration of a Court of Inquiry, declaring that C-11506 Pte. Graham D.S. illegally absented himself without leave from 1 Cdn. Div. Amn Coy. (1 Coy) RCASC. (Marked Exhibit "A")

(b) A.F.O. 1617, Certificate of Surrender to the Civil Police purporting to be signed by D.W. Atkinson of Harlesden Police Station, London, certifying that C-11506 Pte. Graham D.S. surrendered himself to P.S. 57 Davies at Harlesden, London at 2030 hours 22 February 1944.
(Marked Exhibit "B")

F.D.T.

I, the accused, C-11506 Pte. Graham D.S. desire Lieut. R.D. Stuart to represent me at my forthcoming Trial by Field General Court martial. Failing the ability of the above mentioned officer I should like the convening authorities to appoint a competent Officer to defend me.

(C-11506 Pte. Graham D.S.)

D.S. Graham.

No. C-11506 Name Graham D.S. Sqn., Battery, or Company — Corps R.C.A.S.C. — Date of enlistment 11/9/39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 133)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ottawa Ont	6/11/39	Pte		AWL 0615 - 0930 hrs 6-11-39	Pte.Brinks Pte.Ayres	Admonished	7-11-39	J.FitzRandolph Lt.	
Mitchell Camp	24-5-40	Pte.		AWL from 2200 hrs 24-5-40 till 2225 hrs 24-5-40	Sgt.???? G.	2 days C.B.	27-5-40	Lt.J.S. Hughes	
Aldershot	31-5-40	Pte.		AWL 2400 hrs 31-5-40 to 2000 hrs 5-6-40 (116 hrs)		14 days C.B. 5 days pay	#149	L.W.Watson	Lt.Col.O.C. G.B.D.
Great Bookham	6-8-40	Pte.		WOAS Taking for his personal use a publicly owned vehicle without permission	M.S.M. Greaser	14 days C.B.	7 Aug 40	H.L.Pease	Major.
Merstham	17/8/41	Pte.		WOAS Conduct -- in that he reported for duty to proceed to battle position without a steel helmet A.A. Sec 40	CSM JEYNES	7 days C.B.	19/6/41	A Bentley	Major.

Ex "C" FDT

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Merstham	13/8/41	Pte		WOAS AWL from 2359 hrs 13 Aug 41 to 0600 hrs 14 Aug 41 (6 Hrs 1 min) A.A.Sec.15(1)	Cpl.Marston	Forf 5 days Pay	14/8/41	A. Bentley Major	
Underhills	16/12/41	Pte		WOAS AWL from 2359 hrs. 15 Dec.41 to 0815 hrs 16 Dec 41 (Absent 8 hrs 16 mins) A.A.Sec. 15(1)	Sgt. Ure W	10 days C.B. Forf 1 days pay	17/12/41	A. Bentley Major	
Field	5/8/42	Pte		WOAS AWL from 0800 hrs 6 Aug 42 till 1015 hrs. 10 Aug 42 Total Abs. 4 days 2 hrs 15 mins A.A.Sec 15(1)	Sgt. Decker L/Sgt Poulton	Forf 4 days pay " 5 "	11/8/42	A Bentley Major	
Field	6 Sep. 42	Pte.		WOAS AWL from 2230 hrs 6 Sep.42 till 2030 hrs 22 Feb 44 TTA 533 days 22 hrs	F.G.C.M.	Detention 18 mds	8 Mar 44	Brig.P.R. Shields	Forf 534 days pay FR&I 149(1)(a) Forf 549 days pay FR&I 149(1)(b) Forf.16 days pay FR&I 149(1)(c)(ii) Total forf 1098 days Pay.

CERTIFIED TRUE COPY OF ORIGINAL MFM 6 IN MY POSSESSION:

(L.H.Smith) Major
A/Comd. No.1.Trg. Wing.
1 cdn. A.S.C. Rft. Unit.

SUMMARY OF EVIDENCE

IN THE CASE OF C-11506 Pte. Douglas Spencer GRAHAM, of 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS (For the Prosecution.)

Lieut. J.R. Laurence, ~~A/Adjutant of No.1. Trg. Wing,~~ 1 Cdn. A.S.C. Rft. Unit, having been duly sworn states:-

I am Lieut. J.R. Laurence, A/Adjutant of No.1. Trg. Wing, 1 Cdn. A.S.C. Rft. Unit, and I produce herewith the following documents:

(a) Certified true copy of Extract from Part II orders by 1 Cdn. Div.Amn Coy. (1 Coy), R.C.A.S.C. issued by Cdn. Sec Section G.H.Q. 2nd. Echelon, showing Record of Declaratio of a Court of Inquiry, declaring that C-11506 Pte. Graham D.S. illegally absented himself without leave from 1 Cdn. Div. Amn Coy (1 Coy) R.C.A.S.C. from 2230 hrs 6 Sept. 42. (Marked Exhibit "A")

(b) A.F.C. 1617 Certificate of Surrender to the Civil Police, purporting to be signed by D.W. Atkinson of Harlesden Police Station, London certifying that C-11506 Pte. Graham, D.S. surrendered himself to P.S. 57 Davies at Harlesden, London at 2030 hrs 22 February 1944. (Marked Exhibit "B")

THE ACCUSED DECLINES TO CROSS/EXAMINE THIS WITNESS

J.R. Laurence
(J.R. Laurence) Lt.
1 Cdn. A.S.C. Rft. Unit.

The accused was cautioned as follows:- Do you wish to make any statement or to give evidence on oath? you are not obliged to say anything or to give evidence unless you wish to do so but ~~any~~ but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AT THIS TIME.

I hereby certify that the foregoing Summary of evidence consisting of one page was taken down by me in writing on the eighth day of march 1944 at 1 Cdn. A.S.C. Rft. Unit in the ~~xxxx~~ presence and hearing of the accused and that R.P. 4 (c)(d)(e) (f) and (g) have been complied with.

J.E. Miller Lt.
(J.E. Miller) Lt.
Offr detailed to take
Summary of Evidence.

EX "A"
FDT

Farnborough, Hampshire.
8 March 1944.

EXHIBIT "A"

EXTRACT FROM

PART II ORDERS
by
1 CDN. DIV AMN COY (1COY) R.C.A.S.C.
ISSUED BY CANADIAN SECTION G.H.Q. 2nd. ECHELON

D.O. 36
26 Aug 42

10 PUNISHMENTS
(a) On 11 Aug 42 awarded forf. 5 days pay for an offence under Sec 15(1) AA. A.W.L. from 0800 hrs. 6 Aug 42 to 1015 hrs. 10 Aug 42 (4 days 2 hrs. 15 mins) Forf. 5 days pay F.R.&.I. 149(1)(a). Forf. 5 days pay F.R.&.I. 149(a). Total Forf. 10 days pay.
C-11506 Pte. GRAHAM, D.S.

D.O. 40
23 Sep 42.

6. ABSENT WITHOUT LEAVE
(a) AWL from 2230 hrs. 6 Sep.42 still absent 2230 hrs. 7 Sep.42 (First day) still absent 2230 hrs. 14 Sep.42 (eighth day)
C.11506 Pte. GRAHAM, D.S.

A#

D.O.43.
13 Oct 42

4. STRENGTH DECREASE

(a) S.O.S. as a Deserter w.e.f. 30 Sep 42 having been declared illegally absent by Court of Inquiry, held on 30 Sep. 42 from 2300 hrs. 6 Sep. 42.
C-11506 Pte. GRAHAM D.S.

#

D.O.44
21 Oct 42

6. STRENGTH DECREASE
(d) Part II Order No.43 para 4(a) d/13 Oct. 42 insofar as it refers to the undernamed is amended to read "2230 hrs. 6 Sep. 42" instead of 2300 hrs 6 Sep. 42"
C.11506 Pte. GRAHAM, D.S.

CERTIFIED TRUE EXTRACTS FROM PART II ORDERS

D. Henderson Capt.
(D. HENDERSON) Capt.
for Officer i/c Records.
CANADIAN MILITARY HEADQUARTERS.

FDT

6 Mar 44

8 Mar 44 FDT

STATEMENT MADE ~~TO DEFENDING OFFICER~~ BY C-11506 Pte Douglas Spencer Graham

Sir:-

I arrived overseas on 7 Feb 40 with Corps Petrol Park, Major Murray was the O.C. I remained with this unit for approximately six months and was then posted to Corps Troops Supply Column. This unit was over strength and I was sent back through the Holding Unit to 1 Cdn. Div Amn Coy, from which unit I went A.W.O.L. Approximately 2 years and four months later.

Shortly after I came overseas I heard that my father had died and I asked my wife to take my mother in. She did this and later I heard that my wife threatened mother with a beating if she wrote to me and eventually she forced my mother to leave.

In the month of October 1941 I received word from my sister-in-law (Mrs. Robert Graham) to the effect that my wife was having an affair with another man and that she was pregnant, she was also neglecting the children and spending their allowance on this man. (Mr. Harold Snyder, last known address: Dominion Experimental Farm, Ottawa Canada) It was from my Sister-in-law that I first heard about this affair.

I asked to be paraded to my O.C. (Lieut Col. Bentley, then Major) of 1 Cdn. Div Amn Coy in October 1941 and asked him to do all in his power to have me returned to Canada on Compassionate Leave. I gave him all the correspondence relating to my wife's affair, and he said that he would pass my request throught the necessary authorities with his recommendation for leave to be granted. In the meantime I had my wife's allowance stopped and the children taken away from her and placed in a home. I received the address sometime later and wrote to the people ~~who~~ had taken them, when I received an answer the children were no longer there, no further address was supplied.

I again asked to be paraded to the O.C. and informed him of the situation, he said he would make enquiries and let me know the result as soon as possible. He later informed me that my application for leave had not been approved.

Approximately nine months later, during which time I had received no word from home, I went absent. I spent all of my time absent in London until I surrendered myself to the Civil Police at Harlesdone, London on the 22 Feb 44. I went absent with the intention of trying to join the Merchant Navy and return to Canada but did not succeed. Since then all these things have been on my mind and I gave myself up so that I could find out what has happened to my children and my mother.

If possible I would like to have a reboard and return to Canada as soon as I have served my sentence for being absent.

In the meantime I would appreciate it very much if enquiries could be made to Ottawa as to the whereabouts of my family. I also wish to start divorce proceedings against my wife.

Your obedient servant,

D.S. Graham

FDT.

(C-11506(Douglas Spencer Graham) Pte.
No.1. C.A.S.C.R.U. Canadian Army.

STATEMENT AS TO CHARACTER AND PARTICULARS
OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment.
C-11506	Pte.	Graham D.S.	1 Cdn.A.S.C.Rft. Unit.

1. The following is a fair and true summary of the entries in the xxxxxxxJEM
Conducts Sheets JEMxxxxxxxxxxxxxxxxxxxxJEM of the accused exclusive of convictions by a JEMxxxxxxxxxxxxxxxxJEM
Court martial or a Civil Court, of Summary awards under Section 47 of the JEMxxxxxxxJEM
Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For	times	A.A. Sec. 15(1)	SIX times.
For NOT APPLICABLE	Times	A.A. Sec. 40	TWO times.
For	times		times.
For	times		times.

JEMxxxxxxxxxxxxxxxxxxx

STATEMENT AS TO CHARACTER AND PARTICULARS
OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment.
C-11506	Pte.	Graham D.S.	1 Cdn.A.S.C.Rft. Unit.

1. The following is a fair and true summary of the entries in the Conducts Sheets of the accused exclusive of convictions by a Court martial or a Civil Court, of Summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For	times	A.A. Sec. 15(1)	SIX times.
For	Times	A.A. Sec. 40	TWO times.
For	times		times.
For	times		times.

NOT APPLICABLE

Previous convictions of the accused by a Court martial or a civil Court of Summary awards under Section 47 of the Army Act and dispensations with Trial under A.A.73 are set out in the schedule annexed to this statement.

4. The accused has been in confinement awaiting trial on the present charges for NIL days in civil custody, and 16 days in Military custody, making a total of 16 days in custody of which NIL days were spent in hospital.

5. The present age of the accused according to his Attestation paper is 31 years.

6. The date of his Attestation specified in his Attestation Paper is 11 Sept. 1939

7. The service which the accused is allowed to reckon towards discharge is NIL.

8. The accused is entitled to reckon NIL service for the purpose of determining his pension etc.

9.

10.

11 JEMxxx

PP-122 (case # 4)

GNR GRAHAM G.

See A-16 for 1st case
" D-761 " 2nd "
" R-119 " 3rd "

PP 122

B-21073 GNR GRAHAM, G.
No 1 CARU

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this FOURTEENTH day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS. CANADIAN ARMY OVERSEAS., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible] JCS

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]

*([illegible])

*([illegible])

*(3 [illegible] JCS

[illegible]

Certified true copy of original proceedings herein. 4 Aug/44
[illegible] Capt
J.A.G. [illegible]
[illegible]

Proceedings Reviewed
E.K. MacDougall Capt.
Reviewing Officer, (JAG CMHQ)
7 Oct. 43

President.

Rank.	Name.	Regiment.
MAJOR	A.S.PETTAPIECE	HQ CRU

Members.

Rank.	Name.	Regiment.
CAPTAIN	M.W.SHEWAN, RCA	1 CARU
LIEUTENANT	C. HEATH RCA	2 CARU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.C. Stewart BRIGADIER
Commanding "C" GROUP, CDN RFT UNITS.
Convening Officer.
Arthur S. Pettapiece Major.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-21073 GNR, GRAHAM, GUS RCA 1 CARU	FIRST CHARGE AA Sec 15(I)	Guilty	Guilty Sentenced to be imprisoned with Hard labour for a term of two years and to be discharged with ignomimy from His Majesty's Service and to be put under stoppages of pay until he has made good the sum of £3.6.2 the costs of his apprehension. 15 Sep 43 ASP.	Confirmed JCS
	See charge Sheet Attached.			

ASP ~~* Question to be asked aloud by President if he pleads not guilty (R. of P. 57(6)).~~
ASP ~~"Is your trial to proceed or an adjournment on the ground that any of the rule relating to procedure have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
ASP ~~(where an objection of any kind is taken by accused).~~

(*Signed*) J.C. Stewart BRIGADIER (*Signed*) Arthur S. Pettapiece Major.

Commanding "C" Gp. CRU. *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th. day of September 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2.—The witnesses~~ ASP
*(~~3.—The interpreter~~) ASP
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 15th. day of September 1943 .

Arthur S. Pettapiece, Major.
President of the Court Martial.

C. Certificate in case of death sentences.

ASP
* See footnote (*i*) on page 76a M.M.L. 1929. ~~I hereby certify that the terms of "Article 579 of 1917" have been complied with.~~ ASP
~~Signed this day of~~ ASP
~~President of the Court Martial~~ ASP

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the acting Governor of the Gaol to which~~ JCS ~~shall be given until further orders~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 16th. day of September 1943 .

J.C.Stewart J.C. Stewart, Brigadier
Confirming Officer Commanding "C" Group
Cdn. Reinforcement Units.

Promulgated and extracts taken in the case of

(*a*) (Dated) 17 Sept 43 (Signed) W.A. Townley, Col. C.O. 1 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

OFFICERS UNDER INSTRUCTION

Hardy	C.D.	Lieut.	# 1 C A R U	
Duval	R.E.S.	Lieut.	# 1 C A R U	
Hall	J.J.	Lieut.	# 3 C A R U	
Bradford	R.A.	Lieut.	# 3 C A R U	
Woods	G.S.	Lieut.	# 1 C A R U	
Smith	P.B.	Lieut.	# 1 C A R U	
Cutten	H.B.	Lieut.	# 1 C A R U	
Hawkes	A.D.	Lieut.	# 1 C A R U	
Conquest	C.H.	Lieut.	# 1 C A R U	
Godwin	H.E.	Lieut.	# 1 C A R U	
Burritt	H.C.	Lieut.	# 1 C A R U	
Kidd	S.J.	Lieut.	# 3 C A R U	
Vaillancourt	M.C.L.	Lieut.	# 1 C A R U	
Dixon	C.D.	Lieut.	# 1 C A R U	
Mitchell	G.A.	Lieut.	# 1 C A R U	
Carleton	H.J.	Lieut.	"D" Bty. 3 C A R U	
Adams	G.H.	Lieut.	"B" Bty. 3 C A R U	
Thomas	G.A.	Lieut.	# 1 C A R U	
Freeze	G.F.	Lieut.	# 3 C A R U	
Williams	E.C.	Lieut.	# 1 C A R U	
Hoffman	M.S.	Lieut.	# 1 C A R U	

ASP.

LIST OF EXHIBITS

1. Certificate in accordance with P.C. 2797 of 10 Apr 42
2. Expense voucher.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P.14(B)

1. B-21073 Gnr. Graham, G. of No.1. C.A.R.U. desire to have an officer appointed by the Convening Officer to represent me at my trial by Court Martial.

G. Graham
B-21073 Gnr. Graham G.

STATEMENT AS TO CHARACTER AND PARTICULARS
OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or Unit)
B-21073	Gunner	Graham G.	No.1. C.A.R.U.

1. The following is a fair and true Summary of the entries in the ~~xxxxxx~~ Regimental ~~xxxxxxxxxx~~ JKCR
Conducts Sheets
~~xxxxxxxxxxxxx~~ of the accused, exlusive of convictions by a Court martial
xxxxxx JKCR
or a Civil Court of Summary awards under section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months.	Since Enlistment.
For AA Sec 15(1)	2 times	13 times.
For AA Sec 40	times	2 times
For AA Sec 24(2)	times	1 times
for AA Sec 22	times	1 times.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
or JKCR
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
Note: If the charge is for drunkenness, the entires for drunkenness must be stated separately.
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxJKCR

2. Previous convictions of the accused by a Court martial or a civil court of
xxxxxxJKCR
summary awards under section 47 of the Army Act. and dispensations with
trial under ~~A.A. 73~~ JKCR are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.
~~xx~~ JKCR
xxxxxxxxxxxxxxxxxxxx

xxxx

MFM 6
(AFB 122)

No B21073 Name Graham G. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 7 Sep 39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4-10-40	Gnr		(1)AWL from 0600 hrs 4-10-40 until 2000 hrs 5-10-40 (Absent 1 day 14 hrs)	TBSM Shingleton Sjt Adams	28 days Detention		Lt. Col. Roberts	Ffts 33 days pay FR&I RJW
Field	7-10-40	Gnr		(2)AWL and without permission of his C.O. in that he absented himself without leave from 0900 hrs 7-10-40 (while under open arrest) until 1930 hrs 9-10-40 (Absent 2 days 13 hrs 30 mins) AA Sec 15	TBSM Shingleton Sjt Taber	28 days detention run concurrently		Lt.Col Roberts	Ffts 3 days pay RJW
Field	7-10-40	Gnr		(3)When in lawful custody excaping while at ??? 7-10-40 while under open arrest did leave limits of camp without permission of CO.	TBSM Shingleton Sjt Taber	28 days Detention run concurrently.		Lt. Col Roberts	ASP

(9T0)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-2-41	Gnr		WOAS Conduct to the prejudice of good order and Military discipline in that he, while under close arrest awaiting sentence, refused to work when ordered to do so by Bdr Cuthbertson AA Sec.40	Bdr.Long Bdr.Cuthbertson Sjt Cocker	7 Days Detn	7 Feb 41 OC	Lt.Col.J. Roberts 1 CAHU	F.J.Cross Lieut.
Field	9-1-41	Gnr		Losing by neglect his equipment clothing and regimental beccessaries to the value of 14 shillings and 7d	Lt. Steel	Stoppage of pay of £0-14-7	8 Feb 41 OC	Lt.Col J. Roberts 1 CAHU	F.J.Cross Lieut.
Field	14 Nov 40	Gnr		(1)WOAS AWL from 2200 hrs 14 Nov 40 until 0910 hrs 9th Jan 41 (2)Losing by neglect kit & equipment value 14s 7d AA Sec 15(1) AA Sec 24(2)	Sjt Gowin L/Sjt Moore BSM Pushie Sjt Jordan Lt. Steel Sjt Cocker	12 mos Detn (6 mos Remitted)		F.G.C.M.	Total Fftrs 255 days pay.

Released from the detention barracks Witley on May 29 1941, sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 57 days Commandant's initials ????????????

No B-21073 Name Graham G. | Sqn, Battery, or Company No.2 D.D. Corps R.C.A. | Date of enlistment 7 Sep 39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/126 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk 29 Mar 40 | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc ??????????? | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Kingston, Ont	29Mar 40	Gnr.		WOAS AWL from 1400 hrs 29 Mar 40 until reporting at 1400 hrs 1 Apr 40 (Absent 3 days)	Sjt Reid Gnr Moore H	7 days C.B.	Lt.	Col. Brice ???? Lt.	Ffts 3 days pay under FR&I
Petawawa 3	Jun 40	Gnr	(1)	WOAS AWL from 1115 hrs 1-6-40 until reporting at 0600 hrs 3-6-40	Bdr LaChapelle	14 days C.B.	14 June 1940	Col Tremaine	Fined 10 days pay Ffts 10 days pay FR&I
			(2)	WOAS AWL from 2200 hrs 3-6-40 until surrendering himself at Stanley Barracks, Toronto, Ont at 2000 hrs 11-6-40 (1) Absent 1 day 18 hrs 45 mins. (2) Absent 7 days 22 hrs.	Sjt Dickinson L/Bdr Jackson.				ASP.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	22 Jun 40	Gnr		(1)WOAS Breaking out of Camp whilst a defaulter (2)Absent from 1730 Hrs 22-6-40 until apprehended by the Military Police in Toronto at 2000 hrs 2-7-40 (Absent 10 days 2 hrs 30 mins)	Bdr Scott Documentary	168 hrs Detention Make good the cost of apprehension 7 days C.B.	8-7-40	Col.Tremaine	Ffts 11 days Pay FR&I RJW
Petawawa	22-7-40	Gnr		AWL from 0800 hrs 22-7-40 until apprehended at Toronto by the M.P. at 0840 hrs 25-7-40 (Absent 3 days 40 mins Cost of warrant 36.51 Escort expense 16.35 Total 52.86	Greenaway Documentary Sjt Billings		31-7-40	Lt.Col Brice	Ffts 4 days pay FR&I To share costs of returning $52.86 R.J.W.
Petawawa	6-8-40	Gnr.		(1)Breaking out of camp whilst a defaulter (2) Absent from 0600 hrs 6-8-40 until reporting at 0600 hrs 9-8-40 (Absent 3 days)	Sjt Sparks	14 days detention	9-8-40	Col Tremaine	Ffts 3 days Pay FR&I

NoB-21073 Name Graham G. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 7 Sep 39 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/155 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28-7-41		(1)	AWL 0700 hrs 28/7/41 till 1800 hrs 29/7/41 (Absent 1 day 11 hrs AA Sec 15(1)	Lt Villers Fisher L/Bdr McLachlan	(1) 7 Days CB (2) Remanded	30/7/41	GP Marriot Capt.	2 days pay FR&I 149(1)(a)
			(2)	Stealing property belonging to a person subject to Military law did not return money or statement showing same.	TSM Nicholls L/Bdr Fargett			GP Marriott Capt.	
Field	7 Aug 41	Gnr	(1)	AWL from 1800 hrs 7/8/41 when on guard Duty until 1600 hrs 14 Aug 41 Absent 6days 22 hrs AA Sec 15(1)		22 months Detention	23 Sept 1941	FGCM	Ffts 7 days Pay FR&I
			(2)	Embezzling goods and money to the value of 3/2 AA Sec 18(4)					ASP.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposing with trial	By whom awarded	Remarks
Field	10-9 42	Gnr		WOAS AWL 3 days 1 hr AA Sec 15(1)	Bdr Serres Documentary	7 days F.P.	15-9-42	T.H. MusgraveCol	Total Fftre 11 days pay
Field	30-9-42	Gnr		WOAS AWL from 0830 hrs 30-9-42 until 1940 hrs 4-10-42 (4 Days 10 Mins) AA Sec 15(1)	Bdr. Thompson 11 hrs Documentary	28 days F.P. 28 days Fine	6-10-42	R.S.Hallett Major "Q" Wing No.1.CARU	Total Fftre 33 days pay
Field	16 Oct 42	Gnr		Guilty for offense under AA Sec 15(1) AA Sec,10(4)		To undergo 1 yr Detention Cost of Apprehension £3-6-2	14 Nov 42	F.C.C.M.	Total Fftre 394 days pay.

Released from the Detention Barrack Field on Ju y 14 1943 sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 119 days Commandant's initials J.A. Lt.
15 Sep. F.H.Kelley Capt.

CERTIFIED TRUE COPY ~~10-Sept~~ 43
H.A. Farthing
(H.A. Farthing) Major.
Officer having custody of Original Document

Arthur S. Pettapiece, Major.

EXHIBIT "A"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No.B-21073 Rank Gnr. Name Graham G.

Unit #1 C.A.R.U. was arrested at Edinburgh (Place)

at 1620 (Hour) on 27 Aug 43 (Date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~).
Signature of Provost-Marshall, Assistant Provost Marshall or other Officer or the Officer Commanding of the portion of His Majesty's Forces or the Officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)

Edinburgh.
27 Aug 43

W. Fern. Capt.
(W. Fern) Capt.D.A.P.M. ASP.
LONDON AREA.
Officer i/c Detention Room.
No.6. Coy. Canadian Provost Corps.

Exhibit "A"
E.H. Watty Capt.

Expense Voucher Re— Exhibit "B" Ref: K.R. & O. (Can) 539

Reg. No. B21073 Rank Gnr. Name Graham G. Unit 1 C A R U

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From LONDON from EDINBURGH

Date	Particulars (½ Portion)	Amount		
29 Aug 43	Escorts return fare from LONDON To EDINBURGH	1	10	4
	Prisoners single fare to LONDON From EDINBURGH	1	10	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ Portion)		5	6
	Total £	3	6	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. Fern Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

EXHIBIT "B" F.H.Kelley Capt. ASP.

C.M.H.Q. 1000/55
40/F & S/483

SUMMARY OF EVIDENCE in the case of B-21073 Gunner Graham G. Royal Canadian Artillery on the strength of "p" Training Wing No.1. Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer the evidence is taken on oath.

First Witness — A-32141 Sjt Best, H.E. of No.1. C.A.R.U. having been duly sworn, states:

I am A.32141 Sjt. Best H.E. of "D" Battery, No.1. C.A.R.U. I was battery Orderly Sergeant 27 July 1943 when it was reported to me that B-21073 Gnr. Graham, G. was absent from 2359 hours 26 July 1943. I placed his name on the absentee report, and he was marked so absent until he was struck off strength of No.1. C.A.R.U.

The accused declined to cross-examine this witness.

H.E. Best
A-32141 Sjt Best H.E.

Second Witness — L-10399 L/Bdr Rice K.M. of No.1. C.A.R.U. having been duly sworn states:-

I am L-10399 L/Bdr. Rice K.M. of "D" Battery, No.1. C.A.R.U. I called the Reveille roll call at 0605 hours 27 July 43 and B-21073 Gnr. Graham G. did not answer his name. I immediately went to the Unit Guardroom and found that Gnr. Graham had not turned in his pass, which had expired at 2359 hours 26 July 1943. He was absent, and I so reported him to the Battery Orderly Sergeant.

The accused declined to cross examine this witness.

L/Bdr K.M. Rice
L.10399 L/Bdr. Rice K.M.

Third Witness — Captain R.A. Berry of No.1. C.A.R.U. having been duly sworn states:-

I am Capt. R.A. Berry, of No.1. C.A.R.U. acting Adjutant "p" Training wing, and as such I produce from Wing Orderly Room files the following documents:

The First and marked exhibit "A" is a certificate in accordance with P.C. 2797 of 10 Apr 42 relating to B-21073 Gnr. Graham G. and showing that he was arrested at Edinburgh at 1620 hours 27 August 1943.

The Second and marked Exhibit "B" is an expense voucher relating to B-21073 Gnr. Graham G. and showing costs of his return from Edinburgh to London in the amount of £3.6.2

The accused declined to cross-examine this witness.

R A. Berry
R.A. Berry) Capt. R.C.A.

Question To the Accused. "Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declined to make a statement. GGB

Certified that Rules of Procedure 4 (c), (d), (e) (f) and (g) have been complied with.

That this SUMMARY OF EVIDENCE, consisting of two pages and two exhibits, was taken down before me in the presence and hearing of the accused.

Bordon, Hants.
4 September 1943

G.G. Blackburn
(G.G.Blackburn) Lieut. R.C.A.
Officer detailed to take this Summary.
Arthur S. Pettapiece Major.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT QUEBEC BARRACKS, BORDON, HANTS.
ON THE 15th. DAY OF SEPTEMBER 1943

The accused B.21073 Gnr. Graham G. Unit 1 C A R U

The Order convening the Court and Charge Sheet are laid before the Court, who satisfied themselves as provided by Rs. P.22 and 23.
The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The Order Convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President	Maj. A.S. Pettapiece	Unit. HQ. CRU
Members:	Capt. M.W. Shewan	Unit. 1 C A R U
	Lieut. C. Heath	Unit 2 C A R U

The Officers under instruction are duly sworn:-

See attached list		Unit.
Prosecutor	Capt. F.H. Kelly	Unit 1 C A R U
Defending Officer	Lt. G.H.Fournier	Unit 1 C A R U

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P.35(B) is complied with. ASP
The accused does not wish to make a statement in reference to the Charge(s) R.P.37(B) ASP
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB-296~~ and MFM 6. ASP
The Court complies with R.P.46(B)

Pursuant to R.P.37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment~~ ASP
~~(b) Calls witnesses as to character~~ ASP
~~(c) Calls witnesses in mitigation of punishment~~ ASP
~~(d) Addresses the Court by his Defending Officer~~ ASP

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER~~ ASP ASP

Arthur S. Pettapiece, Major.

MEDICAL OFFICER'S CERTIFICATE

K.R.(CAN.) PARA.557

I certify that I have this morning examined

No. B.21073 Gnr. Graham

of No.1. C.A.R.U. and in my opinion he

is fit to undergo Trial by Court martial.

J.E. Cowle Capt.
Medical Officer

Arthur S. Pettapiece Major.

Station

Date Sept. 15-9-43

M.F.B.246

CHARGE SHEET

The accused, B.21073 Gunner Gus BRAHAM, Royal Canadian Artillery on the strength of "P" Traning Wing, No.1. Canadian Artillery Reinforcement Unit. a soldier of the Canadian Army (Overseas) is charged with:-

WHEN ON ACTIVE SERVICE

1st.Charge
A.A.Sec.
15(1)

ABSENCE WITHOUT LEAVE

in that he,

at Bordon Hants, did absent himself without leave from 2359 hours 26 July 1943 until apprehended by the Canadian Provost Corps at Edinburgh at 1620 hours 27 August 1943, thereby incurring costs of apprehension and return to Unit in the sum of £3-6-2. (Absent 31 days 16 hours 20 minutes)

Bordon, Hants.
13 September 1943.

W.A. Townsley
(W.A.Townsley) Colonel.
Commanding Officer,
No.1. Canadian Artillery Reinforcement Unit.

To be tried by Field General Court Martial,

J.C. Stewart Brigadier
Commanding "C" Group, Cdn. Rft. Units.
(Convening Officer

Bordon, Hants,
14 Sep. 43.

Arthur S. Pettapiece, Major.
President.

4499
Pte, Graham, G. F

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C36802 Pte Graham G. F.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA SEC 15 (1)	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of days, of which days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
TO UNDERGO DETENTION FOR A PERIOD OF THIRTY DAYS.

1 Feb 45 (Sgd) [illegible] President. (RP 45, 50.)
Date awarded.

(Sgd) Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: AA 172 fn 1.) AA 57A, RP 53A, 54. The Confirming Offr must sign here personally.

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not~~ committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Maj

Date 4 Feb 45 Commanding CCRA 2nd Corps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

C36802 Pte Graham, G.F. 7 Feb 45 [illegible] Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 27 MAR 1945 JAG BRANCH CMHQ

RECORDED

FIELD GENERAL COURT

Convening Order of BRIG. S. TODD dated Comd RCA 2 Can Corps 4-5

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183 fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 36802	Pte	GORDON FRANK	GRAHAM	2 CONTKTPS CMHQ RCASC

PROCEEDINGS REVIEWED
[illegible]
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 1 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/25

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 62-70, 73, 74, 94, 103, 109, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial instead of being dealt with ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) The President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	J.W.G. THOMPSON M.M. E.D.	RCA
Member	MAJOR	M. L. TROY E.D.	C.I.C
Member	CAPT	K.P. GAREN	C.A.C
~~Judge-Advocate~~			
Prosecutor	CAPT	R.K. MOTHERWELL RCASC 2 CONTKTPS WASH	
Defending Offr	CAPT	W.G. WILLIAMS. RCOC. 3 CONTKTPS WASH	

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment make(s) (no) ~~the~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by some of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instr p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 36802 Pte Graham G. F.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	Not Guilty	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial: a total of ..... days, of which ..... days were spent in hospital (1).

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR A PERIOD OF THIRTY DAYS.

(Sgd) ..... 1 Feb 45 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-765, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders (1).~~

~~(1. AA 57A. Delete if not used.)~~

(Sgd) .....

Date 4 Feb 45 Commanding CORA 2 Can Corps.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C 36802 Pte Graham, G F	7 Feb 45	[signature] Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 MAR 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 44-99

FIELD GENERAL COURT-MARTIAL

Convening Order of Brig S. Todd Comd RCA 2 Can Corps dated 27 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) perpanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C 36802	Pte	Gordon Frank	Graham	2 Can Tk Pts Unit

PROCEEDINGS REVIEWED

[signature]

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in The Fd in (country) Holland on (date(s)) 1 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/25

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecuter produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecuter informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans.~~

~~The Interpreter is sworn (1). Do you object to ..... as shorthand writer? Ans.~~

~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans. NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	J.W.G. Thompson M.M. ED.	RCA
Member	Major	M. L. Troy ED.	CIC
Member	Capt	K. P. Caren	CAC
~~Judge-Advocate~~			
Prosecutor	Capt.	R.K. Motherwell RCEME.	2 Can Tk Pts Unit
Defending Offr	Capt.	W.G. Williams. RCOC.	3 Can Inf Pts Unit

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~No~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 83(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first charge(s) and allowed on the ..... charge(s), and that accordingly, the trial will proceed as to the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. neither

Do you intend to call witnesses on your behalf? Ans. Yes

Are they witnesses as to character only? Ans. W/DR.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and as to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 76(F). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46E. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can XIII, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF 82)
40/FAS/1697 (2nd Ed)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.36802	Pte		Gordon Frank	GRAHAM	2 Cdn Tk Tps Wksp RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Jan 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint: (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	J. H. G. Thompson	RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M. L. Troy	CIC
Captain	L. F. Garen	CAC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in 27 Jan 45 Holland
(Country.)

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Date 27 Jan 45

(S. Todd)
Commanding RCA 2 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused C-36802 Pte Gordon Frank Graham, 2 Canadian Tank Troops Workshop, RCEME, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 15(1) AA

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on 10 December 44, absented himself without leave from his unit, 2 Cdn Tk Tps Wksp, RCEME, from 1300 hours on said 10 December 44 until 2359 hours 10 December 44. (Absent 11 hours)

(Geo A Wiggan) Major
Officer Commanding
2 Cdn Tk Tps Wksp, RCEME

In the Field
29 December 44

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field
27 Jan 45

(S. Todd) Brigadier
DJAA, 2 Cdn Corps

MEDICAL OFFICER'S CERTIFICATE

K. R. (Can) Para 557

I certify that I have this morning examined No C-36802

Pte Graham G F of 2 Cdn Tk Tps Wksp, RCEME and in my

opinion he is fit ~~unfit~~ to undergo trial by court-martial.

Station Field

Date 13 Feb '45

Medical Officer

6 Cdn C.C.S.

Recorded Proceedings

First Witness for Prosecution

B 58971 Pte Ward C. J. 2 Cdn Tk Tps 4 Rdgs

R.C.E.M.E being duly sworn states:-

I know the accused. He is Graham G. F. of my unit. I know something of the movements of Cpl Ferguson J. E. of my unit on 10 Dec 44. On the morning of 10 Dec 44 at about 1300 hrs Cpl Ferguson, Cfn Hoover, Pte Graham - the accused - and I left our unit lines at VEGHEL to go to Tilburg. We proceeded from Tilburg to Antwerp - the four of us going along. We stopped at Tilburg enroute and arrived at Antwerp sometime between 1600 and 1700 hrs. ~~I left~~ The accused got off before I did at a suburb of Antwerp. I next saw him at the point where we left him at about 2100 hrs that day. He and I waited until Cpl Ferguson came with his vehicle and picked us up for the return trip. We left about 2200 hrs ~~too~~ but when we reached a point about a mile west of TILBURG we had an accident. The time then was about midnight 10 Dec. The accused was a passenger in the car at that time. Afterwards we hitch hiked home reaching camp between 0400 and 0500 hrs the morning of 11 Dec 44. With me then were Cfn Ohr and the accused. ~~and [illegible]~~

Cross Exam ~~[illegible]~~

My reason for leaving camp was to go to Tilburg. This was my original intention - I had the day off and I wanted to get away from camp

D.3.

Fust Witness for Prosecution Cont'd

2

I do not know what the accused's reasons were for going to Tilbury. I did not realize by going to TILBURG I was going beyond bounds. I had no knowledge of any order of our bounds. Cpl Ferguson had a work ticket to TILBURG so I felt justified in going with him. I had not seen ~~of~~ Cfm Orr until we met him that night at 2200 hrs. Our normal weekly routine was that we usually got one day a week off and on that day there were no rolls calls, no parades and I always understood that as long as we were on parade next morning we could go where we pleased. ~~[illegible]~~ ~~If it were possible~~. ~~He usual fre~~ ~~[illegible]~~ Sunday was our usual day off

By the Court

On our days off I imagine there were passed issued. I ~~do not know~~ could not say definitely because I do not know of any cases but I can understand if conditions warranted it if a fellow asked for a pass he would get it. We always understood we were free to go. When I said there were no parades that day I meant ~~the~~ any day we had off. ~~I know~~ I mean the day in question the day of 10 Dec. I do know if there were parades that day. I was away. The accused was with me.

I remember making this statement "Pte Graham & I decided to hitch-hike from TILBURG to ANTWERP" I had no reason for feeling free to hitch-hike from TILBURG to ANTWERP.

RD 88160 continued with

D3. Continued.

Second Witness for Prosecution

L93423 Cfn OHR. F. 2 Cdn GR Dps Whsp RCEME being sworn states.

I know the accused, Pte GRAHAM of my unit. I was in MORTSEL at about 2200 hrs the night of ~~[illegible]~~ 10 Dec 44. I left there about 2200 hrs to return to my unit. I met Cpl Ferguson at about that time and I asked him if I could have a ride home with him. He said I could and we started off for camp. When I got in the vehicle already in it were Sgt Carr, ~~[illegible]~~ Cpl Ferguson, Cpl Devlin and another man whose name I cannot recall just now. I now recall this man's name as HOOVER. We left for Camp picking up enroute shortly after 2200 hrs the accused, and Pte Ward. On the way home we had an accident at about a mile west of TILBURG. We, Pte Graham (the accused) Ward & I ~~[illegible]~~ hitch-hiked back to Camp arriving at about 0500 hrs in the morning of the 11 Dec 44

Cross Examination

I never had a pass when I was in the vicinity of Antwerp on the 10 Dec 44. I did not have one because it was customary to leave the unit without one at that time. Prior to 9 Dec 44 I do not recall seeing anything on orders saying that MORTSEL ~~[illegible]~~ was out of Bounds or ~~[illegible]~~ any given distance. Nor did I hear any orders announced ~~to that effect~~ on parade that I recall putting MORTSEL out of Bounds. I make a practice of reading orders.

D 3. Contd
2nd Witness for Prosecution contd.

I hitch-hiked part of the way to MORTSEL and took the train from TURNHOUT ~~to~~ WILRIJK and from there walked to MORTSEL. I planned to be back to the unit that night.

By the Court: Passes were issued in our unit but we did not bother much getting them because there was not much need in having one because there were no parades, nor no roll calls on Sundays. I do not know if passes were issued to TILBURG or ANTWERP. If you wanted to go to those places any other time than weekends then you would have to have a pass. On the weekends it was pretty much that everybody could go away if they wanted to. I did not ask for a pass because I had no intention of going any distance. If I had intended to go to ANTWERP I would have asked for a pass because there was a question of getting back.

R.P 83(6) complied with.

Third Witness for Prosecution

A29118 WO I H.J. POOLE 2 Cdn TK. TPS WRSP RCEME being duly sworn states:-

I am acquainted with the accused Pte Graham. He is a member of my unit in which I am superintending Clerk and also acting as R.S.M. I supervise the issue of passes from the unit orderly room. The accused did not have a pass to proceed out of the unit area on 10 Dec 44. On special occasions personnel proceeding out of unit area were issued with passes.

D3

of passes from the unit orderly room. The accused did not have a pass to proceed out of the unit area on the 10 Dec 44. No special reasons personnel proceeding out of unit area were issued with passes.

C Ross Examination

Fluid Motion for Prosecution

I keep a record of all passes by Roping on file the stub of the passes issued. I know the accused did not have a pass on 10 Dec 44 because there is no stub on the file which is kept in the unit orderly room. There have been cases of passes being issued over the week ends by the C.O. We had about 12 to 15 applications for week end passes on occasions. This I would say was a large number. I remember orders stating the bounds of our unit area. Those orders were both written and verbal and made the bounds a two mile radius of our unit location and to incl the village of VECHEL. S/ the C.O does to call a parade on a Sunday off I would expect to find all there except those who had been given permission by the CO to be away. I could not swear if the accused were in camp on 10 Dec 44. There is no parades on Sundays the men being off duty from Saturday break-off until 0830 hrs on Monday.

WO I H.J. POOLE

D.3. Continued

During that time men are free to go where they please within the area.

R.P. 83(b) complied with.

Fourth Witness for Prosecution

MAJ. G. A. WIGGAN, DADME 4 Cdn Armd Bde RCEME

being duly sworn states

I commanded 2 Cdn TKTps Wkshp - from 28 Dec 43 to 17 Jan 45. The unit moved to VEGHEL, Holland sometime between 20 Nov and 25 Nov 44. After the unit was established there I took steps to notify to unit personnel the boundaries of the Unit Area. This notification was done on C.O's parade by verbal announcement calling attention to a previously published Part I order issued when the unit was at STEENBERG which provided that no one could go more than five miles from Camp Area without a pass. In this case I limited the area to two miles from the Camp. This order was issued as I recall during the first week in Dec 44.

Cross Examination

The week end routine of my Unit the week end of 9/10 Dec 44 was that the shop worked on Sat but did not work on Sun and when the shop was not working there were no parades and no rollcalls. I made myself quite plain on the parade regarding boundaries

D. 3.
4th Witness Contd.

and men going beyond these boundaries would require a pass. I do not Know if the accused were on parade at the time I issued that order. My verbal order was not republished because the previous order had not been Cancelled

R.P 83 b, Complied with

Fifth Witness for Prosection

F 79396 Cpl Cameron R. W. 2 Cdn TK Tps WRsp RCEME being duly sworn states:-

I Know the accused Pte Graham of 2 Cdn TK Tps WRsp. I am a Cpl in the Tpt section of that unit and as such Keep the roster of duty drivers. On 3 Dec 44 the accused was duty driver and on that date on call until 2200 hrs. On 4 Dec 44 he should be Carrying out his regular duties with the exception of the morning parade.

Cross Examination

I was not on a parade when an order was given out defining the bounds of the Comp. I cannot recall if there were such a parade held. I did not Know what the bounds of the comp were on 3 Dec 44 because as far as I Know it had not been given out at that time. If a parade were called on 10 Dec 44 I would not have been surprized if there were not many there because it was a pee day and the men were roaming around comp and visiting neighbors.

By the Court 8

D3 Cont'd. Fifth Witness for Prosecution cont'd.

I am not sure if passes, outside the 48 hr pass, were issued in our unit. A man could go to Paris without a pass but he would be A.W.L. At that time there were no restrictions about the limit one could go, but you could not go any place in France or Belgium because you would not be supposed to go. My hours are from 08-15 hrs until about 17.00 hrs daily. On 4 Dec 44 I was on a 48 hr leave. With the exception of the times I am on duty driver I attend all parades. I cannot say if any other were issued on a parade on 4 Dec 44. When I returned from leave my immediate superior Sgt, did not tell me anything. R.P 83161 complied with.

The Prosecution advises that the witness Cpl Ferguson J.E. listed in the summary of evidence has been Evac to the U.K. on medical grounds and will not be called.

D4. Submission of Defence Att.

9

D-6 MAJ G.A. WIGGAN, D.A.D.M.E. 4 Cdn Armd Bde. Devon State.

The accused had been in the unit the entire time I was in comd being employed as a D. Road Dos I/C. He was a good soldier. His conduct was good and his character excellent. I donot recall if he were ever before me on a charge previous to the present one. I do not know just when the accused arrived in the European theatre because the unit arrived in two parties the adv gp on 17 Jun 44, the main body about a month later.

E3 Plea in mitigation att.

1 Feb 45

[signature] President Pl.

Plea in Mitigation

I make this plea in Mitigation of Punishment of the accused C-36802 Pte Gordon Frank Graham and ask that the court be lenient in view of his record which is as follows

He is 20 yrs old and single. Enlisted in Cdn. Army Jun 42 arriving in U.K. in Jun 43 and in France in Jun 44. Has been with present Unit since Jun 43 and has been employed as Dor. I.C. and Despatch Rider which latter duties were performed in France & Belgium until arriving in Antwerp. Prior to enlisting he was employed by S. Lightfoot & Sons Ltd., Toronto, driving a 5 Ton Dodge Truck for 1 yr.

In school he went as far as 1st Form High School.

He is under impression that entries in Conduct sheet for first 6 mos. of enlistment should be erased - auth. R.R. (Can) 1524 (c)(1)

He likes his Unit & his work & wishes to stay with the Unit.

Awarded Cdn. Efficiency Declaration & Clasp.

Claims to have been in open arrest since 18 Dec 44 which seems rather long for so short a period of alleged AWL.

I submit that the accused should not have been brought to trial by F.G. C.M. but should have been dealt with summarily by Unit C.O. I trust the Court will take these points into consideration when passing sentence on accused

[illegible] (Proc) 3C1TW.

EXHIBIT 'A'

M.F.R. 183
HM—5-41 (1942-43)
H.Q. 1773-20-6(2)
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-36802	Pte	Graham G F	2 Cdn Tk Tps Wksp, RCEME.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron Platoon~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	nil times	2 times
For Failing to appear at	times	times
For a place of parade	nil times	1 times
For Dirty Rifle	nil times	1 times

Number of instances of gallantry or distinguished conduct nil

or,

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or.

3. The accused is not under sentence at the present time.

or.

4. The accused has been convicted by a court-martial of ~~the~~ 2 offences and awarded ~~the~~ 2 days detention.

5. The present age of the accused according to his attestation paper is 20 yrs

6. The date of his attestation specified in his attestation paper is 9 July 1942

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 5 mos

8. The accused is entitled to reckon 2½ yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of an ~~Air Force~~ Army good conduct ~~or~~ Air Force ~~Army~~ good conduct ~~or~~ Army ~~Air Force~~ good conduct ~~or~~ Army ~~Air Force~~ good conduct ~~or~~ Army ~~Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number N/A Rank N/A
Unit
Name N/A of N/A Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NIL	NIL	NIL	NIL	NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of December 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

The above is hereby re-affirmed this first day of February 1945

C W Palmer, Major, Officer commanding
2 Cdn Tk Troops Regt, R.C.A.

SUMMARY OF EVIDENCE

in the case of C-36802 Pte Graham G F

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS B-127835 Cpl Ferguson J E, 2 Cdn Tk Tps Wksp, RCEME sworn states:

In company with Pte Graham and Pte Ward and Cfn Hoover, I left the camp area at approximately 1230 hours 10 Dec 44 and proceeded to Tilburg. On arriving in Tilburg we were unable to locate the unit we were looking for and on the impulse carried through to Antwerp. We left Antwerp at 2200 hours to return to camp. On our return journey we met with an accident at approximately 2359 hours.

Cross-examined by the accused.

Q. Did I ask you to take me to Antwerp?
A. No, you did not.

Q. Did anything I have to say in the car on the way to Tilburg urge your impulse to go to Antwerp?
A. No.

J. E. Ferguson (Cpl)
B-127835 Cpl Ferguson J E

SECOND WITNESS B-58971 Pte Ward C J, 2 Cdn Tk Tps Wksp, RCEME sworn states:

On Sunday 10 Dec 44 Pte Graham and I left camp with Cpl Ferguson and Cfn Hoover to go to Tilburg. On the journey to Tilburg, Pte Graham and I decided to hitch-hike from Tilburg to Antwerp. When we got to Tilburg, Cpl Ferguson decided to go to Antwerp, so we went with him. He picked us up at 2200 hours in the Antwerp area to return to camp. On the return journey we had an accident at approximately midnight. After the accident Pte Graham and I hitch-hiked back to camp.

Cross-examined by the accused.

Q. Did you know definitely before we left camp if we were going to Antwerp?
A. No.

Q. Was either Cpl Ferguson or Cfn Hoover involved in our decision to go on to Antwerp?
A. No.

B-58971 Pte Ward C J

THIRD WITNESS L-93423 Cfn Ohr F, 2 Cdn Tk Tps Wksp, RCEME sworn states:

On Sunday 10 Dec 44, I hitch-hiked to Antwerp. Just before 2200 hrs Sunday, I met Cpl Ferguson in Mortsel and asked him for a ride back to camp. We picked up Pte Ward and Pte Graham about five miles up the road. We carried on until we had an accident at about 2359 hours. I stayed until the accident had been cleared and I then hitch-hiked back to camp.

The accused declines to cross-examine the witness.

F. Ohr
L-93423 Cfn Ohr F

SUMMARY OF EVIDENCE

FOURTH WITNESS A-29118 WOI H J Poole, 2 Cdn Tk Tps Wksp, RCEME sworn states:

I state that Pte Graham G F did not have a pass issued through the Orderly Room to proceed out of the area on 10 Dec 44.

The accused declines to cross-examine the witness.

A-29118 WOI H J Poole

See Note Below

The accused was cautioned as follows:

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
A. I want to make a statement.

Q. On oath or not on oath?
A. On oath.

The accused, sworn, states:

I do not think that I had anything to do or say with Cpl Ferguson exceeding the limits of his work ticket or going to Antwerp.

C-36802 Pte Graham G F

The accused does not call any further witnesses.

I certify that the foregoing Summary of Evidence consisting of one pages was taken down by me in the presence of the accused and that RP 4 (c), (d), (e), (f) and (g) have been complied with, in the field this 19th day of December 44

Capt R K Motherwell
2 Cdn Tk Tps Wksp, RCE

In the Field
19 December 44

NOTE: See page 3 for FIFTH and SIXTH Witnesses.

FIFTH WITNESS

STATEMENT OF Major Geo A Wiggan, Officer Commanding 2 Canadian Tank Troops Workshop, RCEME.

EVIDENCE in the case of C-36802 Pte Graham G F and B-58971 Pte Ward C J.

This is to certify that I, Major Geo A Wiggan, Officer Commanding, 2 Cdn Tk Tps Wksp, RCEME, did on Monday 4 December 1944 on the 0830 hours unit parade instruct and announced to the whole unit that the unit area consisted of an area within a two mile radius of unit location and to include the Village of Veghel, Holland. Any personnel having occasion to go beyond the above mentioned area must be in possession of a properly authorized pass.

The accused declines to cross-examine the witness.

Major Geo A Wiggan
Officer Commanding
2 Cdn Tk Tps Wksp, RCEME

SIXTH WITNESS F-79396 Cpl Cameron R W, 2 Cdn Tk Tps Wksp, RCEME sworn states:

I, F-79396 Cpl Cameron R W am the Corporal in transport section and have charge of the duty driver's roster. Pte Graham G F was duty driver Sunday 3 Dec 44and therefore excused from the 0830 hours parade Monday 4 December 44.

The accused declines to cross-examine the witness.

R W Cameron Cpl
F-79396 Cpl Cameron R W

ZZZ-135

Pte Graham, H.

No illegalities or irregularities such as would warrant withholding confirmation.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B873911 Pte Harry Gratton of the Duke of Wellington's Regt

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	As 15(1)	Guilty	Guilty	
2nd	do 4(1)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 52 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: Summary attention for 9 months

(Sgd) Jas Lawson Capt 28 Sep 44 (Sgd) H G Bruneau Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 157A, RP 23A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

— Confirmed —

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(*)
(*. AA 57A. Delete if not used.)

Date 30 Sep 44 (Sgd) H G Bruneau Lt Col
Commanding Rear H Qrs Armd Div
Confirming Officer.

Date 28 Sep 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	(Signature of Offr.
H Gratton	30 Sept. 44	Jas Lawson Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 777-135
RECEIVED 27 OCT 1944 JAG BRANCH C.M.H.Q.
PROCEEDINGS REVIEWED 30 OCT 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
CMHQ Sec GRO 21 Army Gp

FIELD GENERAL COURT-MARTIAL

(PAM (To Hist of Armies) 10 Pt V 20.1.(1)(b) 4388)

Convened by Order of Lt Col H G Bruneau Comd Rear H Qrs Armd Div dated 27 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 18, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B873911	Pte	Harry	Gratton	1st Bn Duke of Wellington's Regt

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 28 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/57

A1. The President, Members, waiting Member, J.A., if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AB5, for oaths and insert on how to record addresses, evidence etc, which insts are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) A

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences. A

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) A
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ..... A

The Interpreter is sworn.(*) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(*)
(*. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, J.A. if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	H G Bruneau	2 Sup R M
Member	Capt	D. M. Brunton	HQ Can Pd Regt RCA
Member	Lt	J. C. Brady	HQ RCE 4 Cdn Armd Div
Judge-Advocate	Capt	Jas Lawson	HQ 4 Cdn Armd Div
Prosecutor	Capt	C. J. Delaney	HQ RCE by Direct.
Defending Offr	Lt	J. P. Eady	4 Cdn R by Direct.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment makes(s) (no) (~~a~~) plea. A
..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP fn 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. A

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VL No 136

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 37(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N/a (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114; *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 42 *para* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 8.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf AA* 95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Make the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans ..... Character

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. *MFB* 355 *or MFB* 296. 2. *MFM a.* 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Any plea (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182; *RP* 46-50, 69, 108, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 60, 75-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 534. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Character

Lt. F. R. Evans. B Pl 4 Lab
Coy Rcbl Swam.

Known around 1 year.
Had no trouble with him.
Willing to do his work.

No C Exam.

RP 83 (B) complied with.

Pres.

Court requested to
be lenient in view
of character evidence
and length of service.

MFM 6 (APR 122) 40/PAS/136 (4138)

B-87391 No | GRAHAM. H. Name | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 20-1-42 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 5 June 42 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc E.M. Eligh | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with (Sec)	By whom awarded	Remarks
				Sheet destroyed 20-7-42				E.M.Eligh	
				Granted furlough 3-8-42 to 16-8-42	Warrant No.A68263			E.M.Eligh	
Debert.N.S.				S.L.T. Warrant Np.A190178				E.M.Eligh	
"	4-9-42	Pte							
	12-9-42	"							
"	18-9-42	"		Conduct to the prejudice A.A.40	Lt.Gordon Cpl.Falkins	Awarded 7 days pay	21-9-42	Major Stevenson	
Field	9-3-43			Neglect to the prejudice A.A.40 failing to wear respirator as ordered	Cpl.Delaney CSM Harding	Admonished	9-3-43	Major J.G.	Lamb.
Field	10-3-43			Conduct to the prejudice A.A.40 failed to comply with an order given by an NCO.	L/Cpl. Harman C.F.	forfs 7 days pay.	11-3-43	Major J.G.	Lamb

(PTS6)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	20-4-43	Pte		Using threating language to his superior officer	Sgt.Duck.W.R. " Williams.	14 days F.P.	22-4-43	Major J.G.	Lamb.
"	12-8-43	"		A.W.L. from 1500 hrs to 1930 hrs 12 -8-43. Absent 4 hrs 30mins.	L/Cpl Morken.J.R.	forf 7 days pay.		Major J.G.	Lamb
"	17-8-43	"		AA Sec 15 (I) AWL from 2205 hrs 17 Aug 43 until surrendering himself to London civil police at 0730 hrs 23 Aug 43. Absent 5 days, 9 hrs, 25 mins	Documentary	21 days pay 21 days F.P. 6 days auto forf pay. pay costs of Apprehension £0-14-0.	24-8-43	Major J.G.	Lamb

CERTIFIED TRUE COPY

(J.G.Lamb) Major
Officer Commanding
4 Cdn Armd Bde Coy R.C.A.S.C.

M.F.B. 155
22M—5-41 (572-40)
H.Q. 1772-39-140
A.F.B. 296

B

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-87391	Private	Harry Graham,	4 Cdn Armd Bde Coy R.C.A.S.C.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For	Nil	times	A.W.O.L. 2 times
For		times	Using threatening language to a superior officer 1 times
For		times	Conduct to the prejudice etc. 2 times
For		times	Neglect to the prejudice etc. 1 times.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Two days in military custody, making a total of Two days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 20 years 9 months.

6. The date of his attestation specified in his record of service is 20 Jan 1942

7.

8.

9. The accused is in possession of military C.V.S.M.

10.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... Unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Name ..... Unit of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

SUMMARY OF EVIDENCE

in the case of B-87391 Private Harry Graham, 4 Coy R.C.A.S.C., Canadian Army Overseas charged w.

First Charge Sec 15 (I) Army Act — Absenting himself without leave from 2215 hrs 21 Se. 1700 hrs 25 Sept 1944.

Second Charge Sec 40 Army Act. — Conduct to the prejudice of good order and military disci. in that he on the 22 Sept 1944 did improperly and without authority use Cdn Mil Vehicle No. CM-4647515 for his privat. purposes.

The O.C. directs that the evidence be taken on oath.

First Witness — Sgt A-63286 Cpl Elliott, W.R., 4 Cdn Armd Bde Coy R.C.A.S.C., sworn states,-

On the evening of 21 Sept 1944 some personnel of this Coy proceeded to Bruges on recreational transport. Before returning to camp, I called the roll of personnel of "B" Pl. in the vehicle Park Bruges. Pte Graham did not answer his name, at 2215 hrs, which was the time all personnel were to be at the vehicle's for transport to camp. On arrival in camp I checked Pte Grahams's bed and he was not there. I reported Pte Graham absent to Coy H.Q.

The accused declined to cross this witness.

W.R. Elliott

W.R. Elliott. Cpl.

The accused was warned as follows,

Do you wish to make any statement or to give ~~anixxxxxxx~~ evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

The Accused, I desire to give evidence under oath.

The Accused B-87391 Private Harry Graham 4 Cdn Armd Bde Coy R.C.A.S.C., sworn states,-

On the night of 21 Sept 1944, I met a young lady in the pub, later I walked home with her. When I went back to the spot where I was to meet the truck it was not there. I started to walk to camp and apparently got lost. I asked a Belgium Police-man to take me to the police station where I could either get a bed for the night or get information where the Provost could be located. On my way to the police station I met two other lads from my unit. Pte Bryson and Jaffray, I did not know their names at the time. We all agreed to to the police station and spend the night. While in the police station I got conversation with Bryson and we decided to go on the loose. next day the three of us went into Bruges and that evening after about 2 hrs argument we decided to take a vehicle. I didn't want to take the Otter befause it had the water trailer on it, however we later decided we would take it. We drove all that night Bryson did the driving at all times. The only time I drove was for about a mile. I didn't want to take it then but ~~xxx~~ Bryson talked me into it. We drove as far as Ostend then parked. It was our intention to go to Paris I asked Bryson to turn back after an argument he did turn back, however he later took a wrong turning and ~~xxxxx~~ headed for Dunkerque, stating that we wanted to see action and we could also try the vehicle out in action. I thought Bryson was crazy when he said this. Jaffray ~~xxxxx~~ talked Bryson out

of the Dunkerque business, We eventually ended up in Armintiers after asking the direction. Onthe way to Armintiers, I asked Bryson to return or I would take over the ~~xxxxxx~~ vehicle and he drew a knife on me, Bryson would'nt let me drive the vehicle stating that he would drive it all the time. After leaving ~~Axim~~ Armintiers the vehicle went into the ditch and we were picked up by Lieut. Evans.

H Graham

H. Graham. Pte.

I certify that R.P.4 has been complied with,-

Taken down by me, in the present and hearing of the accused, in the field this 26th day of September 1944.

C J Delaney

C.J. Delaney. Capt
Officer taking Summary of Evidence.

SUMMARY OF EVIDENCE

In the case of B-87391 Private Harry Graham, 4 Cdn Armd Bde Coy R.C.A.S.C., Canadian Army Overseas charged with,-

First Charge Sec 15 (I) Army Act — Absenting himself without leave from 2215 hrs 21 Sept 1944 to 1700 hrs 25 Sept 1944.

Second Charge Sec 40 Army Act. — Conduct to the prejudice of good order and military discipline in that he on the 22 Sept 1944 did improperly and without authority use Cdn Mil Vehicle No. CM-4447515 for his private purposes.

The O.C. directs that the evidence be taken on oath.

First Witness — Sgt A-63286 Cpl Elliott, W.R., 4 Cdn Armd Bde Coy R.C.A.S.C., sworn states,-

On the evening of 21 Sept 1944 some personnel of this Coy proceeded to Bruges on recreational transport. Before returning to camp, I called the roll of personnel of "B" Pl, in the vehicle Park Bruges. Pte Graham did not answer his name, at 2215 hrs, which was the time all personnel were to be at the vehicle's for transport to camp. On arrival in camp I checked Pte Grahams's bed and he was not there. I reported Pte Graham absent to Coy H.Q.

The accused declined to cross this witness.

W.R. Elliott

W.R. Elliott, Cpl.

The accused was warned as follows,

Do you wish to make any statement or to give ~~exix~~ evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

The Accused, I desire to give evidence under oath.
The Accused B-87391 Private Harry Graham 4 Cdn Armd Bde Coy R.C.A.S.C., sworn states,-

On the night of 21 Sept 1944, I met a young lady in the pub, later I walked home with her. When I went back to the spot where I was to meet the truck it was not there. I started to walk to camp and apparently got lost. I asked a Belgium Policeman to take me to the police station where I could either get a bed for the night or get information where the Provost could be located. On my way to the police station I met two other lads from my unit. Pte Bryson and Jaffrey, I did not know their names at the time. We all agreed to to to the police station and spend the night. While in the police station I got conversation with Bryson and we decided to go on the loose. next day the three of us went into Bruges and that evening after about 2 hrs argument we decided to take a vehicle. I didn't want to take the Otter because it had the water trailer on it, however we later decided we would take it. We drove all that night Bryson did the driving at all times. The only time I drove was for about a mile. I didn't want to take it then but ~~Xxx~~ Bryson talked me into it. We drove as far as Ostend then parked. It was our intention to go to Paris I asked Bryson to turn back after an argument he did turn back, however he later took a wrong turning and ~~xxxxx~~ headed for Dunkerque, stating that we wanted to see action and we could also try the vehicle out in action. I thought Bryson was crazy when he said this. Jaffrey ~~xxxxx~~ talked Bryson out

of the Dunkerque business. We eventually ended up in Armintiers after asking the direction. Onthe way to Armintiers, I asked Bryson to return or I would take over the vehicle and he drew a knife on me, Bryson would'nt let me drive the vehicle stating that he would drive it all the time. After leaving Armintiers the vehicle went into the ditch and we were picked up by Lieut. Evens.

H. Graham

H. Graham. Pte.

I certify that R.P.4 has been complied with,-

Taken down by me, in the present and hearing of the accused, in the field this 26th day of September 1944.

C.J. Delaney

C.J. Delaney. Capt
Officer taking Summary of Evidence.

Lt F.R.Evans, 4 Cdn Armd Bde Coy RCASC, ~~xxxx~~ sworn states -

On 25 Sept 1944 at approx 1000 hrs I noticed a vehicle in the ditch in the vicinity of Armintiers, France. I detailed a man to stay with the vehicle until I returned. I returned at approx 1700 hrs same date, at this time I noticed that the last three numbers on the a/m vehicle were 515 and that the vehicle was the vehicle that was reported missing from this Coy. There were three men with the vehicle when I returned. I asked the men their names and they told me they were Privates Graham, Bryson, Jaffray. I placed the men under guard and detailed a driver to drive the Otter car. Personnel and vehicle were brought back to Coy lines where CSM Welsh took over custody of the men. When I recovered the vehicle the left front fender was bent and damaged.

F.R.Evans Lieut

B.81418 L/Cpl Simpson M.P., 4 Cdn Armd Bde Coy RCASC sworn states -

On 22 Sept 1944 I was with Pte Talarico in an Otter car, a vehicle of "G" Platoon. We parked the car in Bruges at approx 2015 hrs, and left it under guard of a Guardsman. We were absent from the vehicle approx 15 minutes. When we returned to the veh park the Otter car was missing.

M.L. Simpson

B.84321 Pte Talarico S., 4 Cdn Armd Bde Coy RCASC, sworn states -

I believe it was Saturday 23 Sept 1944, I left my vehicle, Otter Recce W.D. No. CM-4647515, in the Military Parking lot at Bruges. I left the car under guard of a Guardsman. At approx 2030 hrs I was absent from the vehicle approx 30 minutes. When I returned to the Car Park I discovered that the water trailer I had been towing on the rear of the Recce car had been detached and the Otter car missing. The Guardsman could not be located to offer any information as to the vehicles whereabouts.

S Talarico

"A"

Notice to the accused B.87391 Private Harry Graham, that the Prosecution intends to call further witnesses (under R.P.76) namely -

Lt F.R.Evans, 4 Cdn Armi Bde Coy RCASC

B-81418 L/Cpl Simpson M.F., 4 Cdn Armd Bde Coy RCASC

B-54321 Pte Talarico S., 4 Cdn Armd Bde Coy RCASC

The evidence submitted by the witnesses listed above was not included in "the Summary of Evidence" but is attached hereto.

(C.J.Delamey) Capt
Prosecuting Officer

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined

No. B-87391 Private Harry Graham

of 4 Cdn Armd Bde Coy R.C.A.S.C.

and in my opinion he is ~~unfit~~ fit to undergo trial by Court-Martial

Station. In the Field

Date 25 Sept 44

Medical Officer.

Lt P B Braddox ~~was not present~~
Lincoln and Welland Regt was not present.
His place was taken by Lt J B
Brady HQ RCE 4th Grand Div

FIELD GENERAL COURT-MARTIAL

CFAO5 (In lieu of AFAO) 40/FAO5/1097 (29/9/44)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-87391	Private	Harry	Graham.	4 Cdn Armd Bde Coy R.C.A.S.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Sep 44 endorsed by me, (~~as by an offr of my staff for merit~~) "To be tried by Field General Court-Martial".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and) that it is not practicable to delay the trial for reference to a superior qualified offer~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr~~ mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

I also appoint as Judge Advocate thereat the Offr mentioned hereunder

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	E.G. Denison		L. Sup R (2)

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	D.M. Dunbar		23 Cdn Fld Regt RCA
Lieutenant	F.B. Beddoe		Line & Weild R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieutenant	J.G. Brady		HQ RCE 4 CAD

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	Stewart		HQ 4 Cdn Armd Div

On Active Service in the Fd

in Belgium (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 27 Sep 44

Commanding C.R.C.A.S.C. 4th CDN. ARMD. DIV.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused B-67391 Private Harry Graham, 4 Cdn Armd Bde Coy R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with,-

First Charge
Sec 15 (I)
Army Act

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

In that he, in the field, did absent himself without leave from 2215 hrs 21 Sept 1944, to 1700 hrs 25 Sept 1944.

Absent 3 days 18 hrs 45 minutes.

Second Charge
Sec 40
Army Act

WHILE ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

In that he, in the field, at approx 2030 hrs 22 Sept 1944, did improperly and without authority use Cdn Mil Vehicle CM-4647515 for his private purposes.

(J.G.Lamb) Major
Officer Commanding
4 Cdn Armd Bde Coy R.C.A.S.C.

To be tried by FGCM

27 September 1944
In the Field.

Field
28 Sept 44

CR.C.A.S.C. 4 CDN. ARMD. DIV

III-34

ARMT/S/SGT GRAHAM H.

RECORDED AT CMHQ IN AB 160 III 34

E81

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Fourteenth day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Armd Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*(I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—)~~

PROCEEDINGS REVIEWED 16 Apr 44

[signature] Lt Col

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H.F.F. Millen	11 Cdn Armd Regt

Members.

Rank.	Name.	Regiment.
Capt	W.G. Clubb	1 Cdn Armd Bde Coy (83 Coy) RCASC
Capt	D.G. Wyllie	HQ Sqn 1 Cdn Armd Bde

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] (W.C. Murphy) Brig

Commanding 1 Cdn Armd Bde

Convening Officer.

E81

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C94036 Armt/S/Sgt GRAHAM, Howard - 1 Cdn Tk Tps Wksp, RCOC	First Charge Sec 11 A.A.	Not Guilty	Guilty	To be reduced to the rank of Sgt
	Second Charge Sec 15(3) A.A.	Not Guilty	Guilty	Confirm the finding and sentence (W.C. Murphy) Brig
	Third Charge Sec 40 A.A.	Not Guilty	Guilty	
	For particulars of above charges see attached charge sheet.		To be reduced to the rank of Sgt 18 March 1944 H.F. Millen Major	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (W.C. Murphy) Brig — Commanding 1 Cdn Armd Bde — *Convening Officer (c)*

(Signed) (H.F.F. Millen) Major — 11 Cdn Armd Regt — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17 day of March 1944 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) N/Dm
*(4. The officers under instruction) N/Dm

*Omit if not applicable.

were duly sworn.

Signed this 18 day of March 1944

H.F. Millen Maj

President of the Court Martial
(H.F.F. Millen) Major
11 Cdn Armd Regt

C. Certificate in case of death sentences.

*See footnote (a) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.
(H.F.F. Millen) Major

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 17 day of March 1944.

W.C. Murphy Brig

Confirming Officer.
(W.C. Murphy) Brig
Comd, 1 Cdn Armd Bde

*Where omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of C94036 Armt/S/Sgt GRAHAM, Howard - 1 Cdn Tk Tps Wksp, RCOC

(a) (Dated) 20 March 44 (Signed) H.F. Millen Maj

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20886) Wt. 24000/6/43 50,000 12/43 A.A.&W.W.Ltd. Gp.698

CHARGE SHEET

The accused, C-94036, Armt/S/Sgt. Howard GRAHAM, 1 Canadian Tank Troops Workshop, Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas, Central Mediterranean Force, when on Active Service, is charged with:

First Charge
Sec. 11
Army Act.

When on Active Service, neglecting to obey regimental orders,

in that he

In the town of Larino, Italy, on the 17th of December, 1943, was outside the camp area after 2100 hours, without a pass signed by his Commanding Officer, contrary to Regimental Order No. 12, dated 20 November, 1943.

Second Charge
Sec. 15 (3)
Army Act.

When on Active Service, in Italy, being found in a place prohibited by area orders, without a pass or written leave from his Commanding Officer,

in that he

In the town of Larino, Italy, at about 1845 hours on the 17th of December, 1943, was found in or at a house in an Out of Bounds area, being No. 10 Via Vico Stella, Larino, Italy.

Third Charge
Sec. 40
Army Act.

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he

In the Field, on 17 December, 1943, when requested by L-10216, Pte. Walt, C.M., a member of the unit Regimental Police, to leave a certain house, namely No. 10 Via Vico Stella, Larino, Italy, used improper language to the said Pte. Walt, C.M., saying, " How about you and I going outside - the best man will come back in.", or words to that effect.

(A.J. Stethem), Major,
O.C. 1 Cdn Tk Tps Wksp., R.C.O.C.

To be tried by Field General Court-Martial.

(W.H. Murphy) Brig.
Comd, 1 Cdn Armd Bde

In the Field
14 Mar 44

This is to certify that I have examined C94036 .....

S/Sgt Graham H. ..and found him fit/~~unfit~~ B.W.O. to this morning B.W.O.

undergo court martial.

B.W. Oak Capt Medical Officer,

Field
17-3-44.

Accused CQ 9036 Armt/S/Sgt/ Graham, Howard, 1 Cdn TK Tps Wksp, RCOC
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in Italy (Country) on 17 Mar 44 (Date)

	Rank	Name	Unit
PRESIDENT:	Major	H.E.E. Millen, 11 Cdn Armd Regt	
MEMBERS:	Captain	W.G. Clubb, 1 Cdn Armd Bde Coy (83rd Coy) RCASC	
	Captain	O.G. Wyllie, HQ Sqn 1 Cdn Armd Bde	

JUDGE ADVOCATE: N/A
(if any)

OFFICERS UNDER INSTRUCTION: N/A

PROSECUTING OFFICER: Capt J.F. Edwards, 1 Cdn TK Tps Wksp RCOC Lawyer? Ans No

DEFENDING OFFICER: Capt H.T. Smith HQ, 1 Cdn Armd Bde Lawyer? Ans No

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (are) brought before the Court, and at 0930 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to N/A as interpreter? Ans

The interpreter is duly sworn.

Do you object to N/A as Shorthand Writer? Ans

~~The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')~~ NJM
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No

The President Members, ~~Judge Advocate and Officers under Instruction~~ are duly sworn (RP 26-27 (Forms of Oath on Page 'D')) NJM

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RSP 62(E), 103); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112). He pleads as follows:

First Charge Not Guilty

Second Charge Not Guilty

Third Charge Not Guilty

Fourth Charge_____

Fifth Charge_____

Sixth Charge_____

Seventh Charge_____

Eighth Charge_____

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans No

2. The Prosecutor's open ing address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans No
Q. Do you intend to call any other witnesses in your defence? Ans No
Q. Is he a witness as to character only? (RP 40(B)) Ans No

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "B", and "C", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans No No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, KR (Can) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

H Miller Major
(Signature of President)

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (RP 37(B)) Ans_____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans_____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans_____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans_____ (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

Prosecutor's opening address.

Gentlemen;

In the case of S/Sgt. Graham H. which is now before you, it is my duty to prove to the Court, that this Senior N.C.O. is guilty of three charges under the Army Act, sections 11, 15, and 40, which to-gether, if proved guilty, show the accused to be unsuitable to hold the rank he carries, and to be punishable as the Court sees fit, for the Maintainance of discipline and respect due such rank.

The first charge is a case of disobedience of Regimental Orders, which clearly states that after 2100 hrs. the town of Larino Italy, was out of bounds to all troops from the Unit of the accused.

On the second charge, it is again a case of wilfull disobedience, of being in an area that was clearly marked "Out of Bounds".

The third and most serious charge, is that of improper language to a Private soldier carrying out his assigned duties; thus not only undermining discilpine, but at the same time setting a very bad example to those under him.

The evidence which I shall present to this Court, contains proof of the facts, by statements of witnesses present, substantiated by documentry evidence to corroberate those statements.

Sir, with your permission, may I please summon my first witness?

Evidence for the Prosecution H T Miller Major

1st Witness

I am L10216 Pte. Walt, C.M. 1 Canadian Tank Troop Workshop. Having been duly sworn, states on Dec 17th, 1943 while on police duty in Torino I was accompanied by Private Scott who was also on Police Duty. We were patroling an out of bounds area. We came to No 10 Via Vico Stella which was in the out of bounds area, a house of two prostitutes. On entering we saw S/Sgt Graham. I told him he was out of bounds and that he would have to leave. He said "I know I am out of bounds, but I can take care of myself." I again told him he would have to leave, as it was our orders to keep everyone out of this house. Private Mackie and Private Graham then entered this house. They were also on Police Duty. When the S/Sgt seen them enter he said "I guess I will have to leave as I am surrounded, but if I didn't want to go you couldn't make me." I again informed him that he would still have to leave. The S/Sgt got up off the chair he was sitting on and said "You and I will go outside and the best man will return, you are not the type of man for this job, you are too yellow." Whilst the S/Sgt was saying this he was unbuttoning his tunic. I told him that I was on duty. He then went to the door, and as he was standing at the door, he turned around and said, "Don't stick your chest out too far." He then left. The time was about 1845 hours. The same evening about 2045 hours, I had occasion to visit this same house. Standing

(2) H Tm

outside were two soldiers, who were from our own unit, Private Waipan and Private Souliere. I told them they were in an out of bounds area and that they would have to leave. They left and we escorted them up to the Main Street. On the same evening, at approximately 2330 hours, we were making our last rounds in the out of bounds area. We visited No 10 Via Vico Stella, and there were two soldiers standing outside the door. They were Private ~~Waipan~~ Souliere and ~~[illegible]~~ S/Sgt Graham, the accused. On entering the house we saw Private Waipan. With us this time was the S.H.B C.M.P. Sgt. Sgt Mullinder. The three of them were informed they were in an out of bounds area and after curfew hours and that they would have to leave. We followed them to the top of the road and saw them drive away in one of our own vehicles. The name on this vehicle was "Alma".

That is all I have to say. The area was out of ~~[illegible]~~ bounds and marked out of bounds by a sign at the top of the street.

Cross-examination

Q – Have you a watch?

A – No.

You stated the time on three occasion how did you know the time?

An Private Scott who was on duty with me had a watch.

When you went into this house for the first time, you said there were two women there you are sure of that are you?

An – It was the house of two prostitutes, but there

ADM

was only one there at the time, the other one was in the hospital.

Q - ~~Did~~ you were absolutely sure that this was a brothel

Ans - Yes.

Q - Had you the power to arrest an N.C.O. committing an offence?

A - Yes

Q - Why didn't you arrest 2/Lt Graham.

An - We were trying to keep them out of trouble not to get them into trouble.

Q - Did you ask 2/Lt Graham if he had slept with this girl?

A - No, Sir.

Q - Did you say anything to 2/Lt Graham about her being diseased?

A - Yes.

Q - How long did you stay the first time

A - Approximately 35 minutes.

Q - Did you stand up or sit down while you were in there?

An - I stood up.

Q - What happened during this 35 minutes after you told the accused he was out of bounds. Did you have a drink of wine?

A - No sir,

Q - Did the accused drink

A - No, sir

Q - Did you see the accused with a Bottle of wine ~~with a~~ in his hand

A - No, Sir.

Q (11) - What time did you usually come off duty?

A - No special time.

Q - The 3rd visit was around 2320 hours, was that correct

A - Yes, sir.

~~Q - Yes Sir~~

Q - Was the street clearly marked out of bounds

A - Each street that was out of bounds had an out of bounds sign at the top of the street.

Q - Were there lights on the signs so how could you see them at night

A - They were not lighted, but they were painted in white letters.

Question by the Court.

Q - Were you wearing any badge to show you were an M.P

A - Yes I was wearing an M.P band on my right arm; it was plainly visable when I was talking to the accused.

Q - Could you enter the street from more than one end? Was it possible to enter this area without seeing a sign

A - No, sir, it was ~~plainly~~ clearly marked.

Q - In your opinion was the accused under the influence of liquor on any occasion during the evening.

A - He was **not** under the influence of liquor.

Q - From whom did you get orders to keep soldiers out of this area

A - The Special Investigation Branch Sgt, (3rd Army) Sgt Mullender.

(5) The evidence was read back to the witness who states it to be correct. HM

2nd Witness

I am, M-40933 Private Scott, A.P. 1st Canadian Tank Troops Workshop, having been duly sworn, states On the night of the 17th Dec 43 I was on Police Duty in the town of Sorino. Private Walt was also on Police Duty with me. We were patroling the out of bounds area and had occasion to visit the house of a well-known prostitute No 10 Via Vico Stella. Private Walt entered before myself, when I entered, Pte Walt was telling the S/Sgt that this area and house was out of bounds and that he had better leave. To which the S/Sgt replied, "I can take care of myself." Again Pte Walt told him it was out of bounds he had better leave. At this time Privates Graham and Mackie, who were also on Police Duty entered the said house. S/Sgt then said, "I am surrounded now, I guess I had better go, but if I didn't want to, you couldn't make me." S/Sgt then got up and faced Private Walt and said "You and I will go outside and the best man will return." Pte Walt replied, "I am on duty." S/Sgt then said, "You are not a fit man for this job you are yellow." He then left but just outside the door, he turned around and said to Pte Walt, "I'll fix you for this yet" or words to that affect. He then left. When we first entered the house it was approximately 1845 hours.

(6). HTM

At approximately 2320 hours in company with Privates Walt, Graham, Mackie and Sgt Mullins of the S.I.B. We were patroling the area and in front of this same place No 10 Via Vico Stella we again saw the S/Sgt this time with a private. On entering the place we saw another private. They were again told that it was out of bounds and after curfew hours. We then escorted them up to the top of the street where we saw the three of them enter a W.A vehicle which we had previously ascertained to be one that belonged to our Unit. The S/Sgt I refer to in this statement is S/Sgt Graham and I recognize him as the accused.

Cross examination

Q - How many M.P. had you in your unit at that time, were they full time M.P.s.

A. - That night there were four of us on duty we were on each evening and had been on for several weeks

Q - How many of you were on duty on the night of the 16th Dec. 43

A - Can't definitely say; we were all duty usually

Q - Why did you not have the accused, arrested?

A - We don't like to arrest soldiers if we can avoid it

Q - ~~When did you decide to arrest S/Sgt Graham~~ Can you tell me when the decision was arrived at to arrest S/Sgt Graham.

A.- ① The Sgt of the S.I.B decided, I think, that night.

Q - Did this Sgt of the S.I.B. see S/Sgt Graham in the house?

A - No, but he saw him outside the house at approximately 2320 hours

Q - Did you hear Pte Watt ask S/Sgt Graham if he had had intercourse with this women

A - No, Sir

Q - Did, Walt say anything about the woman being detained

A - No, I did not

Q - How long were you in the house, the first time

A - Approximately half an hour

Q - In this half hour, was the time spent in arguing with S/Sgt Graham

A - Part of the Time, yes, in discussion and argument

Q - Argument about what.

A - About the words that came up

Q - Have you any special time to come off duty

A - no, we under orders of the S.I.B 8th Army

Q - This area, how did you know it was out of bounds

A - It was plainly marked on the buildings as you entered

(8)

the street. The sign was painted on the side of building I couldn't be sure whether you could see it at night or not

Q - Could anyone enter the street without knowing it was an out of bounds area on a dark night

A - If he was newly in the town and didn't know it before.

Question by the Court.

Q Did Sgt Graham say "I know it is out of bound, I can take care of myself.

A - I don't know, I couldn't say if he said "I know it is out of bounds."

The evidence was read back to the witness who states it to be correct.

3rd Witness K76065 Pte Graham WH, Cdn TKTpo WHP

having been duly sworn states

On the night of 17 Dec 43 I was on duty as an R.P. At about 1900 hrs Pte Marlie & myself visited No. 10 Via Vica Stella the house of a well known prostitute. An entering we saw S/Sgt Graham Pte Walt & Pte Scott and a prostitute. Pte Walt & S/Sgt Graham were having an argument. S/Sgt Graham said when we walked in I guess I am surrounded & will have to go; but if I didn't want to you couldn't make me." S/Sgt Graham invited Pte Walt outside saying "The best man will come back in" while doing so he was unbuttoning his tunic. The argument quieted down & the accused left. At about 2330 hrs Ptes Walt, Scott Marlie & myself with Sgt Mullner of the SIB returned to the said house; outside we saw S/Sgt Graham & Pte

(7) and Pte Soulier. On entering the house saw Pte Wagan. Pte Walt told him it was out of bounds & after curfew, we accompanied the three men up to the main street where we saw them board a unit vehicle ~~we checked~~ ~~this vehicle when we returned to camp & found~~ ~~that it wasn't signed~~ stuck out. That is all.

Ques - Why did you go down to said house

Ans - It was marked clearly Out of Bounds & we were supposed to keep soldiers out of that house

Ques - What duties were you performing

Ans - R. P. duties

Ques - Was anything else said by the accused other than what you have said

Ans - Yes, he said to Pte Walt "You are not the man for this job you are too yellow"

Cross examination

Ques - Did he say "Don't stick your chest out to far"

Ans - He said that but I couldn't say who to

Ques - What was argument about between S/Sgt Graham & Walt

Ans - Mostly about being in an Out of bounds district

Ques - What started argument

Ans - I couldn't say. I wasn't there at first

Ques - How long in house, 1st time

Ans - 10 or 15 mins

Ques - Standing or sitting

Ans - Sitting

Ques - Where were signs

Ans - Out of bounds sign painted on wall of building on bottom of square.

(10) Ques - Paint color

Ans - Black on white background

Ques - Could you see it at night

Ans - No

Ques - So you think a person could enter this area at night without knowing it to be O.O.B.

Ans - It is possible but not probable for a man from our own unit

Ques - Approx How many signs around area either

Ans - Approx 4

Ques - Was every street covered by a sign

Ans - No

Questions by court

Ques - Who was in cond of R.P. in your unit [illegible]

Ans - Taking orders from S1B Sgt Mulliner

Ques - Were orders given to you regarding duties by S1B Sgt.

Ans - We were told we were working with S1B Sgt

Ques - Who was i/c 4 R.P.

Ans - I was sir & we took orders mostly from our Sgt major

Ques - What were your orders on that night

Ans - To see that there was no disturbance downtown

Ques - What did you mean when you said it wasn't probable that a man from your unit could be in that area on that occasion & not know it was out of bounds

Ans - Our unit was stationed there so long that I am sure every man in the unit knew the out of bounds area.

Ques - How long was your unit in Larino area up to 17 Sept 43

Ans - About 5 weeks

Ques - During all of that time was this area prohibited

(11) Ans - Yes it was & by the same signs [illegible]

Ques - was accused with your unit during those 5 wks

Ans - As far as I know yes

The evidence was read back to witness who states it to be correct.

Prosecutor advises court he would like to call a witness who did not give evidence on the summary as to the procedure in placing areas out of bounds in occupied territory. Court explained to accused his rights in asking for adjournment in view of fact he has had no previous warning of evidence of each witness. The accused at this point does not object to this witness being called.

4th witness 5050314 Sgt Barham P. Pro Unit 8th Ind Div

having been duly sworn states

An APM has authority to place an place out of bounds that he doesn't think fit for troops to inhabit. An OOB board is put up & this must be adhered to. That is all.

Ans: Is a OOB notice painted on a building the same as a board

Ans: Yes, sir

Cross exam

Ques - Does AMEOT sgt place houses out of bounds

Ans - Yes sir

Ques - Either APM or AMEOT can place a house out of bounds

Ans - Yes sir

Question by court

Ques - Are areas or houses put out of bounds

Ans - Which either case is applicable

Ques - Is it customary when a place is put OOB for it to be posted anywhere

(12) Ans: It is sometimes put in corps orders & from [illegible] is passed to the various units under cond.

Ques - In every case as the dist & streets that are OOB put in the order

Ans - Not in every case, but sometimes

Ques - You have authority to do this

Ans - The APM has, sir

Further cross-exam

Ques - Do you put signs at the entrance to every area that is out of bounds

Ans - In an area there should be a sign at the every main entrance to it

Ques - After pulling an area out of bounds the APM then advises the corps under which he works

Ans - Sometimes

Ques - Why is this not always the custom

Ans - We are not always working under a corps

Ques - If a unit moved into a town & there was an area out of bounds would you tell a responsible person of that unit

Ans - Not if there were boards displayed

The evidence was read back to the witness who states it to be correct

5th Witness L53839 Pte Machine GD 1st Cdn T K Tps Whsp having been duly sworn states

On the night 17 Dec 43 I was on police duty in the town of Marino along with Pte Graham, Walt, Scott; About 1900 hrs Pte Graham & myself entered No 10 Via Vica Stella where we saw Mrs Walt & Scott & S/Sgt Graham. We heard the accused say "I guess I'm surrounded now I guess I'll have to leave but if I didn't want

(13) to you couldn't make me, The the accused said "Pte Walt you & I will go outside & the best man will return". Pte Walt said "I am on duty there's a place & time for every thing", then the accused left. At about 2320 hrs I we again returned to the house accompanied by Sgt Mullinar of the SIB. There we saw the accused & Pte Soulier standing at the entrance we escorted them back to the main entrance. They left in a vehicle. This was about 2359 hrs.

Ques - Why did you go to this house

Ans - Because it was O.B

Ques - How did you know

Ans - Because there was a sign at the entrance to the street

Cross examination

Ques - Color of signs

Ans - Painted on walls but what color I am not quite sure

Ques - Were signs at all entrances to area

Ans - At most of them but I don't know about all of them

Ques - Were any tps stationed in this area marked O.B

Ans - Yes sir, then they moved out

Ques - Were the signs up while the tps were in there

Ans - Yes sir

Ques - Did you hear the accused make any remarks as he left the house

Ans - I don't remember

Ques - When Pte Walt said "You are in an out of bounds house" to the accused what did the accused reply?

(14) Ans - I never heard him say that while we were there

Ques by Court

Ques - were signs clear enough to be read at night

Ans - If a person weren't looking for them he couldn't see them

Ques - How many men were there in or outside of the said house at 2330 hrs

Ans - Pte Sanlier & S/Sgt Graham outside & Pte Wagam inside

The evidence was read back to the accused who states it to be correct

6th Witness

I am G-41244 S.A.M.S. Stark, J.W. 1 Cdn Tk Troop Workshop having been duly sworn states

When the Unit was stationed near Lorenzo Italy there was an order published by the Unit to the effect that no one was allowed out of billets after 2100 hrs. I have in front of me now the order in question and it is the original order. ~~All~~ orders ~~[illegible]~~ are usually posted on the order board in the vicinity of the kitchen

The order produced, identified, by Witness and shown to the Accused and marked Exhibit "A"

Cross examination

Q - Did any of the orders published blow off the board

A - Yes, sometimes orders are blown away or are ~~[illegible]~~ torn down

(15)

Q - Did you post Exhibit A

A - No, I never personally post orders, it is done by one of the clerks

Q Do you know who posted this order

A - No, Sir.

The evidence was read back to the accused who states it to be correct.

~~Prosecutor~~ Prosecutor advises Court that the following witnesses who gave evidence at the Summary of Evidence are not being called at the Trial, because there evidence is merely corrobrative. Sgt Crosseley, Pte Waipan and Pte Souliere

The Defender advises the Court that he does not require the above mentioned for Cross examination

The Case is closed for the Prosecution

The Defending Officer makes an application for dismissal of the 1st Charge on the grounds of no prima facie case having been proved on that charge.

Argument by Defending Officer marked Exhibit "B."

Argument by Prosecutor

In the first case a person must have a pass approved by his section N.C.O. and signed by his Commanding Officer which is proof that anyone out after 2100 hrs must have that pass

(16) as the accused was a section N.C.O. he must have been aware of this order to enable him to allow passes to his own men. Therefore there could have been no misapprehension as to the order in question.

The Court now closes for consideration of the application

Court Re-opened

The application by the defending officer refused

Evidence for the Defence

1st Witness

(1) Evidence for the Defence

H Miller Major

1st Witness

I am D-96286 Pte ~~Dumitrie~~ Waipan to 1 Cdn Tank Troop Workshop having been duly sworn

Q On the night of the 17 Dec did you ~~return~~ state to your Unit lines from Lorino with S/Sgt Graham

A - Yes, sir.

Q - What time —

A - 10.15 or 10.25

Q - Do you remember where your Unit orders were published at Lorino

A - Near the Kitchen at first then inside in The Mess Hall.

Q - Could you go to the order Board and see the orders at any time

A - No - sometimes they were torn away or are not replaced by those reading them

Cross examination

Q - Did you know while you were stationed in Lorino that one needed a pass to be outside Unit lines after 2100 hrs

A - I am not sure whether I knew at that time or not I knew afterwards

Q - How did you know that you required a pass

A - ~~[illegible]~~ I think I was told on parade

Q - Do you always read orders

A - Yes, sir every day

Q - Did you know that No 10 Via Vico Stella was out of bounds

(11)

(2) As far as that goes I knew all of it was
Q - How did you know that all these whore
houses were out of bounds.
A - There are usually signs outside
Q - Did you visit any similar places
A - Yes, sir that was the place I was caught
in the same day.
Q - Did you know it was out of bounds
A - Yes sir when I found out that it was
a whore house I knew it was out of
bounds.
Q - Do you ever remember seeing Exhibit
"A"
A - No, I do not remember seeing this order.
Question by the Court.
Q What time were you in the whore house
A - Five to ten or ten after ten I do not
know which
Q - Did you go to town with Sgt Graham
A - No I went to town with Pte Soulière.
Q Did you have a pass
A - No
Q - Did you speak with Sgt Graham
that evening
A - Yes, in the presence of the four M.P.'s and
Sgt Graham asked me what we were
doing down town and Pte Soulière
replied "I am duty driver. He then
arranged to take Sgt Graham to the
Unit in the truck

(3)

Q - Did he mention anything to you about a pass

A - No he did not.

Q - Do you know whether S/Sgt Graham had a pass or not

A - No I do not.

Q - Had you been to this saloon house previously

A - No sir

Q - Did you see the exit of Lounds that evening

A - No but I had seen them before.

The evidence has been read over to the witness and he states it to be correct.

2nd Witness

I am H-864752 Cpl Flynn, E.J 1 Edn Tank Troop Workshop having been duly sworn, states

Q Question to you know S/Sgt Graham

A - Yes, sir

Q - Do you know whether on night of 17 Dec at what time S/Sgt Graham came in.

A - About 10.30.

No questions by prosecution.

Question by the Court

Q Did you have a watch or clock on that night.

A - yes, sir

Q - How do you know what time S/Sgt Graham came in.

A - I was just getting ready to go to bed and I generally go to bed at that time

Q - (4) What time did he come in on the 18 Dec
H.T.M.

A - I don't remember

Q - How did you know what time it was that S/Sgt Graham came in on the 17th Dec

A - I knew because the next morning he was arrested

The evidence has been read to the witness and he states it to be correct.

3rd Witness

I am C-961 L/Cpl Mills, J.G. 1 Cdn Tank Troop workshop having been duly sworn states

Q - Do you know this S/Sgt

A - Yes sir, he is S/Sgt Graham I know his first name, Howard

Q - At Lorino you lived in a tent with the accused

A - Yes, that's correct

Q - Do you know at what time the accused came in on the night of 17 Dec.

A - Yes, sir I was writing a letter and it was shortly after ten when I finished and I was addressing my mail and making some tea and getting reading to go to bed when the S/Sgt came in. I don't know the exact time as I had my watch just back from being repaired but I know that it wasn't any later than 10.30

Q - Can you tell us why I you remember particularly the accused came in on the night of the 17 Dec 43

a (5) It was the 8th month of my wedding [illegible] and I was writing to my wife because of that.

Q - Did you know of any area of out of bounds in Korino

A - I didn't know, but I was told by my friends that there was an out of bounds area near the square, but I was never there myself

Cross examination

Q Did you ever go out of camp while in Korino

A - Yes, I did several times

Q - Did you ever stay out after 2100 hrs

A - No sir

Q - Why didn't you stay out later

A - Because there was a curfew but it had never appeared in orders ~~after~~ hrs

Questions by the Court.

Q - Had you known that a pass was necessary to be out after 2100 hrs

A - Yes, sir, but I had never seen it in orders - I guess I must have neglected to read the orders on that particular day.

Q - If you desired a pass who would you see.

A - My Company Commander

(6) 4th Witness

I am K-53554 Pfc Barnes, L E of 1 Cav Tank Troop Workshop RCOC having been duly sworn & states

Q Do you know the accused

A - yes, sir

Q - Do you sleep in the same tent as the accused back in Korino

A - yes, sir

Q - Can you tell the Court the time the accused came into the tent on the night of the 17 Dec

A - yes - on the night of 17 Dec the accused entered the tent at approximately 1030.

Q - Can you tell the Court why you remember this particular time, date & time

A - I remember the date because that evening 1/Sgt Mills and myself had been comparing marriage dates. It was eight months to the day that 1/Sgt Mills had been married

Q - Did you know there was an out of bounds area in Korino at that time Dec.

A - No, sir, I did not.

~~Q - If you had [illegible] time [illegible]~~

Cross examination

Q - did you only go into Korino once

A - yes, sir

Q - did you ever have a pass in Korino

A - No sir

Q - Did you know that after 2100 hrs you required a pass to be out in Korino

A - No, sir, I did not even know it was possible to get one

(7) Because the Sgt Major had told me one time that I was supposed to be in by 2130 hours

Question by the Court

Q When the accused came into the tent that night, where were you, in bed or up still.

A - I had just gone to bed.

Q - Did you go to sleep shortly after that.

A - Yes, sir

Q - Can you tell us sure what S/Sgt Graham did after you went to sleep, whether he stayed or went out again

A - I can't say positively

Q - How did you know it was around 1030

A - Because I had been keeping regular hours on returning from a friends home

The evidence was read over to the witness and he stated it to be correct.

First Charge — Summary of Defence

(1) Order (No 12, d/20 Nov 43) was not produced on oath. [redacted]. Evidence has shown daily orders were often misplaced or torn off.

Even tho as a [redacted] non-commissioned officer it was his duty to read orders, there were many times when the accused could not see orders, for the a/m reasons. Indeed, no evidence has been shown to prove that the order was ever posted as several witnesses have not seen the order. According to A A H, proof must be given that the order was posted.

that ~~these~~ areas put "out of bounds" by CMP are out of bounds to Can troops. — there is no definite proof that the tps of this unit had been informed that the area was out of bounds as there is even doubt amongst Prosecution's witnesses whether all entrances were marked or not.

This certain area was certainly a strange one, for the prosecution has shown that troops were even in the area when signs were up.

we have a M.P.s who entered the house in question & instead of dutifully discharging their duties as required, they proceeded to stand & set around the room & cast remarks at the accused. They took no action against the accused; but later on the advice of an "S.I.B." Sgt. (which is hearsay evidence) they decided the accused should be charged — why the delay? The last charge would seem as if the M.P.s decided to "get" the accused. We have seen the remarkable similarity in evidence produced by them in connection with words spoken by the accused — but on other points — namely the colour of the "Out of Bounds" sign, where they should certainly be agreed — the witnesses do not agree —

The evidence of Pte Graham proved many points — but the prosecution did not have the witness identify the accused as the S/Sgt Graham in question.

Finally the words in the charge were not used by the accused in reply to a request to leave — they were used after a discussion took place & quite a long time after wolt told the accused to leave & then proceeded, along with three others, to discuss the whole affair & the moral or state of health of the woman in the room.

Four witnesses have stated they saw the accused

after 2300 hrs at night. Defence has produced witnesses who proved the accused was in his tent by 2230 hrs. This shows a divergence in times between those stated by the M.P's and those stated by witnesses for prosecution. All M.P's said they saw the accused after 2300 hrs in Larino. It is the contention of the defence that due to all the varied evidence offered by witnesses for prosecution, there is too much doubt surrounding the facts of charge III & the charge should be dismissed

that ~~these~~ areas put "out of bounds" by CMP are out of bounds to Can troops. — there is no definite proof that the tps of this unit had been informed that the area was out of bounds as there is even doubt amongst Prosecution's witnesses whether all entrances were marked or not.

This certain area was certainly a strange one, for the prosecution has shown that troops were even in the area when signs were up.

Summary for Defence

Second charge

(a) The prosecution has not produced any written area orders which were contravened. ~~They~~ It has witnesses who are not even certain of the color of the signs surrounding the area — who are vague as to whether the area is completely covered with a sign in each entrance. It is think one might enter unknowingly at night — the prosecution has brought no evidence to show the house was out of bounds, as the charge reads. There was no sign at the [illegible] Pte Watt, whose feelings were enjoyed by the accused, is certain no one could enter the area unwittingly. Pte Scott said one could enter the area without knowing. Pte Graham said it was possible then continued with a digression which was injurious to the accused, which has since been proved false — for the area was not known as "Out of Bounds" to all members of the unit.

(b) A provost Sgt was brought who said he published an order showing areas out of bounds. No written order has been produced to show this Larino area was "out of bounds". No evidence has been brought out to show

(over)

we have a WPC who entered the house in question & instead of dutifully discharging their duties as required, they proceeded to stand & sit around the room & cast remarks at the accused. They took no action against the accused; but later on the advice of an "SIB Sgt. (which is hearsay evidence) they decided the accused should be charged — why the delay? The last charge named was as if the WPC decided to "get" the accused. We have seen the remarkable similarity in evidence produced by them in connection with words spoken by the accused — but on other points — namely the colour of the 'Out of Bounds' sign, where they should certainly be agreed — the witnesses do not agree —

The evidence of PC Graham proved many points — but the prosecution did not have the witness identify the accused as the S/Sgt Graham in question.

Finally the words on the charge were not used by the accused in reply to a request to leave — they were used after a discussion took place & quite a long time after which told the accused to leave & then proceeded along with three others, to discuss the burial affair & the general state of health of the woman in the room.

Four witnesses have stated they saw the accused

Summary for Defence

Third charge

The Defence has praised that there was something irregular in the conduct of the 4 M.P.'s — why did Graham, the soldier in charge of the group, make no effort to settle the discussion in the room? Instead he sat down on a bed. There seems little doubt that these M.P.'s entered his house & a discussion started between one or all of them & the accused. Remarks were passed concerning the woman's character & quite justifiably, the accused took a step back and asked him to settle the discussion in true soldier fashion. No blows were struck & no damage was done. This could have happened dozens of times in other circumstances & no charge would have been laid.

Chapter V sec 71 MML states:

"great care should be taken to discriminate between merely angry or irritable expressions & words indicating a deliberate intention to resist lawful authority"

(over)

after 2 300 hrs at night. Defence has produced witnesses who proved the accused was in his tent by 2 2 30 hrs. This shows a divergence in times between those stated by the M.P's and those stated by witnesses for prosecution. all M.P's said they saw the accused after 2 300 hrs in Larino. It is the contention of the defence that due to all the varied evidence offered by witnesses for prosecution, there is too much doubt surrounding the facts of charge III & the charge should be dismissed

Final Summary

The defence feels that: ① as the prosecution has not fully proved the clarity of the order (no 12 of 20 Nov 43)

② as the prosecution has not established the area in question was clearly "out of bounds" — either by production of an area order so stating or by agreement of all witnesses on the question

③ as the remarks charged were not in reply to a request by Phe Watt for the accused to leave, but rather the culmination of a type of argument or discussion which frequently arises among soldiers and accordingly not particularly serious —

that all three charges should be released & the accused should be honorably acquitted.

[signature]

Closing Address for Prosecution

You have heard the evidence and the statement of Pte Walt, Graham, Scott, and Mackie, all prove that in the case of the First Charge, the accused was definitely neglecting to obey a Regimental Order which was displayed to all concerned. The fact that this order existed and was displayed has been proved by SQMS Stark in his statement. Sept Mills states in his evidence that he was aware of the fact that one must have a pass after 2100 hrs in Tarino.

On the second charge you have heard the same four witnesses state that the accused was in an area clearly marked "Out of Bounds". Twice he was found to be there & twice he was told by the Regimental Police to leave. It has been ascertained as to the system used to put such places out of Bounds so it can be seen that no written order is required.

On the third charge, the evidence of the witnesses has shown that the accused used improper language to members of the Regimental Police.

Arguments

The defence has not disproved any evidence

The order was shown on Oath

Pros

S.I.B. Fraud charge

Defence have brought forth no witness to prove that the accused stayed in his tent

Edwards Capt.

Summary For Defence

HPM

Exhibit "B"

First Charge

(a) The regimental order no 12, d/20 Nov 43 does not definitely state one must have a pass to be out after 2100 hrs — it states, "if one wishes to leave the lines" he must have a pass. The accused left the lines before 2100 hrs —
(ref notes under sec 11 concerning misapprehension arising from want of clearness in order is grounds for exculpation)

(b) The ~~defence~~ prosecution has not proved the accused read the order. It was published in a place where it could easily be blown away. The order was not produced on oath. No evidence was brought in to show the order was duly posted — ref note to AA Sec 11

PART 1 ORDERS
BY
MAJOR A.J. STETHEM
COMMANDING OFFICER
1 CANADIAN TANK TROOPS WORKSHOP
R.C.O.C. CANADIAN ARMY OVERSEAS
CENTRAL MEDITERRANEAN FORCE

EXHIBIT "A"

Last Part 1 Order Issued - 11. | 20 NOVEMBER, 1943. | This Order No. 12.

1. DUTIES For Sunday, 21 November, 1943.

Duty Officer - S. .F.S. Stark J.
Orderly Sergeant - Sgt. Verpaelat

Guard Commander - L/Cpl. Nelson

Guards:

Ptes. Priest — Rhodes
Qualey — Rigby R.W.
Purcell — Bouillard
Reid E.E. — Scott J.G.
Reynolds L.A. — [illegible]
Robertson G. — Smith K.H.

Spares.

Boule — Staves
Boulière

2. DISCIPLINE No passes are required from A.D. i.e. 1700 hrs. to 2130 hrs. in the town of LARINO. Anyone wishing to leave the camp area at any other time, must have a pass approved by his Section N.C.O., initialed by his Company Commander and signed by the Officer Commanding.

Section N.C.O's must know the location of their men at all times.

All houses and buildings not in the unit lines are definitely OUT OF BOUNDS, during working hours.

The ORDERLY ROOM is now situated down at the Larino Railroad Station.

Owing to the food situation, soldiers are requested not to eat at the restaurants.

(A.J. Stethem), Major,
Commanding Officer,
1 Canadian Tank Troops Workshop,
R.C.O.C. Canadian Army Overseas,
Central Mediterranean Force.

SUMMARY OF EVIDENCE

H. J. Millen
Major

IN THE CASE OF C 94036 A/S/SGT. GRAHAM H.

WITNESS:

PTE. GRAHAM W.H.

HAVING BEEN DULY SWORN IN STATES:

About 1900 hrs, 17 Dec. 1943 Pte Mackie & myself visited 10 Via Vico Stella, upon entering we saw Pte. Walt Scott & accused. Graham said "I guess I'm surrounded now, I guess I'll have to go." He and Walt were having a bit of a conversation and eventually wound up in an argument, Graham inviting Walt outside saying "The best man would come back in". While he was doing this, he was undoing his tunic. The argument finally quieted down & Graham left. Then at 2330 hrs, we found Graham & Soubire outside the a/m address. Waipan was inside the building. Pte Walt told them it was Out of Bounds and that he was out after Curfew. We accompanied the three men up to the main st where we saw them boarding a unit vehicle. Upon returning to camp we checked on this vehicle and found that it hadn't been signed out. No. 10 Via Vico Stella was on a street marked very clearly "Out of Bounds". I was a Regimental Policeman at the time. Ptes Walt, Mackie and Scott were also Regimental Policemen on duty at the time.

Q. By STAFF GRAHAM

Who drove you to town that night

Myself

Q. No duty driver

P. Q. Where and what time did you first see me

A. At about 1900 hrs in 10 Via Vico Stella.
Q. What time did you enter the house
A. About 1900 hrs
Q. Was I drinking
A. I couldn't say for sure.
Q. What time was it Pte. Walt got a little cocky?
A. Just after we entered the house. I would say both S/Sgt Graham & Walt were cocky
Q. What words were spoken between Walt & myself?
A. Pte Walt said something about your rank meaning nothing while you were in an Out of Bounds area — that you were just the same as a private
Q. Did I make any attempt to strike him.
A. No.
Q. Did I have my coat off.
A. No partially unbuttoned.
Q. What did he say about the young woman
A. Nothing I can remember.
Q. Did he ask me if I touched her.
A. He might have.
~~Q. What is~~
Q. What time did I leave at.
A. I couldn't say for sure but it was shortly after 1900 hrs
~~Q. By the is~~
~~Q. Were you & Pte Mackie~~
Q. ~~Why was~~ Who all was in the house when Pte Walt got cocky
A. Ptes. Mackie, Scott, Walt, S/Sgt Graham, and prostitute & myself.

3. (the threat)

Q. ~~If you knew I meant it, why didnt you do something about it at the time.~~

A. ~~Question~~ Not understood.

Did you make any attempt to stop this little argument Pte Walt & I had?

A. No, we didnt make any attempt to stop the argument because being a Sfhgt of our own unit, we figured that ~~you~~ knew you well enough not to start anything.

Q. How long were we in the house.

A. I would say about 20 minutes all together.

Q. Did you see me any more that night after I left the house.

A. Yes.

Q. When was the next time you saw me.

A. 2380 hrs.

Q. Who gave me my gloves

A. I dont know

Q. When was the first time you saw the duty driver, Pte Soubiere, & myself together.

A. Outside 10 Via Vico Stella at approx. 2330 hrs

Q. What time was it when we drove off in the truck.

A. I'm not sure, but from what I think about 2359 hrs

Q. Where was the truck parked

A. On the right hand side of the road, outside the AMGOT Building

Q. Wds there ~~another~~ an Out of Bounds ~~[illegible]~~ sign on the door of 10 Via Vico Stella.

A. No, nothing on the door.

Q. Was there any other troops stationed in that "Out of Bounds" area?

A. Didn't believe so

Q. When you were in the house where were you sitting?

A. On the ~~[illegible]~~ bed.

Q Where was Pte. Mackie.

A Beside me.

Q. Who was with you the second time besides Mackie, Walt, Scott

A. Sgt Mallinder of 1 I.B.

W.H. Graham

2ND WITNESS
[illegible] WALT. C.M.

On 17 Dec. 1943, about 1845 hrs, we were making our rounds. Pte Scott & myself In the Out of Bounds areas, we visited 10 Via Vico Stella and there we saw S/Sgt Graham. ~~He~~ I told him it was "Out of Bounds" and that he had better leave. He said "I know it is Out of Bounds but I know how to take care of myself." It was at that time that Ptes Mackie & Graham entered this house and S/Sgt Graham said "I guess I am surrounded now. I'll have to leave." But if I didnt want to go you could not make me. I told him again that the place was Out of Bounds & that he had better go. He then said "How about you & I going outside" and at this he was unbuttoning his tunic. He said "The best man will return" and that wont be you "as you are not the type of fellow for this job, - you are too yellow!" I told him that I was on duty and that he still would have to leave. He then went to the door and as he was leaving, he turned around & said "Don't stick your chest out too far." He then left. We left then to make our rounds in the other Out of Bounds areas. We returned again to this house about 2045 hrs. We found two soldiers there of our own unit, Ptes Waypan & Soulière. We told them to leave and we took them to the top of the road.

(Watt) 2

At about 2300 hrs. we returned to 10 Via Vico Stella, S/Sgt Graham, Soulvered Warfare were there again. With us was Sgt Mullinder of the S.I.B. They left our house & walked to the top of the street. Where we saw them get into a vehicle. I was a Military Policeman and wearing an "M.P." badge, each time I visited this house. The street was marked "Out of Bounds" It was after Curfew when we saw S/Sgt Graham there the second time. They were using a 15 cwt with "Alma" on the front. There were two prostitutes in the house when we were there both times.

X Exam by accussed

Q What time did you go to town that night?
A Same time, about 1730 hrs.
Q Who drove you to town
A We drove ourselves
Q Who drove you home
A Pte Graham
Q Where & what time was first time you seen me
A About 1845 hrs at 10 Via Vico Stella
Q Was I drinking
A Yes.
Q What time was it when you got a little cocky and I called your bluff.
A ~~2320 hrs~~. I don't understand your question.
Q Were we not only kidding
A I don't think you were.
Q.

Q. What words were spoken between us at the time.
A. None as I said in evidence
Q. Did I make any attempt to strike you
A. Well no, you made no attempt to strike me, but you were taking your time off
Q. What did you say about the young woman.
A. I told you it was for your own good that we were trying to keep you out of there — that the woman was no good and have anything to do with.
Q. Why did you ask me if I had touched her.
A. Because if you had it was up to us to tell you to report to the Medical Centre. That was our orders.
Q. What would you have done if I had asked you the same question
A. I would have said 'No' and it would have been the truth.
Q. What time did I leave at?
A. You left there about 1915 hrs.
Q. Where were Ptes. Graham & Mackie standing?
A. They were both standing by the bed.
Q. Why wasn't I put under arrest at the time.
A. It was for your own good that we didn't put you under arrest.
Q. Why didn't the other three make an attempt to stop me
A. That is a question entirely up to them.

Q. Did they make any attempt to?
A. I don't know whether they did or not.
Q. How long were we in the house
A. About ½ hour.
Q. Did you see me any more that night after I left the house.
A. I saw you at the Cafe.
Q. When was the next time you saw me.
A. At 2320 hrs.
Q. Where was I
A. At the prostitute's house.
Q. How many were in there
A. One in and two outside.
Q. How many girls were there in there
A. One, at that time
Q. Who gave us my gloves
A. I don't remember or know.
Q. When was the first time you saw Pte. Lawless & myself together
A. The last time - at 2320 hrs.
Q. What time was it when we got into the truck.
A. Appox 20 minutes later.
Q. Where were we
A. In front of the S.I.B. building.
Q. Was there an "Out of Bounds" sign on the door of the house
A. At that time, I don't remember, but there was one before.

5 (Walt)

Q. Were there any troops stationed in that area which you said was Out of Bounds

A. On the side of the street that you were on - No!

Q. - Who was in the house when you came back to the house with the S.I.B. Sgt - the 2nd time

A. - ~~Pte.~~ I cannot answer.

C M Walt

Adjourned until 0845 hrs.
1-2-44.

EVIDENCE C.
CR.
SGT. CROSSLEYCE
3rd Witness

SUMMARY OF EVIDENCE

I am Transport Sgt of ICTTW/S. On the night in question, I had ordered that no vehicle was to leave the grounds without an officer, or the Orderly Sergeants permission. The vehicle, CZ 4228014, was found to be out the following morning. The driver, Pte Loulere, reported to me that he had picked up S/Sgt Graham down town. ~~about~~

The accused declines to cross-examine the witness.

4th Witness

(1)

Pte MACKIE. G.D.

On 17 Dec 1943, Pte Graham & myself visited 10 Via Vico Stella. While there, we saw Pte Watt, Scott & S/Sgt Graham. The S/Sgt said "I guess I am surrounded now. I guess I'll have to leave. But if I didnt want to leave you couldnt make me." That was about 1900 hrs. Pte Watt & S/Sgt were talking and finally S/Sgt Graham told Pte Watt to come outside & the best man would come back in. He also said that Pte Watt was not the man for the job, he was too yellow. He left then. About 2320 hrs we returned to the o/m address & saw S/Sgt Graham & Pte Soulière outside. We escorted them back to the main street, and from here they left. I was a Regimental Policeman in duty at the time of the incident. There was a curfew in Larino after 2100 hrs. There was a sign relating to this posted in the Victoria Hotel. It was signed by the AMG O.T. This was the only hotel opened in Larino at that time and was frequented by all the soldiers. I was not in that hotel that night. There was an "Out of Bounds" sign at the entrance to Via Vico Stella.

Cross examine by Accused

Q Where & what time did you see me

A About 1900 hrs at 10 Via Vico Stella

(2) Mackie

Q. Was I drinking at the time
A. I couldn't say
Q. What time did Pte Walt get a little cocky
A. I don't think Pte Walt got cocky
Q. What words were spoken between Pte Walt & myself
A. When you asked Pte Walt to come outside, you said the best man would come back in and that wouldn't be him. Pte Walt said "There is a time & place for everything and I am on duty." When you called Pte Walt "yellow" he took it like a man & never said anything
Q. Did you or the others make any attempt to stop us from arguing
A. No. I don't think we did.
Q. Where were you sitting in the house
A. Beside Pte Graham on the bed.
Q. How long were we in there
A. From time Pte Graham & myself entered, possibly 10-15 minutes.
Q. What time did I leave at.
A. About 1915 hrs.
Q. Did I say anything when I was leaving
A. No. I don't think so.
Q. Why wasn't I put under arrest at the time
A. I don't know.
Q. Did you make any attempt to do anything
A. No.

(3) Mackie

Q When was the next time you saw me after I left the house the first time?

A. About 2320 hrs.

Q Did you give me my gloves?

A No

Q Who did?

A I couldn't say.

Q Was there any troops stationed in that district

A Not at that time.

Q Where was the truck parked

A Up on the main street.

Q Who did you see outside the house when you returned the 2nd time

A Pte Lauture & yourself.

Q What time did we leave town in the truck

A. Possibly 2359 hrs.

Q. Did you & Pte Brazil have a little bet on

A No. we didn't

Q Who gave you back the money, Pte Larcombe was holding

A I don't know anything about it

J D Mackie.

M-40933
Pte Scott D.P.
5th Witness

(1)

4

I was a Regimental Policeman on the night of 17 Dec 1943. At approx 1845 hrs Pte Walt & myself, while on patrol, had occasion to visit the house of a prostitute. 10 Via Vica Stella Pte Walt entered before myself and when I entered, he was telling this S/Sgt that this area and house was Out of Bounds and that he had better leave the area. The S/Sgt said "I can take care of myself" - Agdie. Pte Walt told him it was "Out of Bounds" and he had better leave. It was at this time that Ptes Graham & Mackie entered and the S/Sgt said "I guess I'll have to leave now. I'm surrounded", but if I didn't want to go, you couldn't make me". He then got up & faced Pte Walt, said "You & I'll go outside & the best man will come back in". Pte Walt replied "I am on duty". The S/Sgt. left then. We returned at approximately 2330 hours in company with Ptes. Walt, Graham, Mackie & Sgt. Mullender of the S.I.B. On going down this street, we saw S/Sgt Graham and a private. Upon entering the place, we saw another private. We told them that they were all "Out of Bounds" and in Larino after Curfew hours. We then escorted them up to the end of the street where we saw them get into a W.D. vehicle which we had previously ascertained as one belonging to our own unit.

(Scott) (2)

There was a Curfew in Larino after 2100 hrs. There was a sign up in one of the Cafes, and one or two elsewhere but I don't remember where. They were all signed by the Town Major. The street was definitely marked "Out of Bounds". I was wearing the Police badge also Pte Mackie, Walt and Graham.

~~On the ...~~ At all times mentioned

X Exam by Accussed

Q. Where & what time was the first time you saw me

A approximately 1845 hrs

Q. Was I drinking at the time

A No. I couldn't say you were.

Q What words were spoken between Pte Walt & myself

A You said you & I will go outside & the best man will come back in. "You also said "You're not the man for this job, you're yellow!"

Q. Why did Pte Walt get cocky

A I don't believe Pte Walt did get cocky

Q. Did you make any attempt to stop us from arguing or the the other two, either

A No, I don't believe we did. We all told you that you

Q Had better leave

Q Where was Pte Mackie standing.

A I believe he was behind you or at the side of you. I'm not sure which it was.

Q Did I say anything when I was leaving

A At the door you said to Pte Walt "I'll get even well you for this" — or words to that effect

(3) Scott

Q How long were we in the house

A I couldnt say definitely, but it was shortly after 1900 hrs when we left.

Q Did you see me any more that night

A Yes.

Q Where was I

A At a little after 2100 hrs, you were in a café.

Q What was the next time you saw me

A At approximately 2330 hrs

Q Who was with me the third time you saw me

A Ptes. Saulière & Waypan

Q Where were the three of us

A Two were standing in front of 10 Via Vico Stella, the other one was inside

Q Who handed my glouesant to me

A I dont know, I never saw them.

Q Where was the truck parked

A In the front of the steps leading to the S.I.R. & AMGOT building.

Q What time did we leave town

A I didnt look. I cant remember the exact time.

---

re Exam

Q. Was the café mentioned where the sign regarding Curfew was posted

A Yes

(4) Scott

Re Questions by accussed

Q Whee was I in the Café?

A. Up stairs

Q Who was I with?

A. I kannot say.

A P Scott

(1)

~~C-42144 SQMS. STARK, J.W.~~

C-37361 PTE. SOULIERE, E. G.

6th Witness

When we went down town at about 2130 the 2nd time, we were walking down the Out of Bounds street Pte Waipan & I. We saw a door open so Waipan walked in. I stayed outside. A few minutes after that S/Sgt. Graham came in. He told me he was coming to get his gloves and the M.P.s were coming along the Out of Bounds street, so they walked inside the house & caught Pte. Waipan there. Waipan walked out & they told us to go back to camp. We were just walking up the street with S/Sgt Graham behind us, and I asked him if he was going up to camp and he said "Yes". I was duty driver. He went back to camp with us. It was not after 2215 hrs when we went back to camp. We went downtown to visit the whore house Pte Waipan and myself went. The first time we went down, we were told by Pte Walt & Scott to go back to camp as that area was "Out of Bounds". We did. It was about 2130 hrs. when we went down the second time. I was persuaded by Pte. Waipan to go down without vehicle permission the first time. It was Pte Clark J.G.'s vehicle. The convoy number is "A-1". The last four numbers are "8014". It is a 15 cwt. The first time we went down, we did not see S/Sgt Graham.

(2) 2. Soulière, E. G.

Cross-exam. by accused.

Q. - When was the first time you saw me

A - At the door of ~~[illegible]~~ the whore-house.

Q - What time was it?

A - About 2200 hrs

Q - Did you tell me that you were duty driver.

A - Yes. I did.

Q - What time did we get back into camp

A - At 2215 hrs.

Edgar Soulière

D-96286

Witness

(1) WAIPAN. DIMITRE.

I first got caught down town about 2045 hrs. I was caught by our own M.P.'s and ordered back to camp. The second time I went down at about 2145 hrs and was, this time, caught inside the house. Pte Scott & Walt walked in & caught me in there. Then when I came out I saw Ptes Graham, Mackie Souliere & S/Sgt Graham outside. Then S/Sgt Graham asked us if we were going back to camp and Souliere told S/Sgt Graham that he was duty driver that night & would give him a ride back to camp. I was in the truck, too. Pte Souliere & I went down alone the first time. I saw S/Sgt Graham just after I walked out of the whore-house. I think I saw him before that at dinner time. I can't remember if I had talked to him that day or not. I must have talked to him 3 or 4 days earlier. I have never mentioned the house down town to him before. You can usually find where that sort of house is without knowing before-hand. S/Sgt Graham rode in the front of the truck with Pte Souliere on the way home. I think he said something to Souliere about the use of the truck & Pte Souliere, I think, told him he was duty driver & would give him a lift back to camp.

The accused declines to cross-examine the witness.

Waipan D.

(1)

G-42194.
[illegible]

SGMS STARK, J.W.

There was a Regimental order stating that no man was to be allowed outside the camp area after 2100 hrs without a pass. It was No. 12 d/20-11-43 - It is submitted as an exhibit.

Cross-examin by accused

Q. When was this charge laid

A I can't remember.

Q How many charges were laid against me.

A To my knowledge - four.

Q What were they?

A 1 - concerning being in a place prohibited by C.M.P. orders, another concerning the mission of a military vehicle, another of threatening an M.P. in the performance of his duty and a final one of neglecting to obey Curfew regulations.

D Stark

Statement of Sgt. Mullinder of the S. I. B. 8th ARMY
Larmo, Italy is attached.

Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

Statement of C 94036 - S/Sgt. Graham H.

Having been duly sworn states. (at his own request)

Sgt. Mullinder said that when Ptes. Wayson & Soulure, when told the first time to leave, that I was inside. He also stated the last time he visited the house that Pte. Soulure was inside the house, partially undressed.

PTE LARCOMBE D.J. PTE BRAZEL DD PTE RENDRITH, C.D.
PTE BARNES LL L/CPL MILLS JO L/CPL FLYNN C.J.

ADJOURNED UNTIL 1330 HRS.

1ST WITNESS FOR THE DEFENCE

(1)

B - PTE BRAZEL D.D

HAVING BEEN DULY SWORN IN STATES:

We left camp with the R.P. around 1800 and Pte Pendrith & Cfl Harrison & his driver. We got to Larino about 1815 hrs. The restaurant does not ~~have~~ open until 1900 hrs. Then when I went into the restaurant, which was shortly after 1900 hrs we met S/Sgt Graham & were invited upstairs into the living quarters of the proprietor of the restaurant. We stayed there drinking together until the establishment was closed by the military police at approximately 2100 hrs. On leaving at approximately 2100 hrs, S/Sgt. Graham forgot his gloves or cap, I think, and I was to wait for him until he returned. He didnt recover them at the restaurant but he remembered where he had left them prior to our meeting. He told me to wait for him - that he'd only be about 10 minutes, which ~~I~~ did. But he never returned in the time stated, so I walked on up to camp. On arriving at camp. I spoke to S/Sgt Graham on the tracks of the road clearance at Larino station. I don't remember the exact time, but it was shortly after 2200 hrs. I attended a game after speaking to him. The game eventually broke up & I went to bed. I got into bed before "Lights Out" which was 2300 hrs. I don't know any details of this case between the time S/Sgt Graham left me and when I later saw him in camp at ~~approximately~~ shortly after 2200 hrs. ~~[illegible]~~

(2) Brazel

~~bet on with Pte Machio G.D. Shortly after the bet was made, it was decided to call it off & Pte Larrombe was to return the funds, which he did. I was talking to Pte. Machio G.D. regarding the time of S/Sgt Graham's supposed altercation at Larino. I couldn't see the difference between~~.

2ND WITNESS FOR THE DEFENCE

(1)

B -

PTE. PENDRITH. C.D.

The accused was in a restaurant in Larino accompanied by Pte Brozel & myself and 2 other friends of Brozel - I don't recall their names. He was with us between the hours of around 1900 hrs and 2130 hrs when the Provosts came to close the place. I left after that. We were asked up to the proprietors home by the people themselves.

C. D. Pendrith

3rd WITNESS DEFENCE

(1)

M- PTE LARCOMBE, A.J

On Christmas Day I think, the records will show that I was on guard. I went to wake up Pte Krogstad. I gave the money back to Pte Mackie & Brazel ~~Christmas~~ 26 Dec. 44.

I received the money from Pte. Brazil & Mackie when I went in to wake up my relief — Pte. Krogstad.

A.J. Larcombe

4TH WITNESS FOR THE DEFENCE

(1)

K- PTE BARNES L E.

Q. On the evening of 17 Dec 1943 what time did I come into the tent

A At approximately 2230 hrs.

Q Who else was in the tent at the time

A L/Cpl Mills. L/Cpl Flynn and possibly Pte Sutton

Q What all was said when I entered.

A Talk generally ceased. You were already in bed. L/Cpl Graham I believe went to bed shortly after, because he had started to undress I could not swear to this. I was new to the ship at the time. I slept next to the door and think I would have noticed him had he gone out the door.

L E Barnes

5th Witness for the Defence

(1)

C-961- L/CPL MILLS. J.G.

Q. On the evening of 17 Dec 1943. What time did I come into the tent?

A. I was writing a letter, making some tea & addressing my mail when S/Sgt. Graham walked in ~~[illegible]~~ ~~[illegible]~~ I don't ~~know~~ remember the exact time but it was certainly no later than 2230 hrs. I had had my watch repaired by L/Cpl. Armstrong & it was running very erratically. It was not much after 2200 hrs. because I had just finished my letter and was going to have my tea and then go to bed when S/Sgt. Graham came in. ~~I remember the date perfectly because of personal remembrances~~ I didn't carry on a conversation with S/Sgt. Graham. He was quiet and immediately started to undress for bed. I remember the date because I was married on 17 April 1943 and had written in my letter to my wife that we had been married 8 months up to that time. I write quite frequently to my wife ~~at least twice a week~~.

L/Cpl J Mills

6th Witness for Defence

H - 67 L/CPL FLYNN E.J.

Q. What time did I come into the tent on the night of 17 Dec 1943.

A. I would say around 2200 to 2230 hrs.

Q. Who was in the tent at the time

A. Ptes. Gates, Barnes, L/Cpl Mills & myself.

Q. Was there any conversation carried on.

A. None that I remember between you & I personally I do remember that you said "Good night" to us. You were quiet and shortly after crawled into bed.

There was Ptes. Gates, Barnes, L/Cpl Mills, ~~and~~ S/Sgt. Graham and myself living in the tent at that time. Pte. Strong W.J. another occupant was away in the hospital at that time

E J Flynn

Rules of Procedure 4(c) (d) (e) (f) (g) have been complied with.

Taken before me at field (Italy) this 1st ~~of Feb~~ day of Feb 1944.

H.D. Gilbert Capt.
1 Cdn Tank Troops Wheel
RCOC

PREVIOUS SHEET DESTROYED ON COMPLETION OF SIX MONTHS SERVICE 6-3-40

No. C-94036 Name GRAHAM, Howard Sqn., Battery, or Company } Corps R.C.O.C. Date of enlistment } 6-9-39 G.C. Badges } Service or Proficiency Pay } M.F.[illegible] (A.F.[illegible]) 500M—11[illegible]-1025) H.Q. 1772-45-15

Date of last entry in Company Conduct Sheet } Nil No. and date of last drunk } Nil Period not reckoning towards freedom from extra fine } Sheet No. Signature O.C. Company, etc. } Character

E2

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified to be the true copy from the Regimental books in my possession.					
				(A.J. Stethem), Major, Officer Commanding					

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-94036	Armt/S/Sgt.	Graham, H. 1 Cdn Tank Troops W/S, RCOC.	

1. The following is a fair and true summary of the entries in the Field Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For	"	times	"	times
For	"	times	"	times
For	"	times	"	times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~[illegible]~~ Air Force Act A.F.A. 73 ~~[illegible]~~ N/A

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and No days in Air Force military custody, making a total of No days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper~~ 24 Years & 9 Months

6. The date of his commission specified in his record of service is attestation attestation paper N/A

7. The service which the accused is allowed to reckon towards discharge is 4 Years & 147 days. (to 1 Feb. 44)

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to [illegible]~~ (or is in possession of or entitled to). State any air force decoration or reward. military

Canadian Volunteer Medal and Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

" dated ".

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

1 March 1940 Date of promotion.

In the rank of L/Cpl. 1-3-40 to 1-9-40 years. Armt/S/Sgt. 16-1-42 to date.

In the rank of Cpl. 1-9-40 to 12-3-41 years.

In the rank of Sgt. 12-3-41 to 16-1-42 years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
N/A	N/A	N/A	N/A	N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 day day of March 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

4X-54

Pte Graham H

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 87391 Pte Harry Graham

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	a w l.	Guilty.	Guilty.	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for 9 months detention beginning on (date) 30 Sept 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 30 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

10 months' detention.

(Sgd) ~~Judge Advocate, if any~~ 11 Dec 44 (Sgd) Robert Bowes
Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) a/s/t
(1. AA 57A. Delete if not used.)

(Sgd) A D Knight Lt Col
Date 20 Dec 44 Commanding CCMD 1 Cdn ~~Confirming Officer~~

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B.87391 Pte Harry Graham. Dec 23rd 1944 [signature] Lieut.
No. 1 FD. PUNISHMENT CAMP
CDN. PRO. C.

ALL DELETIONS AND ALTERATIONS ~~WILL~~ BE INITIALLED.

RECEIVED 27 MAR 1945 JAG BRANCH C.M.H.Q.

RECEIVED AT CMHQ IN AB 160, 4X-54

FIELD GENERAL COURT-MARTIAL

Case (in lieu of AF A3) 40/F & P/11698 (H.Q.) 4/36B

Convened at (Offr's Unit) Brig W G H Roof Comd 1 Cdn I of C Ter dated 8 Dec 44
minal

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/Rank or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-87391		Harry	GRAHAM	[illegible]

PROCEEDINGS RETURNED 29 Mar 45
[signature] Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 11 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18 27

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs ~~under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-76, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 13.45 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans
~~The interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans
~~The shorthand writer is sworn.~~(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lieut Col	R. E. Bowes.	1 Cdn Pro Coy
Member	Capt	G. W. Weeks	1 C Pro C
Member	Lieut	F. Stopa	1 Cdn Hdqrs Coy. 1 C Pro C
~~Judge Advocate~~			
Prosecutor	Lieut	W. H. Cain	6 Pro C
Defending Offr	Capt	S. Frankowski	1 Cdn Pro C

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 2.)

A8. The accused B 87391 Pte Harry Graham before arraignment make(s) (no) (~~or plea~~) (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 19

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116; *use of Summary of Evidence at Trial see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans N.S. (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. ~~On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)~~

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A; initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(*)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (a...) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(C), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 43, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witness as to your character?(1) Ans N.S.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I do not.

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the ~~JA, if such.~~(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As to sentences see AA 44, (1)B, (1)E2, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 98(1), KR Can 564. 2. RP 50. As to release from arrest by MML p 60, 757-759. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

Confirming Offr see KR Can 567.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-87391 Pte Harry GRAHAM, 4 Armd Bde Coy, RCASC att No 1 FP Camp and Detention Bks, Cdn Pro C., a soldier of the Cdn Army Overseas, on active service, is charged with:

First Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,
at No 1 FP Camp & Detn Bks, Cdn Pro C., absented himself without leave, whilst in lawful custody undergoing detention, from 0600 hrs 8 Nov 44 until apprehended by the Corps of Military Police in RUE MAGASIN, LILLE, France, at 1200 hrs 9 Nov 44.

Total time absent - 1 day 6 hrs.

[signature] Capt
(DAPM) (Comd)
No 1 FP Camp & Detn Bks.
Cdn Pro C.

In the Field
29 Nov 44

To be tried by Field General Court Martial.

W. G. H. Roaf

(W G H Roaf) Brig
Comd
1 Cdn L of C Terminal

In the Field
8 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-87391	Pte		Harry	GRAHAM	4 Cdn Armd Bde Coy RCASC, att 1 FP Camp and Detention Bks

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 8 Dec 1944 endorsed by me, ~~(or by an offr [illegible])~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the [illegible] for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R J BRUCE	1 Cdn PW Transit Cage

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	G W WEEKES	66 Cdn Gen Tpt Coy RCASC
Lieutenant	F STOJAK	1 Cdn Ord Maint Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

W. C. St Roach (Signed personally. RP 105 fn 2.) (Rank.)

Dat 8 Dec 44

Commanding ROAF BRIG. COMD. 1 CDN. L OF C TERMINAL FIRST CDN ARMY. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & E/1697 (6143)

(See overleaf for suths and notes for use on trial.)

11 Dec 44.

This is to certify that I have examined the undermentioned Soldiers under Sentence and find them FIT TO undergo trial by FGCM.

B-87391 GRAHAM C.

In The Field

SUMMARY OF EVIDENCE in the Case of B-87391 Pte GRAHAM, H., 4 Cdn Armd Bde Coy RCASC, att No 1 FP Camp & Detn Bks., Cdn Pro C.

Ex Lieut "A"

Charge
A.A.Sec 15(1) - AWL - whilst in lawful custody.

The Commandant directs that the evidence be taken on oath:

First Witness for the Prosecution

M-15558 Sgt DAVIS, T.A., No 1 FP Camp and Detn Bks., Cdn Pro Corps, having been duly sworn, states:-

"On the night of November 7th, 1944, I was Orderly Sgt of this Unit. I made a check of the SUS at 0500 hrs November 8th and allwere present. At 0600 hrs November 8th, accompanied by Sgt Hurrell, I made a check of all SUS and Pte Graham, H, was not present. A search of the camp was made but Pte Graham could not be located. I notified the CSM of this fact. On the night of the 9th of Nov 1944, I was Orderly Sgt of this Unit. Pte Graham was returned under escort and handed over to me together with documents concerning his arrest. I placed him in a cell. I produce statement of evidence of L/Cpl J.P.James, dated Lille, 9 Nov 44:

"Statement of Evidence in the case of B-87391 Pte Graham, H.
At Lille on the 9th Nov 1944 ~~xhx~~ at about 1200 hrs I was on duty in RUE MAGASIN where I saw the a/m soldier. I questioned him and established the fact that he was an escaped prisoner from No 1 FP Camp. I arrested him and conducted him to the Town Guard Room where he was handed over to the NCO i/c Guard to be detained.
Handing over certificate and certificate of arrest attached.
Lille. (Sgd) J.P.James L/Cpl
9 Nov 44. 242 HQ Provost Company, CM Police.

A written statement of this witness purporting to be signed by him has been read to the accused and included in the Summary of Evidence.
Owing to the exigencies of the service including the expense and loss of time involved, the attendance of this witness is, not in my opinion, necessary.
The accused does not demand the attendance of the witness.
(This document is marked exhibit "A" and is attached to the Summary).

W.D.Cain Lieut.
W.D.Cain.

I produce certificate of apprehension dated 9 Nov 1944, certifying to the apprehension of the accused.
This document is marked Exhibit "B" and is attached to the Summary.
The above exhibits are read to the accused.
The accused declines to cross-examine the witness.

M-15558 Sgt Davis, T.A.

SHEET No 2

SUMMARY of EVIDENCE in the case of B-87391 Pte GRAHAM, H.

Second Witness for the Prosecution

A-32035 Sgt HURRELL, P.J. No 1 FP Camp & Detn Bks, Cdn Pro C., having been duly sworn states:

On the morning of 8th Nov 1944, I was relieving orderly Sgt. At 0600 hrs upon making a tour of the camp, SUS Graham was found to be absent from his quarters. I made a further thorough check of all SUS quarters and camp area and Pte Graham could not be found. CSM Tosdevin was then notified.
The accused declines to cross examine the witness.

(A-32035 Sgt Hurrell, P.J.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
After the above caution, the accused declined to give evidence or to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4(C),(D),(E) and (F) have been complied with.

Lieut.
(W.D.Cain)
Officer detailed to take this Summary of Evidence.

B-87391 Pte GRAHAM, H.

List of witnesses for the prosecution

M-15558 Sgt Davis, T.A. - No 1 FP Camp & Detn Bks, Cdn Pro C
A-32035 Sgt Murrell, P.J. - No 1 FP Camp & Detn Bks, Cdn Pro C

List of witnesses for the defence

None

LIST OF EXHIBITS

"A" AFB 252 Statement of Evidence d/9 Nov 44.

"B" Certificate of Arrest d/9 Nov 44.

TO; Commandant,
No 1 FP Camp & Detn Bks,
Cdn Pro C.

Sir:

With reference to my pending trial by Field General Court Martial.

I wish an officer to be assigned to act in my defence.

H. Graham

B-87391 Pte Graham, H.

(b) Completion to be disposed of in accordance with K.R.

CHARGE 1940 Para. 562(b) Army Form B 252 (See King's Regulations) 932.

~~ROYAL WINNIPEG RIFLES~~ Regiment

4 CAN. ARMD. Cy R C A S C

"J" 8 Battery / Squadron / Troop / Company

CHARGE against No. B 87391 Rank RFN.

Name GRAHAM, H.

Place LILLE. Date of Offence

OFFENCE W.O.A.S., Absent from

until apprehended by the Military Police in RUE MAGASIN

on 9 NOV 44 at about 12.00 hrs.

Names of Witnesses :—

L/CPL. JAMES, J.R., C.M.POLICE.

CPL. WILLIAMS, R.J.(N.C.O.i/c Guard)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

8 3/44 G.H.Q.P.P. 2000M

Exhibit "A"

STATEMENT OF **EVIDENCE** IN THE CASE OF :-
No B87391 RFN. GRAHAM, H.,
"C" COMPANY,
THE ROYAL WINNIPEG RIFLES,
3rd CANADIAN INFANTRY DIVISION.

Sir,

At LILLE on 9 NOV 44 at about 12.00 hrs I was on duty in RUE MAGASIN where I saw the a/n soldier. I questioned him and established the fact that he was an escaped prisoner from No. 1 CANADIAN FIELD PUNISHMENT CAMP.

I arrested him and conducted him to the Town Guard Room where he was handed over to the N.C.O.i/c Guard to be detained.

Handing-over Certificate and Certificate of Arrest attached.

LILLE,
9 NOV 44. 242 H.Q. PROVOST COMPANY, C. M. POLICE.

J. R. James L/CPL.,

REMARKS

Exhibit "B"

CERTIFICATE UNDER SECTION 163 (1) (jj) OF THE ARMY ACT

I certify that No. B 87391 Rank RFN. Name GRAHAM, H.

of "C" COY, ROYAL WINNIPEG RIFLES, 3 Cdn Div. Regiment was arrested at LILLE at

12.00 hrs on 9 NOV 44 (date), and that at the time of his arrest he was wearing

military uniform ~~(plain clothes)~~

Capt.,

(H. JEFFERY.)

O.C. 242 H.Q. PROVOST COMPANY, C.M.P.

Date 9 NOV 44

Receipt by the N.C.O. i/c Guard of soldier in arrest handed over to him by Military Police.

No. B 87391 Rank Pte. Name GRAHAM

Coy. C Unit Royal Winnipeg Rifles

Station Lille

Sir,

I was Commander of the Town Guard Guard, on the Nov 9th 1944 when about 2.00 hrs the above-named Soldier was handed over to me by the Military Police.

He was Sober (condition).

Station Lille

9/11/1944

Signature [illegible]

Unit [illegible]

N.C.O. i/c Guard.

Statement in mitigation by the accused.

Sir:

The cause of why I went out was because I was undergoing sentence, and I had never been under such a long sentence before. I saw three or four ways of going and it was so tempting I took the opportunity without thinking what I was doing.

Copy Exhibit B

R/Bound
May 5

Army Form B 296 (War)

STATEMENT as to CHARACTER and PARTICULARS of SERVICE of ACCUSED.

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
B-87391	Pte	GRAHAM, Harry	4 Cdn Armd Bde Coy RCASC, att No 1 FP Camp & Detn Bks, Cdn Pro C.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For A.A.Sec 40 ..... 3 ..... times

For A.A.Sec 8(2) ..... 1 ..... times

For A.A.Sec 15 (1) ..... 2 ..... times

For ..... times

Date of first entry in Field Conduct Sheet 18-9-42

Date of last entry in Field Conduct Sheet 21-9-44

2. Previous convictions of the accused by a court martial or a civil court are set out in the schedule overleaf.

3. The accused at the present time is under sentence for 9Mths Detn beginning on the 30th day of September 1944

4. The accused has been awaiting trial on the present charges for nil days in civil custody, and for 30 days in military custody, i.e. nil days in open arrest 30 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 20 yrs 359 days

6. The date of his calling up for military service is 20-1-42

7. The service which the accused is allowed to reckon 2 yrs 332 days

8. The accused is in possession of CVSM & Clasp

9. (If the accused is a warrant officer or NCO). The accused has served continuously without reduction, to the present date -

		Date of Promoti
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	n/A	

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and place of trial	Charges upon which convicted	Sentence of the court	Punishment remitted or Sentence Suspended
FGCM	Field 30 Sept 44	Sec 15 (1) A.A.	6 months Detention	None

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed 29th day of November 1944

Capt.

No. 1 FD. PUNISHMENT CAMP

CDN. PRO. C.

R-87391 Pte GRAHAM, H.

List of witnesses for the prosecution

M-15558 Sgt Davis, T.A. - No 1 FP Camp & Detn Bks, Cdn Pro C
A-32035 Sgt Hurrell, P.J. - No 1 FP Camp & Detn Bks, Cdn Pro C

List of witnesses for the defence

None

LIST OF EXHIBITS

"A" AFB 252 Statement of Evidence d/9 Nov 44.

"B" Certificate of Arrest d/9 Nov 44.

Exhibit C

No. 87391 Name GRAHAM. H. Sqn., Battery, or Company Corps RCASC Date of enlistment 20-1-42 G.C. Badges Service or Proficiency Pay

M.F.M. 5 (A.F.B. 122) 17551-7-41 (1252-28) H.Q. 1772-35-1032

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS	Granted furloushg 3-8-42 to 16-8-42 Warrant A 68263.								
Debert NS	4-9-42 12-9-42	Pte		S.L.T.Warrant No A 190175					
Debert NS	18-9-42	Pte		Conduct to the Prejudice AA 40	Lt Gordon Cpl Falkins	Awarded 7 days pay	21-9-42	Maj Stevenson	
Field	9 Mar 43	Pte		Neglect to the Prejudice AA 40 failing to wear respirator as ordered.	Cpl Delaney CSM Harding	Admonished	9 - 3-43	J G Lamb Major	
Field	10 Mar 43	Pte		Conduct to the Prejudice AA 40 failed to comply with an order given by an NCO	L/Cpl Jarman CF	Forfeits 7 days pay	11-3-43	J G Lamb Major	
Field	20 Apr 43	Pte		Using threatening langugage to his superior officer.	Sgt Ducks WH Sgt Williams	14 Days FP	22-4-43.	J G Lamb Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12-8-43	Pte		AWL from 1500 hrs to 1930 hrs 12-8-43. Absent 4 hrs 30 mins.	L/Cpl Morken J R	Forfeits 7 days pay		JG Lamb Major	
Field	17-Aug 43	Pte		AA Sec 15(1) AWL from 2205 hrs 17 Aug 43 until surrendering himself to London Civil Police at 0730 hrs 23 Aug 43. TTA - 5 days9hrs 25 mins.	Documentary	21 days FP 21 days pay 6 days auto Forf. of Pay. Cost of Apprehension £0-14-0	24-Aug 43	J G Lamb, Major	
Field	21 Sept 44	Pte		(1) AA Sec 15(1) AWL from 2215 hrs 21 Sept to 1700 hrs 25 Sept (Absent 3 days 18 hrs 45minutes. (1) AA 40 Improper use of WD Veh	Lt F.R.Evans Cpl Elliot W Pte Talivoc	9 Mths R detention	30 Sept 44	FGCM	Forf. 273 days pay FR&I 149(2) Forf. 4 days pay FR&I 149(1)a 3 days pay FR&I 149(1)(c)(1) Total forfeiture 280 days pay.

CERTIFIED TRUE COPY OF DOCUMENTS HELD IN MY POSSESSION.

W.D. Cam. Lieut.

R/ Brunet
mayor

TO; Commandant,
No 1 FP Camp & Detn Bks,
Cdn Pro C.

Sir:

With reference to my pending trial by Field General Court Martial.

I wish an officer to be assigned to act in my defence.

Pte Graham H.
B-87391 Pte Graham, H.

COUNTER NUMBER 432413

HOUR 15.50

OPERATOR'S INITIALS YG

RELIEVING OPERATOR G.B.

SSS-14

PTE GRAHAM. I.A.

RECEIVED AT CMHQ IN AG 160 555-14

RECEIVED 27 JUL 1944 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFA66 (To Dft of AFA87 for F & R 11808 (2084))

Convened by Order of Col A.B. Pearson, OBE, ED Comd "D" Gp, CRE dated 13 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.54056	Pte	Isaac Alexander	GRAHAM	RCASC 1 CASCBU

PROCEEDINGS REVIEWED July 28th 1944

RCarr Lt.

JCJC

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH, CMHQ

Held in the Fd in (*country*) England on (*date(s)*) 15 July 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provision for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached hereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 10.35 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected for trial by court-martial instead of being dealt with summarily by the CO (2).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ RCOR as interpreter ? Ans ~~Prosecutor sworn (1)~~ Do you object to 547184 Cpl ~~Coyne~~ Fyfe as shorthand writer ? Ans ~~Prosecutor sworn (1)~~ The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 69(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R.E. Mummery	1 CASCBU RCASC
Member	Capt	W.F. Turnbull	1 CASCBU RCASC
Member	Lieut	DS Birks	1 CASCBU RCASC
Judge-Advocate			
Prosecutor	Lieut	A.R. Pitching	1 CASCBU RCASC
Defending Offr	Lieut	W.S. Berman	1 CASCBU RCASC

Questions by President: Is the Prosecutor a lawyer ? Ans No sir Is the Defending Offr a lawyer ? Ans No sir

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DF p 33.)

A8. The accused ~~has~~ is ~~not~~ the ~~same~~ Isaac Alexander Graham before arraignment make(s) (no) ~~not~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(does)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without assthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 80, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans _____ (5)

(1. *RP* 37(5). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the pleas of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1 cm

CHARGE SHEET

The accused, B-54056 Private Isaac Alexander GRAHAM, R.C.A.S.C., on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas, is charged with, When On Active Service:-

FIRST CHARGE
A.A. Sec.
15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1015 hours 29 February 1944 until 0045 hours 29 May 1944 when he was apprehended by PWR67 Bromage, at NEATH, thereby incurring costs of apprehension in returning him to this unit in the amount of Four Pounds Fourteen shillings and Seven pence (£4-14-7). (Total Time Absent 89 days 14 hours and 30 minutes).

H.P. Bonnick

(H.P. Bonnick) Colonel,
Commanding,
1 Cdn ASC Rft Unit.

IN THE FIELD.
5 JULY 1944.

To be tried by Field General Court Martial.

A.S. Pearson

(A.S. Pearson) Colonel
A/Commander
"D" Group, Cdn Rft Units

In the Field
13 Jul 44

1cm

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.54056	Pte		Isaac Alexander	GRAHAM	RCASC 1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 13 Jul 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R.L. Mummery	1 CASCRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by Commanding Officer	1 CASCRU
A Lieutenant	to be detailed by Commanding Officer	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

[signature] (Signed personally. RP 105 (n 2.))

Colonel (Rank.)

Date 13 Jul 44

Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

PLEA FOR MITIGATION IN SENTENCE OF;-

B-54056 Pte Graham, L.A. ;

It is said that every man has some sort of a story, some sort of explanation by which he hopes to explain his actions or to mitigate an impending punishment. This is as it should be for man is largely a reasoning animal, unfortuneately, however, swayed over much so, by emotion. We have the sorry spectacle today of nations busily trying to offer explanations to each other in order to justify their murderous involvment in war. It is not amiss, then, that we should listen to this man's plea for a military crime largely engendered by conditions over which he has had no control. Men joined this civilian army of ours to fight, not to spend months, years in an enviroment and under controls alien to citizens of a democracy.

This man came overseas with the 19th Regt Pl RCASC 87 Arty Coy as a Sec Cpl June 1943.

Shortly after coming O/S he was involved in a slight accident while riding M/C (damage to the extent of approx 4s) and for some reason was held pending Court Martial for four months. It was subsequently dropped when a new O.C. took over the Coy. On 1 Jan 44 he was granted a late pass to proceed to a nearby town. When he was just leaving the camp he accepted a ride into town in a jeep driven by one of the Coy Officer's batman and the Orderly Cpl who was escorting a prisoner to the Guard Room which was located at Coy HQ. After delivering the prisionerthey proceeded to town where the batman had to pick up some article for his officer and it was here that Cpl Graham left them. On his return to camp he was placed under arrest on the grounds that he had been the senior rank in the jeep when they left the camp and as the batman had not returned with it he was being charged with leaving a place of duty. He was paraded next morning and reverted to the rank of Pte. He was then transferred to #3 Regt Pl of the same Coy.

Insofar as he had been held four months, pending Court Martial for the aformentioned M/C accident he had had no leave in this country. He was subsequently granted his first nine days leave from 18 Jan 44 to 27 Jan 44.

Upon his return to his unit he resumed his duties as a signwriter and while working outside in the open he contracted a bad throat. He reported to the MO and received treatment for nine days but received no relief from his ailment, in fact, his throat got worse.

At this time the Platoon were on wheels and on the 28th Feb 44 he went to town and purchased some medicine for his throat, remaining in town for the night, returning to his unit in the morning at 0715 hrs. He was told that the Pl had left and that he was under arrest as an AWL and was refused permission to rejoin his unit by the cook's lorry which was even then leaving for the unit. He got fed up and left the camp, proceeding to Wales, where he had spent his leave, with friends.

About the middle of March he entered the Swansea General and Eye Hospital, Swansea, South Wales and stayed overnight for treatment of his throat . The following day 16 Mar he was sent to the Morrison (EMS) Hospital where he remained for 7 days. When discharged from there the Hospital authorites did not notify his unit, but suggested that return there to convalese (Graham telling them that he was on 14 days leave at the time) From this time on, he travelled around Wales staying at US Army Camps and pressing uniforms for pocket money. On 30 April he was staying with an American Unit (8 Division) and when intown with two G I's they came across several

darkies molesting some girls and proceeded to break it up. However, before actually getting involved in the scuffle, Graham fell and struck his head on the curb and his head snapped back and hit the sidewalk. He was unconscious and removed to a nearby house where a civilian doctor was called in to attend to him. It was necessary to have six stiches to close the wound. He was then removed to a Camp Reception Station at Swansea. This incident happened in Llanelly, Wales.

The follwoing day he was released and went to stay at another US Army Camp of engineers at Pembrey, Wales and remained there for 14 days and the American MO dressed the wound twice daily during this period. He was apprehended in Neath on 29 May 44 and sent to Swansea and there taken into custody by Cdn Provost and taken to London, thence to Redhill, but it was found that he could not be tried there and he was again taken to London and from thence to ~~Kneller~~ 1 CASC RU.

These, then are the bare facts of the case. I would draw the attention of the court to the fact that this man found hospitality in an American Camp, as a Canadian solkier. He obviously must have borne himslef well otherwise he would have come under suspicion. Again, I would point out, that the man had and obviously bad throat.

Being Category A, 38 years of age, a qualified driver and motorcyclist with a Cl rating on his last refresher course for NCO's, B-84086 Pte. Graham, I A asks that the Court, in view of his qualifications for service, his tough break at the start and his apparent ability to soldier well, when given half an opportunity, grant him a suspended sentence and send him at once to a Unit in an Operational Zone.

It must be apparent to the Court, or anyone who attended recent Court Martials in this Camp that many of the cases have been brought about by conditions aggravated by long tedious weeks of hum drum training and fatigues, and that men like the accused, who were once good reliable soldiers, can be so again, of use to their Country and a credit to themselves. If the Court will see the obvious answer in such cases, <u>not more detention</u>, but a suspended sentence and an attached strong recommendation to higher authority, based on the urgent need for drivers in the field, that useless, further degrading, sould destroying detention be dispensed with, until these men have had at least one opportunity to re-establish themselves by serving in Normandy or other theatres of war, under battle -conditions.

Finally I would point out to the Court that this man has been held under close arrest for a period of 48 days, which, in itself is punishment enough. Again, a perusal of his past record will give light to a series of petty, minor crimes, which any soldier, subject to long periods of training and boredom is liable to commit. I would finally poijt out to the Court that punishment has but one end and that is to deter the offender from the commission of a further offense, but it is not an end in itself. The same result can be achieved by a sentence which I have tenatively advanced.

Lt M A Berman

Legal

Exh 12A

CHARACTER WITNESS

in the case of

B54056 PTE GRAHAM, I.A.

1ST WITNESS
K77632 Sgt
Douet, K.P
CASC - RU

K 77632, Sgt Douet, K.P. having been duly sworn states-

May I refer to facts Sir. The first time I came in contact with B54056 Graham, I.A. was on 3 Oct until 23 Oct 43 while he was attending a NCO's Refresher Course Serial 14. Now this man at that time was a confirmed Section Corporal and Graham stood out in my mind as an excellent soldier and while on this course, of which I was in charge of we always appointed an NCO of the class to see that all the class get on parade on time and properly dressed. Now Graham was in charge of his class and he marshed the men out for three weeks and as far as his deportment for these 3 weeks is concerned, it was good.

This is from records Sir. His ability as far as lecturing is concerned was good and might I say again that his deportment was very good and the handling of the men on this course of which I was in charge and that these remarks were verified by Officer In Charge "He worked and tried hard". He attained a very good qualification on this course.

I should like to say in conclusion Sir that I was sorry to see Graham here under these circumstances for he would have made a good Platoon Sgt.

Exh C

1C4

SUMMARY OF EVIDENCE

IN THE CASE OF B-54056 Private Isaac Alexander GRAHAM, R.C.A.S.C., on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st WITNESS (For the Prosecution) Lieut W.D. Faulafer, RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn states:-

I am Lieut W.D. Faulafer, RCASC, on strength of 1 Cdn ASC Rft Unit, and I produce the following documents relating to the accused, whom I now recognize:-

(a) Certified True Copy of an Extract from Daily Orders Part II, No 11 of 87 Cdn Arty Coy, RCASC Section 11 3rd Cdn Med Regt Pl, RCASC, dated 23 March 1944, showing the accused absent without leave from 1015 hrs 29 February 1944 and still absent at 1015 hrs 8 March 1944 (8th day).
Marked Exhibit "A"

(b) Certified True Copy of an Extract from Daily Orders Part II No 13 of 87 Cdn Arty Coy, RCASC, Section V 3rd Cdn Med Regt Pl, RCASC, dated 31 March 1944, showing the accused as struck off strength to Y-3 List, RCASC, with effect from 16 March 1944 on admission to E.M.S. Hospital.
Marked Exhibit "B"

(c) Certificate "Admission and Transfers" (Hospitals and C.R.S.), purporting to be signed by J. Angus Brown, Capt., R.A.M.C., Officer Commanding Camp Reception Station, 43/45 Byrn Road, Swansea, dated 16 March 1944, and showing the accused admitted to Morriston E.M.S. Hospital, Swansea, with effect from 16 March 1944.
Marked Exhibit "C"

(d) AFC 1618 - Description Return of a Deserter or Absentee Without Leave, purporting to be signed by J. Richings, 12 Rugby Avenue, NEATH, Committing Magistrate, dated 30 May 1944 showing particulars and grounds of apprehension relating to the accused.
Marked Exhibit "D"

(e) Expense Voucher, purporting to be signed by R.E. Birch, Lieut, Admin Officer, D.P.Ms Branch, C.M.H.Q., dated 1 Jun 1944 showing costs of returning the accused from NEATH to LONDON in the amount of Two Pounds, Nineteen shillings and Eleven pence (£2-19-11).
Marked Exhibit "E"

(f) Expense Voucher, purporting to be signed by R.E. Birch, Lieut, Admin Officer, D.P.Ms Branch, C.M.H.Q., dated 2 June 1944, showing costs of escorting the accused from London to Redhill in the amount of Three shillings and Four pence (£0-3-4).
Marked Exhibit "F"

(g) Expense Voucher, purporting to be signed by Capt. J.A. Whitelaw, Adjt 1 Cdn ASC Rft Unit, dated 5 June 1944, showing costs of returning the accused from LONDON to this Unit in the amount of One Pound, Eleven shillings and Four pence (£1-11-4).
Marked Exhibit "G"

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

W.D. Faulafer Lt

(W.D. Faulafer) Lieut.

Medical Officer
K.R. (Can) para 557 RCM

I certify that I have this morning examined No: B 54056

Pte. Graham, L.A. and in my opinion he is fit to
(rank) (name)

undergo trial by Court Martial.

Station: 1 C.A.S.C. (R.U.)

Date: 15 July '44

(Medical Officer)
1 Cdn A.S.C. Rft Unit

2nd WITNESS (For the Prosecution)

7688193 Sgt Parkman, W.H., Corps of Military Police. (Documentary)

Statement of Evidence attached to AFB 252.

A written statement of the 2nd witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Exhibit "L".

Having regard to the expense and loss of time involved the attendance of this witness cannot, in my opinion be readily procurable.

The accused does NOT require the attendance of this witness for cross-examination.

(G.W. McKee) Capt.
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows, "Do you wish to make a statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in writing in the Field on this 4th day of July 1944 in the presence and hearingof the accused and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

(G.W. McKee) Capt.
Officer detailed to take
Summary of Evidence.

IN THE FIELD.
4 JULY 1944.

Exhibit "A"

PART II ORDER EXTRACT FORM

Acm

TO: No. 1 Cdn ASC Rft Unit

File.....3/6-3 (2).....

Date.....22 Jun....., 19.44.....

Certified True
EXTRACT FROM:

Unit.....87 Cdn Arty Coy RCASC

Section II 3 Cdn Med Regt Pl RCASC

CR 67 /Pt II O No....11.... dated..23 Mar 44....

Para 7

ABSENT WITHOUT LEAVE

AWL from 1015 hrs 29 Feb 44. Still Absent 1015 hrs 8 Mar 44 (8th day)

B54056 Pte Graham, I.A.

~~/The following documents are (attached/ Please ask on any applicate. required/ Please find same.~~

Originating Clerk's Initials.GCH.

CERTIFIED TRUE COPY

~~[illegible]~~

POST/DRLS/HAND

G W Pickle Capt
Offr. detailed to take summary.

G A Poirier Capt
(G.A. Poirier) Capt
Offr Comd
3 rd Cdn Med Regt Pl RCASC

Exhibit "B"

ACM

PART II ORDER EXTRACT FORM

TO: No. 1 Cdn ASC Rft Unit

File.....3/6-3.....(2).....

Date.....22..June....., 19..44.....

Certified True EXTRACT FROM:

Unit..87 Cdn Arty Coy RCASC.....

Section V 3 rd Cdn Med Regt Pl RCASC

CR 69 /Pt II O No...13..... dated...31 Mar 44..

Para 17. STRENGTH DECREASE

S.O.S. to X3 List RCASC w.e.f. 16 Mar 44 on adm to EMS Hosp.

B54056 Pte GRAHAM, I.A.

~~[illegible]~~

Originating Clerk's Initials..GCH

CERTIFIED TRUE COPY

~~(J. S. MacAulay)~~ ~~Major~~

~~Officer Commanding~~

~~82 Cdn K & Bde Coy RCASC~~

POST/DRLS/HAND

GW Maybee Capt

offr detailed to take summary.

(G.A. Poirier) Cpt

Offr Comd

3 rd Cdn Med Regt Pl RCASC

Exhibit "C"

RCM

Telephone:- Swansea 4414.
Reference:- CRS/II/2 /41(M).
Subject:- Admissions & Transfers (Hospital & C.R.R.).

Officer Commanding,
RC 3 SC AA 52 Artillery Coy.
32 M Reg Station, Tadworth Surrey.

No. B 54056 Rank Pte Name Grayham I.A.

This is to inform you that the a/m was ~~transferred~~ admitted to Morristin E.M.S. Hospital Swansea on 16 March 44 Suffering from Burns of leg.

J Angus Brown

Camp Reception Station,
43/45 Bryn Road,
Swansea.
16 March 44.

G W McKee Capt
Offr. detailed to Camp Summary

Captain R.A.M.C.,
Officer Commanding.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____

Police in connection with the apprehension of _____ and are

payable to _____

_____ Superintendent or Officer i/c Police Station at

Date _____

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster _____ is hereby authorised to pay to _____ being the person recommended by the Committing Magistrate, a reward of _____ for the apprehension of _____

Date _____ (O.C. Unit) Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

Exhibit "D"

R.L.M.

Army Form O.1018.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*[illegible]) [illegible] 70,000 11/40 A.S.R.W.Ltd. Gp.[illegible] Form O.1018/53

G.W. McKee Capt
offr detailed to take summary

DESCRIPTIVE RETURN OF B/54056 Dvr. Graham I.A. who was apprehended at Heath at (hour) 12.45 A.M. on the 29th day of May and was committed to confinement at Heath Police Station, on the 29 day of May as a Deserter (or Absentee without leave) from the 3rd ~~Bn. of the~~ Medium Regt Platoon, Regiment of 87 Artillery Coy Royal Canadian Army.

Age 33 Height 5 in. feet — inches
Complexion Great Hair Brown Eyes Brown
Marks In uniform or plain clothes Uniform

Probable date and place of attestation	
Probable date of desertion or beginning of absence and from what place.	29th February 1944
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	PWR 67. Bromage.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	12.45 A.M. on 29/5/44. I saw the soldier in New St Heath, and I asked him for his Army pay book or pass, he failed to produce either, but handed me a note. Not being satisfied with same I took him to Townhall Police Station, when after inquiries I learned he was a deserter from the R.C.A. He was later C.C.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an Absentee without leave from the before-mentioned Corps.

J. Richings Signature
12 Rugby Avenue Residence
Heath Post Town
of Committing Magistrate.

30th May 1944. Date of Signature

Isaac Alex Graham Signature of Prisoner
PWR 67 Bromage Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from" or "belongs," or "does not belong to," as the case may be.

Army Form O-1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of
Regiment at on by
who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

J. Richings { Signature of Committing Magistrate.

~~May~~ 29th 1944 Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorized if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

"E" Exhibit "E"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 354056 Rank Pte. Name Graham, J. A. Unit 3 Med. Reg. Pt. R.C.A.S.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ ~~Unit From~~ London from Math

Date	Particulars	Amount		
1 June 44	Escorts return fare from LONDON To Math	1	9	3
	Prisoners single fare to LONDON From Math		14	8
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		16	0
	Total £	2	19	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. E. Birch LIEUT.

R. E. BIRCH,
ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense Memorandum
No. 6 Provost Company, Canadian Provost Corps, London

G. W. McKee Capt.
Offr detailed to Tave Summary.

C.M.H.Q. 1000/55
40/P & S/483

Exhibit "F"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 KDM

Reg. No. 854056 Rank Pte. Name Graham, I.A. Unit 3 Med Regt Pte. R.C.A.S.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (½ Portion)	Amount		
2 June 44	Escorts return fare from LONDON To Redhill		1	8
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Redhill		1	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. E. Birch LIEUT.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, Canada

R. E. BIRCH.
ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.

C.M.H.Q. 1000/55
40/P & S/483

G W Meyer Capt
Off. detailed to take summary

Expense Voucher Re—: Exhibit "G" Ref: K.R. & O. (Can) 539

Reg. No. B[illegible] Rank Pte Name Graham J. A. Unit 201 CASC RU

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From

Date	Particulars half portion	Amount		
June 5	Escorts return fare from LONDON To Beverley		14	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Beverley		14	2
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		3	0
	Total £	1	11	4

~~Exhibit~~ G
H.D.F.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J A Whitelaw Capt & Adjt.
~~Lieut~~
1 GEN A S E EFT UNIT
Officer Issuing Railway Warrant and Expense monies
~~No. 6 Provost Company, Canadian Provost Corps, London~~

C.M.H.Q. 1000:55
40/P & S/489

G Whitelaw Capt
officer retailed to
this summary

A 63254
L/Cpl Thomas Davies
Escort.

Exhibit "L"

CHARGE

Army Form B 252
(See King's Regulations)

No. 1 C.A.S.C.R.U. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. B-54056 Rank Pte.

Name Graham I.A.

Place Neath, Wales Date of Offence 29 May 44.

OFFENCE W.O.A.S. was A.W.L.

R. L. STINSON, CAPT. D.A.P.M. C.M.H.Q.

Names of Witnesses :—

P.W.R.67 Bromage Neath Civil Police.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of **EVIDENCE** in the case of
B-54056 Pte. Graham I.A.
No 1 C.A.S.C.R.U.

Documentary Evidence attached.

REMARKS

Subject :- Canadian Absentee.

To :- A.P.M. South Wales District, Cardiff.

Copy to :- Officer Commanding 87th. Artillery Coy. Royal Canadian Army (per. Escort.)

Ref:- B/54056. Private. GRAHAM. I.A.
Medium Regt. Platoon, 87th. Artillery Coy.
Royal Canadian Army.

Sir,

The above named soldier was arrested by the HEATH BOROUGH police, as an absentee at 0045hrs. on the 29th. May.1944, was brought before the magistrates and ordered to be remanded, awaiting military escort and was subsequently taken over by this Detachment on the 31st May.1944. He was conveyed to the 199th. Company Pioneer Corps, Glanmor Road School, Sketty, Swansea and handed over to the M.C.O. i/c Guard to be detained.

Early this month, a message was received from the Duty Officer, Carmarthen Sub-District, to the effect that this soldier had been taken there, having been found at a U.S. Army camp, in that district and not being able to give a suitable account of himself. It was further stated that he had made his escape while the officer had gone into an adjoining room, for the purposes of making enquiries.

At about 2300 hrs. on the 17th. May.44 a message was received from the civil police, at AMMANFORD, S.Wales that a soldier, answering Graham,s description, had fallen in the road and had obtained head injuries. He had been taken to a nearby house and was collected by an ambulance from the Camp Reception Station, Swansea, where he was admitted. In spite of the fact that the C.R.S. were informed of Graham being Absent he was allowed to leave the following morning and remained an Absentee until apprehended by the Heath police.

SWANSEA.
31st. May.44.

[illegible] Sergt.
The Corps of Military Police.

B-54056 GRAHAM, I.A.

No. Name | Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 9-9-41 | QC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/PAS/190 (34220)

Date of last entry in Company Conduct Sheet | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of 6 months service on 9-3-42 in accordance with Overseas R.O. 319									
Last entry Nil			Cases of	Drunkenness - Nil					Total Forf 4 days FR&I
Toronto	2-7 42	Pte		AWL from 2-7-42 to 3-7-42 (2 days A A 15 (1)		Fined 2 days pay in lieu of detn.			Total Forf 6 days pay
Toronto	16-7 42	Pte		AWL from 16-7-42 to 16-7-42 AA Sec 15 (1) Breaking Bks & AWL 17-7-42 A.A. Sec 10 (4) & AWL 17-7-42 to 18-7-42 Sec 15 (1)		14 days C.B. Forf 3 days pay forf 3 days pay in lieu of detn Sec 46 (2) (d)			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	23-7-42	Pte	nil	a Breaking Bks A.A. Sec 10 (4) b AWL 23-7-42 to 25-7-42 (2 days) A.A. Sec 15 (1)		6 days forf of pay in lieu of detn A.A. Sec 46 (2)(d) Admonished (first charge)			Total Forf 3 days pay
Toronto	27-7-42	Pte	1	A.A. Sec 19 Drunkenness		8 days detn			Total Forf 31 days.
Toronto	24-8-42			Breaking Bks A.A. Sec 10 (4) A.W.L. 3 hrs 30 mins AA Sec 15 (1) Close arrest 24 days		Fined $5.00			
Toronto	24-8-42	Pte	2	A.A. Sec 19 Drunkenness		Fined $10.00 10 days C.B.			
Toronto	4-9-42	Pte	3	A.A. Sec 19 Drunkenness		Fined $10.00			
Toronto	19-9-42	Pte	4	A.A. Sec 19 Drunkenness					

B-54056 GRAHAM, I.A.
No. Name

Sqn, Battery, or Company: N/A
Corps: R.C.A.S.C
Date of enlistment:
GC Badges:
Service or Proficiency Pay: N/A
3/17 MFM 6 (AFB 122) 40/P&S/136-(5413)

Date of last entry in Company Conduct Sheet: N/A
No. and date of last drunk: N/A
Period not reckoning towards freedom from extra fine:
Sheet No 2
Signature OC Company, etc:
Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	2-10 42	Pte		A.W.L. 2-10-42 to 18-10-42 TTA 16 days A.A. Sec 15 (1)		10 days detn 16 days pay and allce. 2 days forf of pay	20-10-42		Total Forf 27 days pay
Vancouver	22-11 42	Pte		A.W.L. 0200 hrs 22-11-42 to 2215 hrs 22-11-42 total absence 20 hrs 15 mins A.A. Sec 15 (1)					Total forf 3 days pay
Vancouver	29-11 42	Pte	5	A.A. Sec 19 Drunkenness		Fined $5.00 14 days C.B.	30-11-42		
Field	27-12 43	Cpl		AWL A.A. Sec 15 (1) Absent from 2315 hrs 26 Dec 43 to 1015 hrs 27 Dec 43 (Absent 11 hrs) and absent from 2130 hrs 27 Dec 43 to 0730 hrs 28 Dec 43 (Absent 10 hrs)	Lt Stewart S/Sgt Buton	Severe Reprimand	29 Dec 43	Major J. FitzRandolph	Forf 2 days pay under FR&I 149 (1) a

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Feb 44	Pte	6	a b Drunkenness A.A. Sec 19 Disobeying a Lawful Command Given by His SUPERIOR Officer A.A. Sec 9 (2)	DOCUMENTARY	Fined $10.00 Or f 1 days pay under FR&I 149 (1)(a)	7 Feb 44	Major J. FitzRandolph	
			7	c Drunkenness A.A. Sec 19. d A.W.L. A.A. Sec 15 (1) Absent 11 hrs 25 minutes.					

CERTIFIED TRUE COPY COMPILED FROM THE ORIGINAL MFM 6 IN MY POSSESSION.

(Officer i/c Records)
1 Cdn ASC Rft Unit,
Canadian Army Overseas.

Ex A- Rem

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-54056	Pte	GRAHAM, I.A.	1 Cdn ASC Rpt Unit

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months			Since enlistment or appointment		
For	A.A. Sec 15 (1)	TWO	times	A.A. Sec 15 (1)	NINE	times
For	A.A. Sec 19	TWO	times	A.A. Sec 19	SEVEN	times
For	A.A. Sec 9 (2)	ONE	times	A.A. Sec 9 (2)	ONE	times
For			times	A.A. Sec 10 (4)	THREE	times
				AA Sec 40	ONE	

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 48 RCM days in ~~Air Force~~ military custody, making a total of 48 RCM days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 33 years

6. The date of his ~~our mission~~ attestation specified in his ~~record of service is~~ attestation paper 9 Sep 41

7. The service which the accused is allowed to reckon towards discharge is Nil

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. C.V.S.M. wef 15 Jan 44

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of NOT APPLICABLE ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number B-54056 Rank Pte Unit Regiment

Name GRAHAM, I.A. of 1 Cdn ASC Rft Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N I L		

Officer having custody of Regimental Books

M Lavene Capt
(Officer i/c Regtl Books)
1 Cdn A S C Rft Unit
Canadian Army Overseas

10 Jul 44

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

I, the accused, B-54056 Pte Graham, I.A., desire the services of Lt J.T. Sinton, RCASC, to represent me at my forthcoming trial by Field General Court Martial.

(B/54056 Pte Graham, I.A.)

Isaac Alexander Graham

IN THE CASE OF
B-54056 Private Isaac Alexander GRAHAM
R.C.A.S.C.

. . . . . .

LIST OF WITNESSES FOR THE PROSECUTION

Lieut W.D. Paulafer	1 Cdn ASC Rft Unit
7688193 Sgt Perkman, W.H.	Corps of Military Police

LIST OF ORIGINAL EXHIBITS

"A" Certified True Copy of an Extract from Daily Orders Part II No 11 of 87 Cdn Arty Coy RCASC, showing the accused absent without leave from 1015 hrs 29 Feb 44.

"B" Certified True Copy of an Extract from Daily Orders Part II No 13 of 87 Cdn Arty Coy, RCASC, showing the accused as SOS to X-3 List, RCASC wef 16 Mar 44 on admission to Hospital.

"C" Certificate "Admission and Transfers" (Hospitals and C.R.S.) purporting to be signed by Cap J. Angus Brown, Officer Commanding, Camp Reception Station, showing the accused admitted to Hospital wef 16 Mar 44.

"D" AFO 1618 - Description Return of a deserter or Absentee without Leave, showing particulars and grounds of apprehension relating to the accused.

"E" Expense Voucher showing cost of apprehension in returning the accused to this Unit in the amount of £2-19-11.

"F" Expense Voucher showing cost of apprehension in returning the accused to this Unit in the amount of £0-3-4.

"G" Expense Voucher showing cost of apprehension in returning the accused to this unit in the amount of £1-11-4.

LIST OF EXHIBITS

"L" AFB 252 (with statement of Evidence attached).

Fifty-three Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....

Do you intend to call witnesses on your behalf?

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes sir: A/776432 Sgt. Brunt K.F.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

RP 37

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

RP 37 RP 46

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes sir.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 37(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 43. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 309, 330, 563-566, Overseas RO 209, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.54056 Pte Isaac Alexander GRAHAM - RCASC - 1 CASCHU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 48 days, of which ..... days were spent in hospital (*)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for six months and to be put under stoppage of pay until he has made good the sum of Four Pounds Fourteen shillings and Seven Pence (£4.14.7) cost of apprehension.

(Sgd) ..... Judge-Advocate, if any. 15 July 1944 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders (1)~~

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Pearson Colonel ~~Brigadier~~ Commander "D" Group

Date 16 July 44 Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-54056 Pte Grahma, I.A.	18 Jul 44	(G. Gibb) Major A/Comd No 1 Holding Wing 1 Cdn A S C Rft Unit

Part II Order 169 d-19 Jul 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CDN. A.S.C. REIN. UNIT.

WWW-104

Spc. Graham, J

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 20620 Spr Johnston GRAHAM

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in lieu of list see RP 44 fn 6.)

~~As present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

90 days Detention

(Sgd) ..... Judge-Advocate, if any.

14 Aug. 44 Date awarded. (Sgd) [signature] President (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1) AA 57A. Delete if not used.) L&WE

(Sgd) R. A. McCuaig Brig

Date 20 Aug 44. Commanding D.D.M.S. 1 Cdn Corps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H 20620 Spr JOHNSTON GRAHAM	22 AUG 44	[signature] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 25 SEP 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN Vol 100 WWW-104

CPA66 (1st Issue of AFA3) 40/P.S. 8/1498 (2804)

FIELD GENERAL COURT-MARTIAL

Order of E.A. McCUAIG Brigadier ~~Comd~~ DDMS dated 11 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit
H 20620	Spr. —	Johnston	GRAHAM	12 Fd Coy RCE

PROCEEDINGS REVIEWED 26 Sep 44

R Deau Wille Capt

JCHC

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 14 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for births and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	A/Major	Geo. C. HAMILTON	9 Cdn Fd. Pk Coy RCE
Member	Capt	B.I.F. BREAKEY	9 Cdn Fd Pk Coy RCE
Member	Lieut	G.H. BULCOCK	264 Fd. Coy. R.E.
~~Judge-Advocate~~			
Prosecutor	Capt	J.B. ELDRIDGE	12 Cdn Fd Coy RCE
Defending Offr	Lieut	A.T. ANDERSON	12 Cdn Fd Coy RCE

Questions by President: Is the Prosecutor a lawyer? Ans. NO Is the Defending Offr a lawyer? Ans. NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused H 20620 Spr. Johnson GRAHAM before arraignment makes(s) ~~has~~ (as) plea

NOT GUILTY (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*II*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans _____(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ____, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B6 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans Yes (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 355. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I wish to give evidence on oath. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans No
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA* 54(*3*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*3*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

~~E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans~~
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM p.* 3. 3. *RP* 46, *KR Cor.* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(10), 88(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No H-20620 Sapper Johnston GRAHAM, of the 12th Canadian Field Company, R.C.E., a soldier of the Canadian Army (Overseas), is charged with:

Charge
Section 9(2)
Army Act

When on active service, disobeying a lawful command given by his superior officer,

in that he,

in the Field, on the 23rd day of July, 1944, after being ordered by H-13114 Sgt Y. Berlin, 12 Cdn Fd Coy, RCE., not to take a vehicle out of the vehicle yard did so.

(G.K. Wade) Major
OC 12 Cdn Fd Coy, RCE

In the Field,
6 AUG 44

To be tried by Field General Court-Martial

(E.A.McCusker) Brigadier
D.D.M.S. 1 Cdn Corps

Field,
11 AUG 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAN/1607 (2603)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-20620	Spr		Johnston	GRAHAM	12 Cdn Fd Coy, RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 AUG 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

A/MAJOR (Rank.)	G. C. HAMILTON (Must be named. RP 106.)	9 CDN FD PK COY R.C.E. (Unit.)

MEMBERS.

CAPT	To be detailed by O.C. 9 Fd PK Coy R.C.E.	
LIEUT (Rank.)	To be detailed by O.C. 264 FD COY R.E. (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

LIEUT (Rank.)	To be detailed by O.C. 12 FD COY R.C.E. (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

E. A. McCusker.

in ITALY (Country.) (E.A.McCusker) (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 11 AUG 44 ~~Commanding~~ D.D.M.S. 1 Cdn Corps Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

12TH CANADIAN FIELD COMPANY, ROYAL CANADIAN ENGINEERS, C.M.F.

14 Aug 44.

TO WHOM IT MAY CONCERN:

1. This is to certify that I have Medically examined H-20620, Spr. GRAHAM, J. and found him to be FTD for P.C.C.M.

Medical Officer

First Witness For the prosecution

H13114, A/Sgt Berlin, Y. 12 Cdn Fd Coy. RCE

having been duly sworn states,-

I am H13114, A/Sgt Berlin, Y, Platoon Sgt No. 3 Pl. 12 Cdn Fd Coy RCE. At approximately 2115 hrs 23 July 1944 I saw the accused Spr. Graham, staggering and entering a vehicle. I immediately approached him and asked where he thought he was going. He answered "To pick up the boys in town" or words to that effect. I informed him that a vehicle had already gone to pick the men up, and that he was not to take a vehicle out of the yard. That is all I know of the matter until Lieut York brought the accused into camp and told me to put him under arrest.

Direct Examination

Q1- In what position was the accused when you ordered him not to take the vehicle out of camp?

A1- He was sitting behind the steering wheel.

Q2- Can you repeat to the Court the order which you gave to the accused?

A2- My order was "You are not to take a vehicle out of the park"

Q3. - How did the accused react to this order?

A4 - ~~you~~ The accused left the vehicle immediately.

Q4 - You stated the accused was staggering before entering the vehicle. What was the reason for this?

A4 - He was apparently under the influence of liquor.

Q5 - Did the accused understand the order?

A5 - Yes sir, on receiving the order, he immediately left the vehicle. His actions denoted he fully understood my order.

Cross examination - ~~No cross examination~~ waived without prejudice to later cross examination

Examined by the Court

Q1 - Did you "inform" the accused, or did you "order" the accused not to take a vehicle out of the park?

A1 - I ordered him not to take a vehicle out of the park.

RP 83(B) complied with

RJK

Second Witness for the Prosecution

Lieut John York, 12 Cdn Fd. Coy. RCE, having been duly sworn, states:-

I am Lieut John York, Pl. Commander No. 2 Pl. 12 Cdn Fd Coy RCE. I was returning to the Pl area on the night of 23 July 1944 at approximately 2145 hrs. I came upon an overturned vehicle on the side of the road. I stopped and recognized the accused, Sgt. Graham who was standing beside the vehicle. I asked Sgt. Graham what had happened and he said he had had an accident. I ordered him into my jeep and proceeded to the section area. On arrival in camp I ordered Sgt Graham to put the accused under arrest and to give first aid to his injuries.

Cross exam: None

RP 22 (B) complied with.

The prosecution requested permission to introduce evidence not included in the Summary of Evidence. The accused and the defending officer agreed to accept additional evidence providing the Court was adjourned for one hour. The Court accepted the submission and adjourned for one hour.

Third Witness for the ~~Prosecution~~ Prosecution F96450, Spr. Smith, C.J. 12 Cdn. 7d Coy RCE having been duly sworn states,-

I am F96450 Spr Smith, C.J. of the 12 Cdn 7d Coy RCE, 3 Platoon. On the evening of 23 July 44 I was in a house with other members of my platoon. Whilst sitting there, I heard a crash and immediately ran out in that direction. About 150 yards away I found a vehicle on its side and the accused, Spr. Graham, was sitting in the cab behind the steering column.

Cross Exam.-

Q1- What was the time interval between hearing the crash and your arrival at the over-turned vehicle?

A1- About seven minutes

Q2- Were you the first person to arrive on the scene?

A2- So far as I know, Yes. ~~RP 83 (2) [illegible]~~

Q3- From the position of the vehicle, would it be possible for the accused to be thrown from the co-drivers seat into the drivers seat?

A4- Yes, it could be possible.

~~Accused~~ Re-examined - None.

RP 83 (B) complied with.

The accused did not wish to make an address, and does

First Witness for the Defence.

H-20620 Gnr Graham, T. 12 Cdn Fd Coy RCE, having been duly sworn states,-

I am H 20620, Gnr Graham T, 12 Cdn Fd Coy RCE. I can honestly say that on the night of 23 July 1944. I remember being in a house at about 2030 hrs. I do not remember anything after that until I found myself in a jeep with Mr. York. It was then dark.

Cross Examined

Q1- Do you not recall anything that happened on the night 23 July 1944?

A1- I do not recall anything.

Q2- Do you remember making a statement on 27 July as follows,- "I made a mistake in taking out the wrong vehicle, which was not mine as this vehicle, the one I took out, was not authorized to make a trip"?

A2- Yes.

Q3.- In your statement of 27 July you claim you made a mistake in taking out a vehicle which was not yours. Did you take out that vehicle on the night of 23 July 44?

A3- I do not remember.

Re - examination - None.

R P 83 (B) complied with.

Second Witness For the ~~Prosecution~~ Defence

H 13236, Cpl. Ives, W.C. 12 Cdn Fd Coy. having been sworn states -

I am H 13236, Cpl Ives W.C. 12 Cdn Fd Coy RCE, attached to No. 3 Pl. On the night 23 July 44, I saw the accused, Spr. Graham numerous times between 1600 hrs and 2000 hrs. He was intoxicated and completely incapable.

Cross Examined -

Q1- What do you mean by 'incapable'?

A1- Incapable of driving a ~~co~~ vehicle and incapable of doing manual labour, in other words, useless.

Q2- Did you test the accused by having him drive a vehicle or doing any form of physical labour?

A2- No.

Re Examined - None. RP 83 (B) Complied with.

Third Witness For the Defence.

B 59761, Sgt. Rutledge, E G, 12 Cdn Fd Coy RCE,

having been duly sworn states.-

I am B 59761, Sgt Rutledge E G, 12 Cdn Fd Coy RCE.

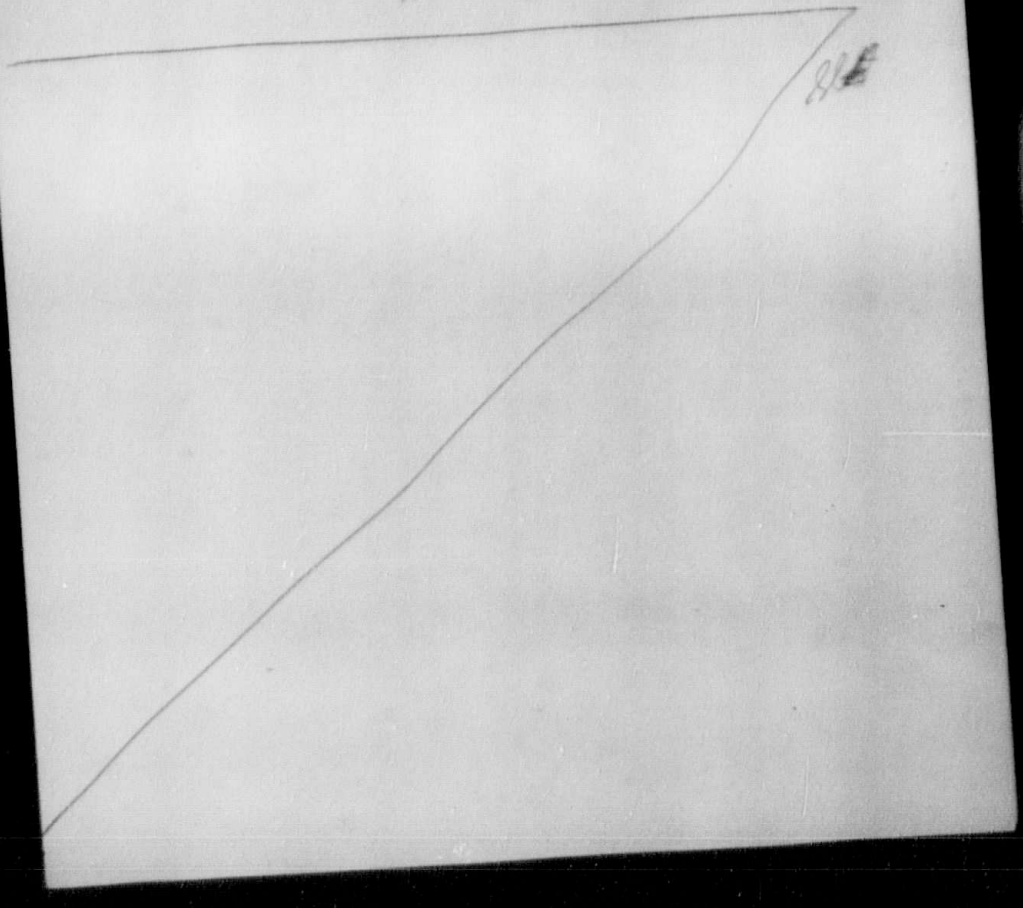
On 23 July last at about 1900 hrs. I met the accused at his truck, which I was ordered to take to town. Sgt. Ingham was very drunk. He did not recognize me, when I took over his truck.

Cross examined - none

Examined by the Court - none.

RP 83(B) complied.

[illegible]



STATEMENT BY PROSECUTING OFFICER

It has been shown that the accused was given an order by Sgt Berlin, the accused understood it as you having if Lt York & Sgt Smith he disobeyed it. The defence attempted to show that he was drunk but drunkenness is no excuse for disobedience.

Disobedience of an order is a serious offence and when it involves danger to a MD vehicle in the theatre of war the offence is aggravated.

May I point out that this man had been relieved of his duty when Sgt Berlin ordered him not to take a vehicle out of the park.

W Eldridge Capt RCE
17 Nov 44

DEFENCE FOR H-20620 Spr. GRAHAM, J.

1. Spr. GRAHAM is charged with "Disobeying a lawful command given by his Superior Officer. A.A. 9 (2). My witnesses have sworn that Spr. GRAHAM was completely under the influence of alcohol. According to the Army Act, a man in this condition is incapable of carrying out his duty, [therefore he ~~must~~ may be incapable of receiving and understanding an order.]

From the evidence of Sgt. BERLIN ~~and L/Sgt. DESVEAUX, and from witnesses~~, no attempt was made to see that the accused understood the order. The Sgt. obviously gave the order and then walked away from the accused.

2. The accused has stated on oath that he does not remember anything until the accident. This is quite probable under the influence of the cheap wine, sold in this country.

I therefore claim that the accused while drunk sensed his duty - started to perform it - was stopped - then as is customary when under the influence of alcohol - tryed to complete it; as his vehicle when wrecked, was headed towards SUPINO.

3. If the accused had intentions of stealing a vehicle for his own pleasure, is it not more likely that he would collect his friends with whom he had been drinking and made a party of it.

4. ~~Lt. YORK states that work tickets were required. The reason being that transport was restricted to a minimum after duty hours.~~

~~Yet there was no guard on the M.T. lot to prevent an unhappy occurance like this.~~

5. ~~According to the prosecution, Sgt. BERLIN warned the man at 2115 hrs. and he was brought into camp at 2145 hours by Lt. YORK. It is obvious from these statements that the vehicle must have been heard leaving the yard and yet no attempt was apparently made either to stop or follow a stolen vehicle.~~ Sgt Berlin said that the accused was under the influence of alcohol

6. ~~Both L/Sgt. DESVEAUX and Sgt. BERLIN, in their statements, say that the accused was under the influence of alcohol. The accused also in the presence of L/Sgt. DESVEAUX drove the vehicle about the yard and then was ordered out of the vehicle as incapable of driving it. L/Sgt. DESVEAUX also knew that the man was on duty as duty driver.~~ Is it not the duty of NC.O.'s to discipline men who are on duty andbecome incapable of performing those duties?

I claim that ~~neither of these two N.C.O.'s performed their duties~~ the sergeant did not perform his duty properly. The principle behind the criming of men for minor charges, in this case - under the influence of alcohol on duty - is to prevent men from committing more serious offences which will truely be detrimental to the Army's efficiency.

7. ~~The accused was not driving his own truck. This is easily understandable in that this man was highly intoxicated and was obviously in no condition to tell what or whose truck he was attempting to drive.~~

8. The crime sheet of this man has one entry. AWL from 1800 hrs. to 0715 hrs. - one night out in all his service in the Army. This shows that the accused has certainly obeyed all the rules and regulations of the Army.

9. I am unable to call character witnesses as the M.T. Cpl. under whom this man served has been returned to CANADA as POW escort.

In conclusion I would like to emphasise the following points:

(1) Accused was in such condition that he was incapable of obeying or understanding an order.

(2) The accused was so intoxicated that he has sworn that he remembers nothing of what happened.

(3) There has been no proof of intent to steal a vehicle. Only intention indicated is of a man attempting to carry out his original orders.

(4) ~~Cork tickets required but no guards on vehicle park.~~

(5) ~~No attempt made to stop or follow man when he left yard.~~

(6) ~~Neither Sgt. [illegible] or [illegible] their duty in trying to prevent this occurance. This action showed no human understanding of their man.~~

(7) The accused has an excellent crime sheet.

~~I therefore request the Court to dismiss the charge of disobeying an order which this man obviously was incapable of performing, and consider it a mistake made serious by the slackness and misunderstanding of the soldiers involved.~~

Ex: 17

ARMY FO

Statement as to Character and Particulars of Service of Accused

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H.20620	SPR.	GRAHAM, J.	12 CDN FD COY R.C.E. C.M.F.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provided leave given in the case of serious offence in each entry, and the entry recommending acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For	A.W.L. Sec. 15(I) A.A. NIL times	One times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 79 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~The accused at the present time is under sentence~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NO days in civil custody, and One days in military custody, making a total of One days, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service is 23 yrs 5 mos.

6. The date of his ~~attestation~~ specified in his record of service is 20 Sept. 1940.

7. ~~The service which he has rendered entitles him to reckon~~

8. ~~The accused is entitled to reckon~~

9. ~~The accused is entitled to~~

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is entitled to the following decoration or decorations~~)

~~and to the following clasp or clasps~~

~~and to the following star or stars~~

(1)[illegible] W1.20240/[illegible] 75,000 12/40 A & E.W.2.[illegible] Gp.[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N.A. [signature] Capt.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

[signature] Capt

Signed this 6 day of Aug 44

The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the reformation may be collected from such sources as are available and the paragraph concerned amended accordingly.)

N.A. [signature]

SUMMARY OF EVIDENCE

IN CASE OF H20620 SGR GRAHAM

BY ORDER OF COMMANDING OFFICER ALL EVIDENCE HAS BEEN TAKEN ON OATH.

FIRST WITNESS FOR PROSECUTION: D16389 L/Sgt DESVEAUX, B.P. having been sworn states:

I am D16389 L/Sgt Bernard Paul Desveaux of 3 Pl. 12 Fd Coy RCE. On night 23 Jul at approx 2055 hrs. I saw Spr Graham the accused when I recognize coming into camp walking. It seemed to me to be slightly under the influence of liquor. He went into the M.T. area, got into a truck and started to turn it around. I went over immediately and told him he was not to drive the truck. I called for Rutledge to carry out the duty Graham was to perform. His duty was to pick up men who were on a recreational trip to Supino a near by town. He was duty driver for the following day.

The accused declines to question this witness.

SECOND WITNESS FOR PROSECUTION: H13149 Sgt BERLIN, V. having been sworn states.

I am H13149 Sgt Yale Berlin, Pl. Sgt of 3 Pl. 12 Fd Coy RCE. On night of 23 July 1943

at approx. 2115 hrs. I saw Sgt Graham, the accused whom I recognize, staggering to entering a vehicle in the MT park. I immediately approached him and asked him where he thought he was going. He told me that he was going to pick up the boys in town. I informed him that a vehicle had already gone to pick them up and that he was NOT to take a vehicle out of the yard. He got out of the vehicle and that is all I know until Lt York the Pl Officer came in to ~~inform me that he had found Sgt Graham~~ ~~and~~ me with Sgt Graham at approx 2145 hrs.

[signature]

The accused declines to cross examine this witness.

THIRD WITNESS FOR PROSECUTION. LT JOHN ARTHUR YORK, having been sworn states:

I am Lt. John Arthur York, Pl commander of 3 Pl 12 Fd. Coy. R.C.E. I was returning to Pl Area on night of 23 Jul 44 at 2140 hrs when I saw Sgt. Graham standing on the road with his truck overturned in the ditch

by the side of the road. I asked Spr. Graham the accused whom I recognize what had happened and he explained that he had gone off the side of the road. I took him back to camp in my jeep and had him put under arrest and medically attended to.

Spr. Graham had been the duty driver for the day, ~~but was not in condition to drive and had gone~~

Spr. Graham knew that it was necessary to have a work ticket to take out a vehicle as he had one signed on 22 Jul. As Graham was not driving his own vehicle at the time of the accident it was an illegal trip because no work ticket had been made out for it. All work tickets require the signature of an officer and as Lt Hess the only other officer at 3 Pl was with me at the time there was nobody in camp to authorize the trip.

~~I checked with Sgt Berlin, the Lt Sgt. if Graham had been authorized to make the trip and he replied that he had ordered him not to go out with a vehicle. Sgt Desveaux also informed me that he had ordered Spr~~

Graham NOT to take out a vehicle

John A. York Lt.

The accused declines to cross examine this witness.

The accused having been cautioned in accordance with R.P. 4.(E) elects to make a statement.

The accused H20620 SPR JOHNSTON GRAHAM 3 PL 12 FD COY RCE states:

I made a mistake in taking out the wrong vehicle which was NOT mine as this vehicle I was NOT authorized to make a trip.

J Graham

Taken down by me this 27 day of July 1944

R.P. 4(c), (D), (E), (F), & (G) having been complied with.

[illegible] Capt RCE
12 FD COY RCE

No. NX20620 Name GRAHAM, J. Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 20-9-40 — G.C. Badges 1 — Service or Proficiency Pay 1.50 — "B"

Date of last entry in Company Conduct Sheet — No. and date of last drunk Nil — Period not reckoning towards freedom from extra fine — Sheet No. Dunlop — Signature O.C. Company, etc.

M.F.M. 6 (A.F. B.122) 40/F&C/8136 (2955)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
16 Gen Hosp	29-11-42	NIL		AWL from 1000 hrs. 29 Nov 42 to 0715 hrs. 30 Nov 42 (Absent 13 hrs. 15 mins.)		5 days pay			Forf. 1 days pay PRAI 149(1)(a) PRAI 149(2)

Certified true copy

Capt.
12 Fd Coy R.C.E.
14 AUG 44.

Character

(P.T.O.)

EE-8 (case #2)

GNR GRAHAM J.

See J-143 for 1st case

Correspondence to be PINNED here.

P.G.C.M.

K-6013 Cnr. Graham, J.
1 Cdn Sig R.U.
BGHQ 8-8-2/166

EE-8

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this First day of April, 1945.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

Proceedings Reviewed [illegible] CMHQ 20 May 45

President.

Rank.	Name.	Regiment.
Major	H.G. Shepard	1 CASCRU

Members.

Rank.	Name.		Regiment.
A Captain	J.A.C. Bowen	R.C.A.	1 CSRU
A Lieutenant	H.H. Carter	R.C.A.	1 CSRU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (D.M. Phelan) Brig
Commanding Cdn. Rft. Units
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-6013 Gnr GRAHAM, John 1 C.S.R.U.	First Charge A.A.Sec 15(1)	Guilty	Guilty	~~Confirmed~~ Rec P.R.Durnford 6 Apr 43 Brig I confirm the finding and sentence of the Court but remit the sentence to six months detention P.R.Durnford 6 Apr 43 Brig
	See attached Charge sheet		To undergo 6 months detention in Military Prison Maghaberry vide Order 111	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— N/a

(Signed) (F.R. Phelan) Brig
Commanding Coln Rft Units
Convening Officer (e)

(Signed) H.B.Shepard Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~) D&S

were duly sworn.

* Omit if not applicable.

Signed this 7th day of April 1943.

H.B.Shepard Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 761 M.M.L. 1940.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ Rec

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 8 day of Apr 1943.

P.R.Durnford Brig.
Confirming Officer.

Promulgated and extracts taken in the case of K-6013 Gnr Graham,J 1 C.S.R.U. 8893 1943

(a) (Dated) 9 APR 43 (Signed) D.R.Beaumont Lt-Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, K-6013 Gunner John Graham (R.C.A.) Nos.4 & 5 Company, Regimental Training Wing, No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
SEC 15 (1)
Army Act

When on active service, absenting himself without leave

in that he

at Norval Barracks, Cove, Hants., was absent without leave from 2200 hours 7 January 1943 until apprehended by the Military Police at FRIMLEY at 1650 hours 23 March 1943.

(F.B.Conrad) Lt.Col.
A/Officer Commanding
No. 1 Cdn. Signals Reinf. Unit

Cove, Hants.,
2 9 Mar 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(F.R. Phelan) Brig
Cdn Rft Units

1 Apr 43

Wed. 7th April 1943

This is to certify that K-6013 Gnr Graham, W. (R.C.A.)

is FIT to undergo trial by Court Martial.

(X) [signature] Major

[signature] Capt.
Medical Officer No. 1 C.S.R.U.

This is to certify that K-6013 Gunner Graham,J (R.C.A.)

is ~~FIT~~ to undergo trial by Field General Court Martial

Not fit - ill with acute pharyngitis.

....

A.A. Cardish capt.

Medical Officer No. 1 C.S.R.U.

Date 2 April 1943

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Cove Hants ON THE 7th DAY OF Apr 42.

TRIAL OF:- No. K 6013 Gnr Graham, John Unit 1 C S R V.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) St F.A. Dennett (Unit) 1 C S R V

Defending Officer:- (Name) St F.A.H. Carberry (Unit) 1 C S R V

At 0930 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q-1 Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? A-1 - no.

The President, Members and Judge-Advocate (if any) are duly sworn.

The following constitute the Court:-

President Major H. G. Shepard 1 C A S C R V (Unit)

Members Capt. J. A. C. Bowen 1 C E R V (Unit)

Lieut. H. H. Carter R C A att. 1 C S R V (Unit)

The Officers under instruction are duly sworn.

Q-2 Do you object to ..... acting as shorthand writer? A-2 - ~~The shorthand writer is duly sworn.~~

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name St F.A. Dennett (Unit) 1 C S R V sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with the Regt'l Records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the procedings. (Z) (Y)

Q.3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - yes

Q.4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - no

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Accused states he wanted another arm of the service & has had no co-op from any officer in this respect during the last 3 years He was a miner in civilian life

H G Shepard
Major

Exhibit "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Morval Bks., Cove, Hants on the 1st day of February 19 43, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K-6013 Gnr Graham, J. (R.C.A.)

DECLARATION.

The Court declare that No. K-6013 Gnr Graham, J No. 1 Cdn Signals Reinforcement Unit illegally absented himself without leave at 2200 hrs at Morval Barracks, Cove, Hants on the 7 day of January 1943 and that on the 1 Feb 1943 he was deficient, and that he is still deficient of the following articles:-

EXHIBIT B.

(113)

D.A.P.M. C.R.U.

FARNBOROUGH 25 Mar 43

K-6013 GNR. GRAHAM J., NO.1 C.S.R.U.

ABSENTEE

1. On the 23 Mar 43 while visiting the Camberly Police Station, I was informed that a Canadian soldier had been seen around Frimley for a period of several weeks and was believed to be living with a Mrs. Sergison at 3 Staidon Cottages, Frimley.

2. Accompanied by P.C. Nokes and D/C Brooker of the Camberly Civil Police, I proceeded to the above address and enquired if a Canadian soldier was living there. This was denied but on gaining entry to the house and conducting a search therein, K-6013 Gnr. Graham J., was arrested and admitted that he was absent without leave from No.1 C.S.R.U. since Jan. 6. The time of the arrest was 1650 hours, 23 Mar 43.

3. Gnr. Graham was escorted to H.Q., C.R.U. and there held in custody pending further investigation as it was suspected that he was the Canadian soldier who had allegedly been seen in Frimley wearing an officer's trench coat and attempting to dispose of a W.D. pistol, both these articles being stolen from Morval Officer's Quarters on the 26 Feb 43. Attempts to identify Gnr. Graham as this soldier were met with a negative result. He was then questioned regarding his actions while absent and the following statement was volunteered by him:-

"On the 6 Jan 43, just after being released from detention, I asked my Coy. Officer, Capt. Woods, for a pass and this was refused me, so I went absent without leave. I went to Aldershot and stayed with friends, whose names I do not wish to divulge, for about seven days. From there I went to London and stayed there about a month. I then returned to Aldershot and stayed with the same friends until the 26 Feb 43. Then I went to Frimley and stayed at 3 Staidon Cottages with Mrs. Sergison until I was arrested there on 23 Mar 43.

While absent I did not return to No.1 C.S.R.U. for any purpose. I was in the "White Hart" Public House only once while in Frimley and that time I was alone and I was not wearing a trench coat. I know nothing about the theft of a trench coat and pistol from the officer's quarters at No.1 C.S.R.U.

I have read over the above statement and it is true."

Sgd:- J. GRAHAM

4. It was further ascertained that Mrs. Sergison with whom Graham was staying has been previously convicted by the civil authourities of receiving W.D. property. It is understood that this time the Civil Police will take action again against her for harbouring an absentee from H.M. Forces.

CONCLUDED

C B Mansell

A-56056 L/Cpl C.B. Mansell,
Canadian Provost Corps,
D.A.P.M. Office, C.R.U.

SUMMARY OF EVIDENCE

Summary of evidence in the case of K-6013 Gunner John Graham (R.C.A.) on strength of Regimental Training Wing, No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS for the prosecution

Lieut.C.G.O'Brien (R.C.C.S.) No. 1 Canadian Signals Reinforcement Unit having been duly sworn, states;

"I am Lieut.C.G.O'Brien (R.C.C.S.) on strength of No. 1 Canadian Signals Reinforcement Unit, Canadian Army (Overseas), and in my capacity as Assistant Administrative Officer of No. 1 Canadian Signals Reinforcement Unit I produce A.F.B115 (Certified copy of the Record of Court of Inquiry) which relates to the accused whom I now recognize. (A.F.B115 marked as Exhibit "A").

I also produce a statement purporting to be signed by the accused and by L/Cpl.C.E.Massel, a member of the Canadian Provost Corps, relating to the accused whom I now recognize. (Statement marked Exhibit "B").

.....C.G.O'Brien.....
(C.G.O'Brien (Lieut)
No. 1 Cdn. Signals Reinforcement Unit

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing summary of evidence consisting of approximately two-thirds (2/3) of a page was taken down by me in the presence and hearing of the accused and that the Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

W.S.Hamilton.....
W.S.Hamilton (Capt) (R.C.C.S.)
No. 1 Canadian Signals Reinforcement Unit

Cove, Hants
29 Mar 45

LIST OF WITNESSES FOR THE PROSECUTION

(1) Lieut.C.C.O'Brien (R.C.C.S.) -- No 1 Canadian Signals Reinf Unit.

FOR THE DEFENCE

NIL

L I S T O F E X H I B I T S

EXHIBIT "A" ----------Certified copy of Record of Declaration of Court of Inquiry.

EXHIBIT "B" ----------Statement purporting to be signed by the accused and by L/Cpl.C.B.Massel (C.P.C.)

Statement by the accused in accordance with R.P. 14 (B)

I desire to have an officer assigned to represent me at my trial by Field General Court Martial.

I request the services of Lieut. F.A.H. Carbery (R.C.A.) No. 1 C.S.R.U. if he is available

K-6013 Gnr Graham,J (R.C.A.)
No. 1 Cdn. Signals Reinforcement Unit

The court recommend that this case on completion of sentence be transfered to the Engineers

H. H. Shepard
Major

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-8013 Rank Gunner Name Graham, J (RCA) of No. 1 C.S.R. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating their convictions and dispensations with trial, must be inserted.)

Description or court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the disposing authority	Punishment remitted
F.S.C.M.	In The Field 26 June 42	(1) A.A.SEC.15(1) WOAS AWL from 2000 hrs 16 Jun 42 until 1100 hrs 17 Jun 42. Absent 15 hours.	120 days detention	60 days
		(2) A.A.SEC.11 WOAS Neglecting to obey Standing Orders in that he used D.N.D. motorcycle without work-ticket.		
		(3) A.A.SEC.40 WOAS conduct to the prejudice of good order and military discipline in that he used D.N.D. motorcycle for private purposes.		
		(4) A.A.SEC.11 WOAS Neglecting to obey Standing Orders in that he left D.N.D. motorcycle unattended		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of Mar 1943

W.S. Hamilton

(W.S. Hamilton) Captain.

ARMY FORM B.2146.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-6013	Gunner	Graham,J (R.C.A.)	No. 1 C.S.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—If a trial by field general court-martial this summary must be completed from the field conduct sheet.

The conduct sheets mentioned should be those produced to the court with the statements required by the Army Act and the Rules of Procedure.

† See note (2) below.

* The accused should be asked whether there is any entry in his conduct sheet of which he desires to call attention to the court before it proceeds to deal with the case, and to any recognised mark of good conduct, special acts of gallantry, etc., or distinguished conduct.

Instruction (2). The charge is to be drawn, the court is to be informed of the accused's character and the statements and dated

	* Within last 12 months.	*Since Enlistment.
For A.A.SEC.15(1)	5 times	8 times.
For A.A.SEC.15(2)	times	1 times.
For A.A.SEC.40	1 time	4 times.
For A.A.SEC.11	2 times	2 times.
For A.A.SEC.10(4)	1 time	1 time.
A.A.SEC.24(2)	1	1

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

2. [illegible]

3. The accused is not under sentence at the present time. [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 2 days in military custody, making a total of 2 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 25 yrs 94 days

6. The date of his attestation specified in his attestation paper is 13 September 1939

7. [illegible]

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 193 days service.

9. The accused is entitled to reckon 3 yrs 193 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [illegible]

11. [illegible]

12. [illegible]

(2)

[illegible]

Sergt.

Grade

[illegible]

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1208-20)
H.Q. 1772-39-1652

No. K6013 Name Graham, J Bn., Battery, or Company 108th Corps 2 A/Tk Regt RCA Date of enlistment 5-9-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1. Signature O.C. Company, etc. [signature] Character O.C. No. 4 Coy

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of Awarding of order dismissing with trial	Cdn. Sigs. Rein. Unit. By whom awarded	Remarks
No entries from previous sheet destroyed 5 Mar 40 on completion of 6 months service R071 C.A.S.F. Overseas									
England Aldershot	4-11-40	Gnr		A.A.SEC.15(1) AWL from parade	L/Sgt Ward	4 extra fatigues	4-11-40	Major MacInnes	
Aldershot England	2-4-41	"		A.A.SEC.40 while on picquet duty was found in Gnrs quarters	BSM Bogstie SGT MacArthur	7 days C.B.	3-4-41	Maj Quigley	
" "	24-4-41	"		A.A.SEC.15(2) did fail to appear at a place of parade at 0920 hrs 24-4-41	Bdr Hellyer	4 days C.B.	24-4-41	Cpl Kennedy	
Alfreston	5-7-41	"		A.A.SEC15(1) WOAS AWL from 1830 hrs 5-7-41 until 1400 hrs 9-7-41. absent 3 days 19 hrs 30 minutes. A.A.SEC40 Conduct to the prejudice of good order and military discipline in that he did take a W.D. motorcycle without permission	BSM Bogstie RELEASED FROM CANADIAN DETENTION BARRACKS on JAN 6 1943 SENTENCE [illegible] COMMANDANTS initials..	27 days detn	18-7-41	Lt.Col.R.E. Bliss	Forf 4days pay placed under stoppages to amount of 5/8

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	27-8-41	Gnr		A.A.SEC.15(1)(a)CAS AWL from 0600 hrs 27-8-41 until 2300 hrs 29.8.41 Absent 2 days 17 hrs. Released from Detn Bks Darland on 27-9-1942 sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons" 1 days. Commandants Initials 1 day remitted under rule 123 Rules for Military Detention Barracks and Military Prisons.	Bdr Ballyer L/Bdr Fiedenman	28 days detention	1-9-41	Maj A.L. MacInnes	forf 3 days pay
In the Field	5-1-42	"		A.A.SEC.40 CAS neglect to the prejudice of good order and military discipline in that he neglected to do proper maintenance to M/C CZ4319803	Bdr Selinger	Admonished Placed under stoppages for damages £1-5-0	21-1-42	Lt.Col. R.E.Ellis	

M.F.M. 6
(A.F.B. 122)
17338—7-41 (1210-20)
H.Q. 1772-39-1653

No. K6013 Name Graham, J Sqn., Battery, or Company 108th Corps 2 A/Tk Regt RCA Date of enlistment 5-9-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature G.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	16-6-42	Gnr		(1)A.A.SEC.15(1)WOAS AWL from 2000 hrs 16-6-42 until 1100 hrs 17-6-42. Absent 15 hours. (2)A.A.SEC.11 WOAS neglecting to obey Standing Orders in that he used D.N.D. motorcycle without work-ticket. (3)A.A.SEC.40 WOAS conduct to the prejudice of good order and military discipline in that he used D.N.D. motorcycle for private purposes (4)A.A.SEC.11 neglecting to obey Standing Orders in that he left D.N.D. motorcycle unattended.	F.G.C.M. Proceedings	120 days detention & placed under stoppages of pay to the value of 2 gals of petrol	26-6-42	F.G.C.M. CONFIRMED by C.R.A. 2 Cdn Div 28-6-42 Promulgated 29-6-42	sentence confirmed by CRA 2 Cdn Div who remitted 30 days detention
						Released from Detention Barracks Hedley Down 4 Aug 1942, sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons" 30 days. Commandants initials.			

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26-10-42	Gnr		A.A.SEC.15(1)WCAS AWL from 2200 hrs 26 Oct 42 until 2145 hrs 25 Oct 42. Absent 4 days 23 hrs 45 minutes.	Bdr McCloy Bdr Joyal	Awarded 14 days C.B. Awarded a forf of 5 days pay A.A.46(2)(d)	28-10-42	Major F.N. Gilroy	Aut forf 6 days PRAI 149(1)(a)
Field	9 Nov 42	"		A.A.SEC.15(1)WCAS AWL defaulters parade 1730 hrs 9-11-42 to 2100 hrs 9-11-42	Sgt Lawson	7 days F.P. forf 7 days pay A.A.46(2)(d)	13 Nov 42	Lt.Col. P.B.Conrad	
Field	11 Nov 42	"		(1)A.A.SEC.15(1)WCAS AWL from quarters from 2300 hrs to 2310 hrs 11-11-42	Bdr Natt L/Bdr Dadd				Aut forf 1 days pay PRAI 149(1)(a)
"	17 Nov 42	"		(2)A.A.SEC.10)4) Breaking out of Bks	Cpl Shoemaker Documentary	10 days F.P. 10 days pay	17-11-42	Maj.F.N. Gilroy	3 days concurrent
"	27-11-42	"		(3)A.A.SEC.15(1)WCAS AWL from 2200 hrs 27 Nov 42 until reporting in at 2045 hrs 9 Dec 42. Absent 11 days 22 hrs 45 minutes.	Sgt Croft Bdr Sewell L/C Brockmey Documentary	27 days detention	11 Dec 42	Major P.N.Gilroy	Forf 12 days pay PRAI 149(1)(a) Forf 1 days pay PRAI 149(1)(c)

No. K-6013 Name Graham, J Sqn., Battery, or Coy. 108th Corps 2 A/Tk Regt RCA Date of enlistment 5-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) (15M—7-41) (1217-26) H.Q. 1773-39-1052

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Mar 43	Gnr		A.A.SEC.24(2) WOAS losing by neglect articles of clothing and regimental necessaries to the value of £1-9-11. ½ vocab price.	Documentary	Placed under stoppages of pay to the amount of £1-9-11 to make good the loss.	26 Mar 43		

TRUE AND CERTIFIED COPY ..... O.C. No. 1 Coy.

No. 1 Cdn Sigs. Regt. Unit.

(P T.O.)

Q R-118 (case #3)
GNR GRAHAM J
Lee J-143 for 1st case
EE-8 2nd

K-6013 Gnr Graham J.
1 CSRU
BGHQ 5-6-2/331

QR-118

Correspondence to be PINNED here. F.G.C.M.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-First day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

*Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	L.H. Smith	1 CASCRU

Members.

Rank.	Name.	Regiment.
Captain	to be detailed by	1 CSRU
Lieutenant	to be detailed by	1 CSRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be attested by him.

*Signed (F.R. Shields) Brig
Commanding "B" Gp Cdn Rft Units
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-6013 Gnr. GRAHAM, John. (RCA) 1 CSRU	First Charge A.A. Sec 15(1)	Guilty	Guilty sentence of one year detention. 25 Sep 43	Confirmed [illegible] Brig
				Lt/Col
				See attached Charge Sheet

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of Sep 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~of the Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 24 day of Sep 1943

[illegible]

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 28 day of Sep 1943.

T.R. Shields Brig.

Confirming Officer.

Promulgated and extracts taken in the case of K-6013 Gnr Graham J. PO #4 Order No 203 d/30 Sep 43

(a) (Dated) 29 Sep 43 (Signed) L.F. Macdonald, Major A/Comdr R.C.A.S.C. #4

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(Signed) (T.R. Shields) Brig "R" Gp Cdn Rft Units.
Commanding Convening Officer (e)

(Signed) President.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

(38007) W1.38526/411 30,000 12/42 A.R.K.W.Ltd. Gp.599

CHARGE SHEET

The accused K-6013 Gnr John GRAHAM (R.C.A.) on strength of No 4 Battery, Regimental Training Wing, No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:-

FIRST CHARGE

SEC 15 (1)

Army Act

When on active service, absence without leave,

in that he,

at MORVAL BARRACKS, COVE, HANTS., absented himself without leave, from 2300 hours 10 August 1943 until apprehended in FRIMLEY by the Canadian Provost Corps at approximately 1930 hours 7 September 1943.

Total absence 27 days 20 hours 30 minutes.

L. F. Macdonald

(L.F.Macdonald) Major
A/Officer Commanding
Regimental Training Wing
No. 1 Canadian Signals Reinforcement Unit

Cove, Hants
10 Sep 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units

13 Sep 43

Lt Sewell Major
PRS
24 Sep 43

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. K-6013 Gnr Graham,J
(Rank) (name)
of No.1 CSRU and in my opinion he is fit to undergo
trial by Court Martial.

Station Cove,Hants

Date 24 Sep 43

Sgd.c. John Smith Capt.
(Medical Officer)
No. 1 Cdn Sigs Reinf Unit

20 Sep 45

MEDICAL OFFICER'S CERTIFICATE

I certify that No. K-6013 Gnr Graham,J (RCA) No. 1 C.S.R.U. Regiment,
is FIT to undergo trial by Court-Martial.

John Smith Capt.
Signature of the Medical Officer.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT 1 C A S C R U Tamborangi Hants
ON THE 24 DAY OF Sep 1943

The accused K6013 ~~Pte~~ Gnr. Graham J. Unit 1 C S R U

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Major L. H. Smith 1 C A S C R U
Members. Capt. T. Hunter 1 C S R U
Lt. T. I. Conn 1 C E R U

The officers under instruction are duly sworn:-

Lt. W. A. Jacobs Unit 1 C E R U
Lt. G. G. MacKay Unit 1 C S R U

Prosecutor. Lt. F. E. Boss Unit 1 C ~~S~~ R U
Defending Officer Lt. R. H. Evans Unit 1 C S R U

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(b) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 56(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
~~(b) Calls witnesses on his behalf.~~
~~(c) Gives evidence in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Oversees R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

24 Sept 43

Lt Smith Major
Pres.

Accused's Statement.

I joined the Army in 1939 at the age of 22. I met my wife in 1935. At that time I was working in the Concentrator. I had been going around with my wife for 4 months, when she told me that she was pregnant, by me, which I knew was not the case as she had been running around before I met her. Both her parents and mine thought I was to blame, and they insisted that we get married, which we did in 1936, although I had no feelings whatsoever toward the girl. At that time I was making $4.50 per day.

The marriage was not successful, and we separated, on mutual agreement, in 1938. My wife took the child to my mother's, and I left her and the child an allowance of $20 per month.

I joined the Army in 1939 to get away from the family affairs, having signed over my insurance in my wife's name, as well as a $20 monthly assignment from my regular Army pay.

Have had no word of my wife & child, except letter from home telling me that my wife has been running around frequently beer parlors, and in the company of men.

Periodically my pent up feelings break loose, and I go A.W.L.

I have been court martialed 3 times

This last time I went out and staged with friends at Trimley. I intended to go back the next morning but slept in, and put it off until that evening. I got as far as the gate but got frightened, and went back to my friends' home.

I am frightened of detention. The last time I spent 4 months, and the time before that 2 months. It broke my nerves

Court Questions

Between the time of separation, and enlistment I supported my wife because of the child. Made a $40 a month allowance to her.

Upon enlistment, claimed dependent allowance for both my wife and child.

I received information about my wife philandering about 6 months after my arrival overseas.

I saw my Major who got me an interview with the Padre, who wrote a letter to the Can. Legion in Kimberley. Three days later, when

I saw the Padre again, he said that he had sent the letter

I never asked the DA Board to cut off my wife's allowance, because I had no knowledge of it.

At 2300, 12 Aug I was visiting a family of friends at Frimley. I was going mad daughter of the family I think why knew I was AWL

I am worried about the child. I would be happy if I knew the child was OK. I am fed up of wife wasting the allowance & drinking and running around.

I intend to get a divorce from my wife, as I have the grounds.

I saw the Padre about 10 months ago, as the RC, I saw the Prot Padre, as the RC Padre might have objection to divorce. The Padre said he would look after things

[signature]
Pres.
24 Sept 43

EXHIBIT "A" to Inquiry Proc.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Morval Barracks Cove, Hants on the 2nd day of September 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.K-6013 Gunner Graham,V.J. No. 4 Bty, Regt'l Training Wing, No. 1 C.S.R.U.

DECLARATION.

The Court declare.K-6013 Gnr Graham,V.J. (R.C.A.) No. 4 Bty, Regt'l Training Wing, No. 1 C.S.R.U. illegally absented himself without leave 2300 hours at Morval Barracks, Cove, Hants., on the 10th day of Aug 43; and that on the 2 Sep 43 he was deficient, and that he is still deficient of the following articles:-

Article	Quantity	Price	Vocab Pr.
Anklets web	1	0-3-5½	0-2-7
Blouses B.D.	1	1-7-8	1-0-9
Trousers B.D.	1	1-7-11	1-0-9½
Boots ankle	1	1-1-6	0-16-1
Shirts A.D.	1	0-9-2	0-6-10½
Brushes boot polish	1	0-0-9	0-0-9
socks woolen	2	0-3-4	0-2-6
Attachments braces	2	0-4-1	0-4-1
Belts waist W.E.	1	0-4-7½	0-4-7½
Braces W.E.	2	0-4-3	0-4-3
Haversack respirator	1	0-5-8	0-5-8
Respirator container	1	0-7-2	0-7-2
Respirator facepiece	1	0-13-10½	0-13-10½
Eyeshields A/G	6	0-4-8	0-4-8
Ointment A/G	1	0-1-2	0-1-2
TOTAL		£ 6-19-1½	5-15-10

Names of President and Members

V.L.Robbins (Lieut.) R.C.C.S. No. 1 C.S.R.U. President
A.F.Johnston (Lieut.) R.C.C.S. No. 1 C.S.R.U. Member
A.B.Dowker (Lieut.) R.C.A. No. 1 C.S.R.U. Member

Signed at Cove,Hants
this 2nd day of
Sept 1943

Signature of Commanding Officer F.B.Conrad Lt.Col.
Commanding

CERTIFIED TRUE COPY No. 1 Cdn Sigs Rein Unit.

Signature of Officer having custody of the Original Record.

(17951) Wt.34318/1022 75,000 10/39 A.& E.W.Ltd. Gp.498
(51448) W.L.67/22/790 225,000 1/40 Forms/B115/56

SUMMARY OF EVIDENCE

Summary of evidence in the case of K-6013 Gunner John GRAHAM (R.C.A.) on strength of No. 4 Battery, Regimental Training Wing, No. 1 Canadian Signals Reinforcement Unit, Canadian Army (Overseas).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution

An Exhibit:-
Certified true copy A.F.B.115 in the case of K-6013 Gnr Graham,J (R.C.A.), No. 1 C.S.R.U. (Attached as Exhibit "A".)

SECOND WITNESS for the prosecution

An Exhibit:-
A certificate of apprehension in the case of K-6013 Gnr Graham,J (R.C.A.) No. 1 C.S.R.U., purporting to be signed by G.H.Kerr, Capt. Commanding No. 7 Provost Company, Canadian Provost Corps. (Attached as Exhibit "B"

The accused does not demand the attendance of these witnesses for cross-examination.

The accused was cautioned as follows: Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused elects to make a statement on oath.

Statement of evidence in the case of K-6013 Gunner Graham,J (R.C.A.) No. 1 C.S.R.U.

The accused, K-6013 Gnr Graham,J having been duly sworn elects to give the following evidence:-

"For some time past I have been troubled by family troubles back in Canada and I cannot keep my mind on my work. I was going with a girl in Canada before I signed up. This was in late 1935 and she became pregnant and although I was not responsible I was blamed by both her family and mine and my own family influenced me to marry her to avoid scandal. In 1936 I married her. Although I tried to make the best of it, things did not go very well for all she could think of was running around and having a good time. In 1938 we separated by mutual agreement. Her mother took charge of the baby. Because of the baby I am still assigning pay to my wife but have heard no news regarding my wife or the baby for over a year, except that my wife is still running around.

With this on my mind I periodically go off the deep end and go A.W.L. That is what happened this time. I left camp Monday night and went up to FRIMLEY and stayed with friends there until apprehended by the Provost on the evening of Sep 7, 1943. If I could only get this matter at home straightened up I know I could soldier.

J. Graham
K-6013 Gunner John Graham (R.C.A.)

I certify that the foregoing summary of evidence consisting of approximately one (1) page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

G. W. Beckett
.....
(G.W.Beckett) (Capt) (R.C.Signals)
No. 1 Canadian Signals Reinforcement Unit
Officer detailed to take the summary.

Cove, Hants
10 Sep 43

Lt Secret
Major
Pres

No. 7 Provost Company,
Canadian Provost Corps.

EXHIBIT "B"

5-7-6

8 Sept. 43

I certify that Reg. No. K-6013, Gnr. Graham,J. of 2nd A/Tank R.C.A. was apprehended by L/Cpl. Chapman,J.W. of No.7 Provost Compnay, Canadian Provost Corps. at No. 2 Station Cottage, Frimley, on the 7 Sept. 43, at approx. 1930 hrs.

At the time of his apprehension he wasw wearing Military Uniform.

.....Capt.
(G.H.Kerr) Commanding,
No. 7 Provost Company,
Canadian Provost Corps.

M.F.B. 355
2250—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
E-6013	Gunner	John GRAHAM	No. 1 Cdn Signals Reinf.

1. The following is a fair and true summary of the entries in the ~~Regimental~~ Service and General Regimental and Squadron, Battery Conduct sheets ~~or Company Conduct~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~AR FORM~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A.SEC.15(1)	4	times	6	times
For A.A.SEC.40		times	3	times
For A.A.SEC.24(2)	1	times	1	times
For A.A.SEC.15(2)		times	2	times
For A.A.SEC.10(4)	1	times	1	times

~~NUMBER OF CONVICTIONS OR DISPENSATIONS~~

~~XX~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note: If the charge is for drunkenness, the entries for drunkenness must be stated specially.~~

2. ~~PREVIOUS CONVICTIONS OR DISPENSATIONS~~

~~XX~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~AR FORM~~ Section 47 of the Army Act ~~AFA 73~~ and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~X~~

~~The accused at the present time is under sentence~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~9~~ 13 days in ~~XXX XXX~~ military custody, making a total of ~~9~~ 17 days in custody, of which ~~4~~ 4 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26 yrs 74 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 Yrs 15 days

8. The accused is entitled to reckon 4yrs 15 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~military~~ decoration, or ~~no~~ military reward (~~or is not in possession of or entitled to~~). ~~STATE KIND OF~~ ~~military~~ decoration or reward.

10. (~~If the accused is a warrant officer: The accused ceased to be a warrant officer on the last day~~ ~~XX FORM~~ ~~on which he held that rank~~)

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated ..... and in his regiment (or corps), the rank of

dated ..... .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion

In the rank of ..... years

In the rank of ..... years

In the rank of ..... years

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number K6013 Rank Gunner Name John GRAHAM R.C.A. of No. 1 Cdn Signals Reinf Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 21 Jun 43	A.A.SEC.15(1) A.A.SEC.11 A.A.SEC.40 A.A.SEC.11	120 days det'n. S toppages to the value of 2 gals petrol.	30 days remitted.
F.G.C.M..	Field 7 Apr 43	A.A.SEC.15(1)	9 Months det'n.	3 Months.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~10th~~ 24th day of September 1943

~~The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is each marked~~ ~~signed by the president, and annexed to the~~

G. W. Beckett

G.W.Beckett(Capt.)
No. 1 Canadian Signals Reinforcement Unit

L.H. Sewell
Major
Pres

Pt II Order re 243 d/22 Sep

BCHQ 5-6-2/331
28 Sep 43

OC 1 CSRU

F.G.C.M.
R.6013 Gnr. Graham, J.
1 CSRU

1. Herewith FGCM proceedings re m/n duly confirmed for promulgation.

2. It is suggested:-

(a) That his Unit (1 CSRU) initiate an investigation by the D.A. Board of his domestic affairs in Canada; and

(b) that the accused be given a mental and physical examination.

3. For incorporation in AFA 3104.

No. 1 CDN. SIGS. REIN. UNIT
28 SEP 1943
R.H.Q. ORDERLY ROOM

(F.W. Gilroy) Major
DAA&QMG "B" Gp
Cdn Rft Units

MT/rha
DRLS/POST

LIST OF EXHIBITS

EXHIBIT "A" --- Certified true copy A.F.B.115 in the case of K-6013 Gnr Graham,J. (R.C.A.) No. 1 C.S.R.U.

EXHIBIT "B" --- A certificate of Apprehension in the case of K-6013 Gnr Graham,J (R.C.A.) No. 1 C.S.R.U., purporting to be signed by G.H.Kerr, Capt. Commanding No. 7 Provost Company, Canadian Provost Corps.

Statement by the Accused in accordance with R.P. 14 (B).

I desire to have an Officer assigned to represent me at my trial by Field General Court Martial.

I request the services of Lieut.R.H.Evans...(R.C.A.)..No..1... Cdn Signals Reinforcement Unit..... if he is available.

J. Graham

K-6013 Gnr Graham,J (R.C.A.)
No. 1 Cdn Signals Reinforcement Unit.

M.F.M. 6
(A.F. B.122)
40/P & /3136 (2965)

No. K-6013 Name Graham, J

Sqn., Battery, or Company 108th Corps 2 A/Tk Regt

Date of enlistment 5-9-39

G.C. Badges

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 3

Signature O.C. Company, etc. [signature] Sgt. O.C. No. 1 Character

Wt. 1 Con. Sigs. Rein. Unit

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Nov 42	Gnr		Sec 15(1) AA WOAS AWL from 2200 hrs 27 Nov 42 until reporting in at 2045 hrs 9 Dec 42. Absent 11 days 22 hrs 45 mins.	Sgt Croft Bdr Sewell Bdr Joyal L/Cpl Brockney Documentary	27 days detn	11 Dec 42	Major F.W.Gilroy	forf 12 days pay FR&I 149 (1)(a) Forf 1 days pay FR&I 149 (1)(a)
Field	25 Mar 43	Gnr		Sec 24(2) AA WOAS Losing by neglect his equipment and regimental necessaries in that he was deficient of kit to the amount of £1-9-11(¾ vocabulary price)	Documentary	Placed under stoppages of £1-9-11 to make good the loss	26 Mar 43	Major R Burgess	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	7 Jan 43	Gnr		A.A.SEC.15(1) WOAS AWL from 2200 hrs 7 Jan 43 until apprehended at 1650 hrs 23 Mar 43. Absent 74 days 18 hours 50 minutes.	F.G.C.M. Proceedings	9 months detn Forf 184 days pay FR&I 149 (1)(b)	FGCM 7 Apr 43	F.G.C.M.	Finding confirmed but sentence remitted to one of six(6) months by Brig PR Shields Comd "B"Gp CRU . 7 Apr 43. Forf 75 days pay FR&I 149(1)(a) Forf 14 days pay FR&I 149(1)(b)

RELEASED FROM DETENTION BARRACKS FIELD on AUG 3 1943 sentence HAVING EXPIRED. Remission earned under Rules for Detention Barracks and Military Prisons 59 days
Commandants initials.

CERTIFIED TRUE COPY. O.C. No. 4 Con. Sign. Rein. Unit. Officer in custody of original document.

No. K6013 Name Graham, J Sqn., Battery, or Company 108th Corps 2 A/Tk Regt Date of enlistment 5-9-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/P & /S136 (2565)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. [signature] O.C. No. 4 Character No. 1 Cdn. Sigs. Rein. Unit.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 16	June 42	Gnr		1. Sec 15(1) AA WOAS AWL from 2000 hrs 16 June 42 until 1100 hrs 17 June 42. Absent 15 hours. 2. Sec 11 AA WOAS Neglect to obey standing orders in that he used D.N.D. Motor cycle without work-ticket 3. Sec. 40 AA WOAS Conduct to the prejudice etc., in that he used D.N.D. motor cycle for private purposes. 4. Sec 11 AA WOAS Neglecting to obey Standing Orders in that he left DND motor cycle unattended.	F.G.C.M. Proceedings.	120 days detn placed under stoppages of pay to the value of 2 gals petrol.	26 Jun 42	Lt.Col. R.E.Bliss. FGCM 26Jun 42. confirmed by C.R.A. 2nd Cdn Div 28 June 42 Promulgated 29 June 42	forf 1 days pay. Sentence confirmed by C.R.A. who remitted 30 days sentence. JB

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				RELEASED FROM DETENTION BARRACKS Headley Downs 24 August 1942 SENTENCE HAVING EXPIRED. Remission earned under Rules for Detention Barracks and Military Prisons. 30 days COMMANDANTS Initials.					
Field	20 Oct 42	Gnr		Sec 15(1) AA WOAS AWL from 2200 hrs 20 Oct 42 until 2145 hrs 25 Oct 42. Absent 4 days 23 Hrs 45 mins.	Bdr McCloy Bdr Joyal	14 days C.B. Forf 5 days pay.	28 Nov 42	Major F.W.Gilroy	Aut forf 5 days pay FR&I 149 (1)(a)
Field	9 Nov 42	Gnr		Sec 15(1) AA WOASAWL from defaulters parade.	Sgt Lawson	7 DAYS F.P. forf 7 days pay	13 Nov 42	Lt.Col. F.B.Conrad	
Field	11 Nov 42	Gnr		Sec 15(1) AA WOAS AWL from quarters from 0800 hrs to 2130 hrs 11 Nov 42	Bdr Watt		13 Nov 42	Major F.W.Gilroy	Aut forf 1 days pay FR&I 149 (1)(a)
Field	17 Nov 42	Gnr		Sec 10(4) WOAS Breaking out of barracks	Cpl Shoemaker Documentary	10 days F.P. 10 days pay	17 Nov 42	Major F.W. Gilroy	

No. K6013 Name Graham, J | Sqn., Battery, or Company 108th | Corps 2 A/Tk Regt | Date of enlistment 5-9-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /S136 (2963)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature G.C. Company, etc. | Signature O.C. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SUPPLEMENTARY made out on 17 Apr 43 at 1 C.S.R.U. No entries from previous sheet destroyed 5 Mar 40 on completion of 6 months service R.O. 71 CASF (Overseas)									
Aldershot	4 Nov 40	Gnr		Sec 15(2) AA WOAS AWL from parade	L/Sgt Ward	4 extra fatigues	4 Nov 40	Major MacInnes	JB
Aldershot	2 Apr 41	Gnr		Sec 40 AA WOAS While on picquet duty was found in Gnrs quarters	BSM Bogstie Sgt MacArthur	7 days C.B.	3 Apr 41	Major Quigley	JB
Aldershot	24 Apr 41	Gnr		Sec 15(2) AA WOAS did fail to appear at a place of parade at 0920 hrs 24 Apr 41	Bdr Hellyer	4 days C.B.	22 Apr 41	Capt Kennedy	JB
Aldershot	5 Jul 41	Gnr		Sec 15(1) AA WOAS AWL from 1830 hrs 5 July 41 until 1400 hrs 11 July 41. Absent 3 days 19 hrs 30 mins.	BSM Bogstie	27 days Detn	18 July 41	Lt.Col. R.E.Bliss	JB forf 4 days pay, placed under stoppage amnt 5/8

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				2nd charge Sec 40 AA WOAS Conduct to the prejudice of G.O. and M.O. in that he did take WD motorcycle without permission		see other side for punishment.			
Aldershot	27 Aug 41	Gnr		Sec 15(1) AA WOAS AWL from 0600 hrs 27 Aug 41 until 2300 hrs 29 Aug 41. Absent 2 days 17 hrs.	Bdr Hellyer L/Bdr MacLennan	28 days detn	1 Sept41	Major MacInnes	[illegible]
				RELEASED from the DETENTION BARRACKS..... on 27/9/41 19...SENTENCE HAVING EXPIRED. Remission earned under Rules for detention Barracks and Military Prisons .....days Commandants initials.					
Field	5 Jan 42	Gnr		Sec 40 AA WOAS Neglect to the prejudice etc in that he neglected to do proper maintenance to MC C4319603	Bdr Selinger	Admonished Stoppages for $ damages £1-5-0	21 Jan 42	Lt.Col R.E.Bliss	

RR-127
PTE GRAHAM J.C.

H-17405 Pte John Charles GRAHAM
P.P.C.L.I. 1 C.I.R.U.

RR-127

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 15th day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

*(1. [redacted]

*(2. [redacted]

[redacted]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	C.H.of O.

Members.

Rank.	Name.	Regiment.
A Major,	to be detailed by O.C.	4 C.I.R.U.
A Lieutenant	to be detailed by O.C.	4 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
Brigadier,
Commanding "G" Gp Cdn Rft Units,
Convening Officer. C.A.(O).

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-17405 Pte John Charles GRAHAM P.P.C.L.I. 1 C.I.R.U.	First Charge A.A. Sec. 15(1) SEE CHARGE SHEET ATTACHED.	Guilty	Guilty Sentenced to undergo detention for a period of one (1) year and two (2) months. 16 Sep 43. CHP	Confirmed [illegible]

~~*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
~~Answer (to be recorded on separate sheet if necessary):—~~

(Signed) J R Stewart Lough (Signed) Arthur S. Pettapiece Major

Brigadier,
Commanding "G" Gp Cdn Rft Units,
Convening Officer (e) C.A.(O). President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

The accused, No. H17405 Private John Charles GRAHAM of the Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
SEC 15 (1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at No. 1 Canadian Base Reinforcement Depot, absented himself without leave from 2300 hours on the 12th day of June 1943 until surrendering himself to the Paddington Civil Police at London at 1715 hours on the 8th day of September 1943.

Total absence: 87 days 18 hrs 15 minutes

(C.W. Dever) Colonel
Commander,
No. 1 Cdn Inf Rft Units

Barrosa Barracks,
Aldershot, Hants.

15th day of September 1943

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Brigadier,
Commanding,
"C" Gp Cdn Rft Units, C.A.(O).

15 Sep 43. Convening Officer.

Arthur L. Pettapiece, Major
President

Medical Officer Certificate
K.R. Can. para. 557

I certify that I have this morning examined No. H17405 Pte

Graham J.C. and in my opinion he is fit ~~unfit~~ to undergo

trial by Court Martial.

Station. 1 C.I.R.U.

Date. 16 Sept 43.

[illegible] Lieut. RCAMC
(Medical Officer)
Arthur S. [illegible], Major

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Lille Barracks, Farnborough, Hants
ON THE 16th DAY OF September 1943

The accused H17405 Pte. Graham, J. C. Unit 1 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. S. Rettapiere Unit H.O.C.R.U.
Members Maj. A. F. Macpherson Unit 4 C.I.R.U.
Lt. B. O. Rich Unit 4 C.I.R.U.

The officers under instruction are duly sworn:-

Lt. W. C. Brumpston, R. J. Corrie, L. C. Taplin, F. Bowick, M. A. Hambly } 1 C.I.R.U.
Lt. F. E. L. Fowke Unit 5 C.I.R.U.
Lt. V. Sladar Unit 5 C.I.R.U.

Prosecutor Lt. R. S. Eustace Unit 1 C.I.R.U.
Defending Officer Lt. J. S. Moore Unit 1 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge~~(s)~~ and R.P. 35(B) is complied with. ASP
The accused does not desire to make a statement in reference to the charge~~(s)~~. R.P. 37(B). ASP
The Summary of Evidence is read. ASP
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFN 6.
The Court complied with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~ ASP
~~(b) Calls witnesses as to character.~~ ASP
~~(c) Calls witnesses in mitigation of punishment.~~ ASP
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER. ASP ASP

---

attached hereto.

Arthur S. Rettapiere
Major

Plea of Mitigation in the case of No. 17405
Pte John Charles GRAHAM of the R.P.E.L.I.

This soldier has never been to the field, nor has he attended any schools, such as battle drill school. He has never experienced much more than elementary training in over three years.

The accused realizes the gravity of the situation and in pleading guilty is not trying to evade punishment.

This soldier volunteered for Active Service in June 1940.

Little Barracks
Farnborough

16 Sep. 43

J. S. Moore, Lieut.
Westmo Regt (M)
#1 C.I.R.M.

CHP

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j).

I, ... (W. Fern Capt., D.A.P.M., C.M.H.Q. . . . . certify that

Reg. No. H.17405 . Rank . Pte. . . . Name . . . Graham, J.C. . . . . .

Regiment . . No. 1 C.I.R.U. . . . . .

Unit . . . . . .

Stationed at . . . . . .

Surrendered himself to No 245 . . Rank P.C. Name Mcilnine. . . . . .

of the . . . . . Paddington Civil Police. . . . . .

on the 8 . . day of Sept. . . . . 1943 , at 1715 . . . . hours

. . . . . AS AN ABSENTEE WITHOUT LEAVE . . . . . .

At the time of his surrender he was wearing (military uniform) or ~~(civilian clothes)~~'
Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.
(Strike out part inapplicable)'

London
8 Sept. 43.

L. Sharpson Capt.
(W. Fern) D.A.P.M., C. M. H. Q.

OKP

9 x B
LR

REAR PARTY 1 CANADIAN BASE REINFORCEMENT DEPOT
Part II Orders issued
CDN SEC GHQ 2nd ECHELON DET - CAN RECORDS

FIRST ORDER ISSUED

"B" OTHER RANKS

1. STRENGTH DECREASE

(ak) S.O.S. to 1 C.I.R.U. w.e.f. 17 Jun 43 whilst A.W.L. from 0600 hrs 17 Jun 43
Auth ESD/0043 d/27 Jul 43
K-87140 Pte. Anderson, F.C.

(al) S.O.S. to 1 C.I.R.U. w.e.f. 31 May 43 whilst A.W.L. from 0600 hrs 31 May 43
Auth - ESD/0044 d/27 Jul 43.
D-81981 Pte. Powell, W.D.

(ap) S.O.S. to 1 C.I.R.U. w.e.f. 14 May 43 whilst A.W.L. from 14 May 43.
Auth - ESD/0049 d/27 Jul 43.
B-86186 Pte. Desjardins, F.A.

(aq) S.O.S. to 1 C.I.R.U. w.e.f. 30 May 43 whilst A.W.L. from 0600 hrs 30 May 43
Auth - ESD/0060 d/27 Jul 43.
M-11234 Pte. Downs, A.I.

(ar) S.O.S. to 1 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 0600 hrs 16 Jun 43
Auth - ESD/0061 d/27 Jul 43.
M-12439 Pte. Furniss, A.

(at) S.O.S. to 1 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 0800 hrs 16 Jun 43.
Auth - ESD/0063 d/27 Jul 43.
K-42830 Pte. Henderson, F.O.

(au) S.O.S. to 1 C.I.R.U. w.e.f. 29 May 43 whilst A.W.L. from 2200 hrs 29 May 43
Auth - ESD/0065 d/27 Jul 43.
C-6394 Pte. Rose G.G.

(av) S.O.S. to 1 C.I.R.U. w.e.f. 13 Jun 43 whilst A.W.L. from 1000 hrs 13 Jun 43
Auth - ESD/0066 d/27 Jul 43.
M-16186 Pte. Perks, N.C.

(bj) S.O.S. to 1 C.I.R.U. w.e.f. 21 Jun 43 whilst A.W.L. from 0800 hrs 21 Jun 43
Auth - ESD/0076 d/27 Jul 43.
M-11906 Pte. Purnell, L.J.

(cg) S.O.S. to 1 C.I.R.U. w.e.f. 12 Jun 43, whilst A.W.L. from 2300 hrs 12 Jun 43
Auth - ESD/110 d/28 Jul 43.
H-17406 Pte. Graham, J.C.

(cm) S.O.S. to 1 C.I.R.U. w.e.f. 21 Jun 43 whilst A.W.L. from 0800 hrs 21 Jun 43
Auth - ESD/118 d/28 Jul 43.
L-12428 Pte. Hydichuk, M.

(ds) S.O.S. to 1 C.I.R.U. w.e.f. 31 May 43 whilst A.W.L. from 0630 hrs 31 May 43
Auth - ESD/131 d/28 Jul 43.
K-53227 Pte. Lester, J.H.

(dd) S.O.S. to 1 C.I.R.U. w.e.f. 5 Jun 43 whilst A.W.L. from 2359 hrs 5 Jun 43
Auth ESD/136 d/28 Jul 43
L-51478 Pte. McKenzie, D.A.

(de) S.O.S. to 1 C.I.R.U. w.e.f. 19 Jun 43 whilst A.W.L. from 2250 hrs 19 Jun 43
Auth - ESD/140 d/28 Jul 43.
M-31004 Pte. Watson, R.A.

(dg) S.O.S. to 1 C.I.R.U. w.e.f. 25 Jun 43 whilst A.W.L. from 1830 hrs 25 Jun
Auth - ESD/143 d/28 Jul 43.
K-63206 Pte. Stinson, J.C.W.

(dh) S.O.S. to 1 C.I.R.U.w.e.f. 25 Jun 43 whilst A.W.L. from 0830 hrs 25 Ju
Auth - ESD/144 d/28 Jul 43.
K-86369 Pte. Stuart-Schonlefield, C.C.

FIRST ORDER ISSUED

REAR PARTY 1 CANADIAN BASE REINFORCEMENT DEPOT
Part II Orders issued by
CDN SEC GHQ 2nd ECHELON DET AT CAN RECORDS

No. 1
6 Aug 43

"B" OTHER RANKS

1. STRENGTH DECREASE

(ak) S.O.S. to 1 C.I.R.U. w.e.f. 17 Jun 43 whilst A.W.L. from 0800 hrs 17 Jun 43
Auth ESD/0043 d/27 Jul 43
K-87140 Pte. Andersen, F.C.

(al) S.O.S. to 1 C.I.R.U. w.e.f. 31 May 43 whilst A.W.L. from 0600 hrs 31 May 43
Auth - ESD/0044 d/27 Jul 43.
D-81961 Pte. Powell, W.D.

(ap) S.O.S. to 1 C.I.R.U. w.e.f. 14 May 43 whilst A.W.L. from 14 May 43.
Auth - ESD/0049 d/27 Jul 43.
B-38185 Pte. Desjardins, F.A.

(aq) S.O.S. to 1 C.I.R.U. w.e.f. 30 May 43 whilst A.W.L. from 0600 hrs 30 May 43
Auth - ESD/0050 d/27 Jul 43.
M-11234 Pte. Downs, A.I.

(ar) S.O.S. to 1 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 2359 hrs 16 Jun 43
Auth - ESD/0051 d/27 Jul 43.
M-12439 Pte. Furniss, A.

(at) S.O.S. to 1 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 0800 hrs 16 Jun 43.
Auth - ESD/0053 d/27 Jul 43.
K-42830 Pte. Henderson, R.G.

(au) S.O.S. to 1 C.I.R.U. w.e.f. 29 May 43 whilst A.W.L. from 2200 hrs 29 May 43
Auth - ESD/0055 d/27 Jul 43.
C-5394 Pte. Hoag G.G.

(av) S.O.S. to 1 C.I.R.U. w.e.f. 13 Jun 43 whilst A.W.L. from 1000 hrs 13 Jun 43
Auth - ESD/0056 d/27 Jul 43.
M-16186 Pte. Parks, N.C.

(bj) S.O.S. to 1 C.I.R.U. w.e.f. 21 Jun 43 whilst A.W.L. from 0800 hrs 21 Jun 43
Auth - ESD/0078 d/27 Jul 43.
M-11906 Pte. Purnell, L.J.

(cg) S.O.S. to 1 C.I.R.U. w.e.f. 12 Jun 43, whilst A.W.L. from 2300 hrs 12 Jun 43.
Auth - ESD/110 d/28 Jul 43.
H-17406 Pte. Graham, J.C.

(cn) S.O.S. to 1 C.I.R.U. w.e.f. 21 Jun 43 whilst A.W.L. from 0800 hrs 21 Jun 43
Auth - ESD/118 d/28 Jul 43.
L-12423 Pte. Hydichuk, M.

(ds) S.O.S. to 1 C.I.R.U. w.e.f. 31 May 43 whilst A.W.L. from 0630 hrs 31 May 43
Auth - ESD/131 d/28 Jul 43.
K-55227 Pte. Lester, J.H.

(dd) S.O.S. to 1 C.I.R.U. w.e.f. 5 Jun 43 whilst A.W.L. from 2359 hrs 5 Jun 43
Auth ESD/135 d/28 Jul 43
L-51476 Pte. McKenzie, D.A.

(de) S.O.S. to 1 C.I.R.U. w.e.f. 19 Jun 43 whilst A.W.L. from 2230 hrs 19 Jun 43
Auth - ESD/140 d/28 Jul 43.
M-31004 Pte. Watson, R.A.

(dg) S.O.S. to 1 C.I.R.U. w.e.f. 25 Jun 43 whilst A.W.L. from 1330 hrs 25 Jun 43.
Auth - ESD/143 d/28 Jul 43.
K-63206 Pte. Stinson, J.C.W.

(dh) S.O.S. to 1 C.I.R.U.w.e.f. 23 Jun 43 whilst A.W.L. from 0600 hrs 23 Jun 43
Auth - ESD/144 d/28 Jul 43.
K-85369 Pte. Stuart-Scholefield, C.C.

1. STRENGTH DECREASE (Continued)

(dl) S.O.S. to 1 C.I.R.U. w.e.f. 13 Jun 43 whilst A.W.L. from 1030 hrs 13 Jun 43
Auth - ESD/148 d/26 Jul 43
R-38207 Pte. Moyer, E.D.

(eh) S.O.S. to 1 C.I.R.U. w.e.f. 11 Jun 43 whilst A.W.L. from 2359 hrs 11 Jun 43
Auth - ESD/98 d/27 Jul 43.
L-12908 Pte. Barabash, P.

(sgd) W.J.C. Johnston, Lieut.
Officer i/c
Cdn Sec, G.H.Q., 2nd Echn Det, at Can Records

CERTIFIED TRUE COPY OF EXTRACTS FROM REAR PARTY 1 CANADIAN BASE REINFORCEMENT DEPOT PART II ORDERS ISSUED BY CDN SEC, G.H.Q., 2nd ECH DET AT CAN RECORDS.

J.P.T. Atkinson ..... Capt.
(H.F. Atkinson) Records Officer,
1 Canadian Infantry Reinforcement Unit.

JRT/WIN

A48

SUMMARY OF EVIDENCE

In the case of, H17405 Pte Graham J.C. of the Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement, a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer, this Summary of Evidence is taken on oath:

First Witness for the Prosecution

A/Capt. W. Rorke of the Calgary Highlanders, on the strength of No.1 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army (Overseas) having been duly sworn states:
I produce certified true copy of Rear Party 1 Canadian Base Reinforcement Depot Part 11 Orders issued by Cdn Sec GHQ 2nd Echelon Det at Canadian Records, purporting to be signed by Lieut. W.J.C. Johnston, Officer i/c Cdn Sec G.H.Q., 2nd Ech Det, at Canadian Records, which relates to the accused. This document is marked Exhibit "A" and is duly initialled by me for purposes of identification.
I produce Certificate Under the Army Act, Section 163 (i) (j) dated 8 Sep 43, purporting to be signed by W Fern, Capt. D.A.P.M., C.M.H.Q., which relates to the accused. This document is marked exhibit "B" and is duly initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

(W. Rorke) Capt.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(e)(d) (e) and (f) have been complied with.

(J.R. Hopple) Lieut
Officer taking the Summary.

Barrosa Barracks,
Aldershot, Hants.

15th day of September 1943.

Arthur L. Pettapiece, Major

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H17405	Pte	Graham J.C.	1 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 15 (1)	3 times	10 times
For	times	times
For	times	times
For	times	times
For ~~Number of instances of gallantry or distinguished conduct~~		

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ~~Air Force~~ civil custody, and 7 days in military custody, making a total of 7 days in custody, of which — days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 yrs. 115 days.

6. The date of his ~~commission~~ specified in his ~~record of service~~ attestation paper is 13 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 334 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward.

10. (If the accused is a ~~warrant officer~~.) The accused before he was made a warrant officer last held Air Force the ~~regimental~~ rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force ..... dated ....., and in his regiment (or corps), the rank of ..... unit ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Air Force

Name ..... of ..... Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of Sept 48.

H F Ashman, Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Arthur S. Rattapaire, Major

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Barrosa Barracks, Aldershot, HANTS, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Aldershot, HANTS, this 12 day of September 1943.

J. Graham

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of A. Crabtree if he is available.

J. Graham

No. H17405 Name GRAHAM J.C. | Sqn., Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 13-6-40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 4 | Signature O.C. Company, etc. | Character

Previous sheet destroyed on completion of six months service.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE -13-12-40	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	6-1 41	Pte		AA Sec 15(1) AWL		14 days Detn.	6 Jan 41		8 days pay FR&I 149 1(a)
Winnipeg	12-2 41	Pte.		AA Sec 15(1) AWL		14 days Detn.	12 Feb 41		2 Days pay FR&I 149 1(a)
Winnipeg	27-5 41	Pte.		AA Sec 15(1) AWL		7 days Detn.	28 May41		2 days pay FR&I 149 1)a)
Kingston	9-7 41	Pte		AA Sec 15(1) AWL 4 days 12 hrs		5 days C.B.	10 Jul 41		5 days pay FR&I 149 1(a)
Kingston	4-8-41	Pte		AA Sec 15(1) AWL from 0600 hrs 4 Aug 41 to 0745 hrs 11Aug 41 Absent 7 days 1 hr		Fined 7 days Pay	12 Aug 41		8 days pay FR&I 149 1(a)
Shilo	5-6 42	Pte		AA Sec 15(1) AWL		14 days C.B.	5 Jun 42		16 days pay FR&I 149 1(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Ref. of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shilo	23 Jun 42	Pte		AA Sec 15 (1) a.w.l.	DO 154 d/ 24 Jun 42	3 days C.B.	24 Jun 42		1 days Pay FR&I 149(1)a)
1 CDIRU	2 Nov 42	Pte		AA Sec 15(1) a.w.l.	DO 274 d/ 12 Nov 42	4 days F.P. 4 days Pay	2 Nov 42		1 days Pay FR&I 149(1)a)
1 CDIRU	30 Nov 42	Pte		AA Sec 15 (1)	DO 291 d/ 2 Dec 42	27 days detn	30 Nov 42		3 days pay FR&I 149(1)a)
1 CIRU	~~7-6-~~ 43	Pte		AA Sec 15(1) a.w.l.	DO 104 d/ 11 Jun 43	14 days F.P. 14 days Pay	8 Jun 43		2 days Pay FR&I 149 (1)a)

Certified True Copy from M.F.M. 2 Consisting of One Sheet
Dated: 16 Sept 43 [signature] Capt

Officer having custody of original documents.

[signature] Major

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 16th day of September 1943.

Arthur S. Pettapiece, Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~ .

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 18th day of September 1943.

J. Hemmett
Confirming Officer. Brig.
C.R.C.

DO 181
21 Sep 43

Promulgated and extracts taken in the case of [illegible]
Promulgated in D.O. 161 d/21 Sep 43
(a) (Dated) 20 Sep 43 (Signed) [illegible] COMMANDER 1 Kt.Col.
(J.H. Mothersill) A/Commander
1 Cdn. Inf. Reinf.Unit.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23576) Wt.[illegible] 50,000 2/43 [illegible] Gp.[illegible]
(24256) Wt.[illegible] 100,000 5/43 " "

NN-8
PTE GRAHAM J.E.

Correspondence to be PINNED here.

NN-8

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 6th. day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Forestry Corps, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President)~~
~~for the following reasons, namely:—]~~

JUDGE ADVOCATE

Captain E.K. McDougall, D.J.A.G. Branch, C.M.H.Q.

President.

Rank.	Name.	Regiment.
Major,	A.C. McCaul,	12 Coy, C.F.C.

Members.

Rank.	Name.	Regiment.
Captain	A. Gordon,	6 Coy, C.F.C.
Lieutenant	G.C. Guile,	14 Coy, C.F.C.

WAITING MEMBERS

Major	R.T. Cook,	No.4 Dist. C.F.C.
Lieutenant	H.G. Pond,	No.5 Coy, C.F.C.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (J.B. White) Brig-Gen.,
Commanding, Canadian Forestry Corps, C.A(O).
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-48014, Private John Edward GRAHAM General W/Shop, C. F. C.	First Charge Sec. 41 Army Act.	Not guilty	Guilty To undergo Detention for fifteen (15) months. Signed in the Field, 18 Aug. 1943 C McCaul Major Pres Errol K. McDougall, Capt. Judge Advocate	Confirmed J. B. White Brig. General

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (b) be recorded on separate sheet if necessary) :—

(Signed) J. B. White Brig-Gen., (Signed) C McCaul Major.
Commanding, Cdn Forestry Corps. 12 Coy. C.F.C.
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18th day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 18th day of August 1943.

C McCaul Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1928

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 27th. day of August 1943.

J. B. White Brig. General, Commander, Cdn. Forestry Corps.
Confirming Officer.

Promulgated and extracts taken in the case of G 48014 Pte. John Edward GRAHAM

(a) (Dated) 30 Aug 43 (Signed) J. H. Murray Lieut. (J.H.Murray) G. Wkshop. C.F.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt. [illegible] 70m 2/41 W. & Co., Ltd. Gp. [illegible]

Alec Caul Major
Pres.

CHARGE SHEET

The accused, G.48014, Private John Edward GRAHAM, General Workshop, Canadian Forestry Corps, a soldier of the Canadian Army Overseas is charged with

First Charge
Section 41,
Army Act.

WHEN ON ACTIVE SERVICE

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY BIGAMY CONTRARY TO SECTION 57 OF THE OFFENCES AGAINST THE PERSON ACT 1861

in that he

at Upton Cross in the County of Essex, on the 28th day of February 1942, married Nellie FALCON during the life of his wife Loraine Estella GRAHAM.

R.H. Montgomery Major,
(R.H. Montgomery)
O.C., General Workshop, C.F.C.

In the Field,

(Date) 26th July 1943.

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Remanded for Field General Court-Martial.

In the Field,
5th Aug. 1943.

E.A. Caldwell Lt-Col.,
(E.A. Caldwell)
A.D.T.O.

-- -- -- -- -- -- -- --

To be tried by Field General Court-Martial.

In the Field,
6th August 1943.

J.B. White Brig-General,
(J.B. White)
Commander,
Canadian Forestry Corps.

McCaul Major
Pres

MEDICAL OFFICER'S CERTIFICATE
K. R. (Can) para. 567

I certify that I have this morning examined No. G48014

Rank PRIVATE Name GRAHAM J.E.

Unit GENERAL WORKSHOPS C.E.C., and in my opinion he

is fit/~~unfit~~ to undergo trial by Court-martial.

A McSommerville Major
Medical Officer

Station BLAIR ATHOLL

Date 18 AUGUST 1943

A FIELD Army Form A 9.

**All printed matter not applicable to the particular Court being held, should be struck out and initialled by the President.

**Form of Proceedings for General ~~and~~ District Courts-Martial.

Proceedings of a Field General Court-Martial held at Blair Atholl on the 18th day of August 19 43 by order of

Brig-Gen. J. B. WHITE CBE. DSO. ED.

Commanding Canadian Forestry Corps, C.A. (O)

dated the 6th day of August 19 43

President.

Major A.C. McCAUL, No. 12 Coy. C.F.C.

Members.

Capt. A. GORDON, No. 6 Coy. C.F.C.

Lieut. G.C. GUILE, No. 14 Coy. C.F.C.

Capt. E.K. McDOUGALL.
D.J.A.G. Branch, C.M.H.Q.
, Judge Advocate

Trial of*

G 48014 Private Edward John GRAHAM,
General W/Shop, C.F.C.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. J.L. REID, Gen. Wshop, C.F.C.

Counsel‡ or defending officer† A/Capt. Major J.T. SHILLINGTON H.Q.,C.F.C.

At Ten o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

NO.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

N1778. Wt.W35237/Wte. 10,000. 2/37. S. & M., Ltd. G687/11. Form A 9/54

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Lt-Col. F.J. DAWSON, C.C. No. 4 District, C.F.C.
Major J. T. COOK, 2 i/c No. 4 District, C.F.C.
Major O.A. MAULDEN, Adjt. No. 12 Coy. C.F.C.
Lieut. E. S. CALLAGHAN, No. 12 Coy. C.F.C.
Lieut. R. H. DAVIS, No. 12 Coy. C.F.C.
Lieut. L.E. [illegible], A.S., C.F.C.
Lieut. S.E. BURRITT, No. 5 Coy. C.F.C.
Lieut. J.H. MURRAY, Gen.Wshop, C.F.C.
Lieut. H.G. POND, No. 5 Coy. C.F.C.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (B) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read? *Question to the accused.*

Answer. Not Guilty.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.
If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 A) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

The prosecutor makes an opening address [~~hands in a written address~~ which is read, marked ....., signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

See evidence attached.

being duly sworn, is examined by the prosecutor.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes.

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. ~~Is he a witness as to character only?~~ *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (j) and (m) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

F

Sentence.

The Court sentence the accused G48014 Pte. John Edward Graham, General Work Shop, C.F.C. to undergo Detention for fifteen (15) months. Sentence. 15 Mos Detention

Signed in the Field this 18th day of Aug 1943

Errol K. McDougall, Capt.
Judge Advocate

C McCaul Major
Pres

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

G-48014 Pte. John Edward Graham, General Workshop, C.F.C. guilty of the charge.

Signed in the Field this 18th day of August 1943

Ernst K. McDougall, Capt. Judge Advocate

[signature] Major Pres

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt. J.L. REID, Prosecutor, is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce AFB 296 (Ex. "H") and MFM 6 (Ex "I"), both duly certified.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H & I, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes.

Cross-examined by the accused.

No.

[Instructions.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

First Witness for Prosecution.

Lt.-Col. Walter Cyril LAWSON, present commanding "H" Wing No. 7, C.A.R.O. having been duly sworn is examined by the Prosecutor

1. Q. In civilian life what was your occupation?
A. Barrister and Solicitor.

2. Q. In what Province of the Dominion of Canada?
A. New Brunswick.

3. Q. During your practise as a barrister did you have anything to do with the direction of vital statistics of the Province of New Brunswick?
A. Yes, in addition to general legal practise I was for sometime Sub-Deputy Registrar of vital statistics, Queens County, Province of New Brunswick.

4. Q. As Deputy Registrar for the Province of New Brunswick did you have occassion to register certificate of marriage?
A. Yes they were all registered with me for that particular Parish all marriages, births and deaths.

5. Q. Are you therefore in a position to give evidence as to documents relating to notice of marriage certificates from the Provincial Secretary under the seal of the Province of New Brunswick?
A. I am quite familiar.

6. Q. I produce to you a document, can you identify this document?
A. Yes, this is a certificate of the Provincial Secty. Treas. of the Province of New Brunswick certified as to the signature by the Registrar General of vital statistics of the Province to a certificate of marriage which was attached.

7. Q. I produce to you a second document which was attached to the first, can you identify that?
A. This is the official notice of marriage, a copy of the official notice of marriage which is sent by the clergymen to the Sub Deputy Registrar of vital statistics and filed montly with the Registrar General of vital statistics.

8. Q. That is a copy, is there anything to certify as that copy on the document?
A. This is a certified copy.

9. Q. By whom is it certified?
A. By the Registrar General of vital statistics.

10. Q. Is it signed by him?
A. Yes signed by him.

11. Q. Do you know his signature?
A. I would not want to swear to the signature.

Exhibit "A".

12. Q. I produce to you an official notice of marriage which is filed as Exhibit "A", will you advise the Court as to who that marriage was performed between?
A. The marriage which was performed was between John Edward Graham and Lorraine Estelle Conroy at Fredericton, 18 March 1935.

Examination by Judge Advocate.

13. Q. In your opinion these documents that you have produced to the Court, do they constitute a good and valid marriage in the Province of New Brunswick?
A. They are the records of a good and valid marriage according to the laws of the Province of New Brunswick and they are the usual record which is accepted in the courts of the Province.

14. Q. Under the New Brunswick law it makes proof of the contents of the documents?
A. That is prima facie proof of the facts therein as the acts are certified as being recorded.

The defending officer declines to cross-examine the witness.

Second witness for Prosecution.

Major Arthur Frederick LEACHEY, R.C.A.P.C. having been duly sworn is examined by the Prosecutor.

Employed in the office of the Chief Paymaster. In my office we have to do with all the pay records of the personnel in the army overseas.

15. Q. You are then familiar with the various forms used in connection with the Dependents' Allowance assignment of pay and matter pertaining to the families of men on active service?
A. Yes.

16. Q. I produce to you a document which I would ask you if you can identify Major?
A. This is the Military form M.17, which is the official assignment of pay normally used in the Canadian Army Overseas, it is submitted by one G 48014, the rank is down as Private, the name is John Edward Graham, in this form this soldier makes application for the assignment of his pay in the amount of $20.00 monthly to take effect in October, 1940 and the form alleges that the assignee is a Mrs. Loraine Estella Graham whose address on that is North Devon, York Co. N.B., this is the certificate on the form that the assignee bears the relationship of wife to the soldier signing this form. Exhibit "P".

17. Q. Do you know John Edward Graham personally?
A. No.

18. Q. I produce to you a second document, can you identify that?
A. That is military form M 16 and accoyding to official regulations upon attestation all soldiers are required, if they are married, to make application for dependents' allowance on behalf of their wife if married, in this case this form shows that one G 48014 Pte. John Edward Graham of No. 15 Company, C.P.C. makes application for a wife whose name is shown as Loraine Estella Graham whose address is shown as North Dawon, N.B., York County, the form relates that this soldier and this dependent were married on the 18th. of March, 1935 in the City of Fredericton, York County, N.B., the wife's maiden name is given as Conroy. The answer to one of the questions in respect to the support before enlistment the applicant says he was supporting this woman as his wife before enlistment, the applicant goes on to enlist other dependents in this case a child named Beatrice Geraldine Graham, this child is said to have been born

18. A. (Cont'd.).
7th. August, 1939, at Holestown, Northumberland Co. N.B. and further goes on to say that this applicant is assigning $20.00 monthly effective October, 1940 the name is signed by one John Edward Graham on the 6th. of August, 1940.

19. Q. Is this form the authentic military form?
A. That is the official form.

Exhibit "C".

20. Q. I produce to you a third document?
A. This is military form M 19, which is the official change of assignment form used in the Canadian Army Overseas and Canada, by this form on the 19th. of May, 1943, a soldier G 48014 rank Pte. John Graham Gen. Workshop, C.F.C. desires to change to assignment from $25.00 to $30.00 monthly, the name of the assignee being Mrs. Lorraine Graham, North Devon, N.B. Canada and the soldier certified that the assignee is his wife, it is completed by the Unit Paymaster Capt. J.D. May.

Exhibit "D"

21. Q. Of your own knowledge do you know whether or not the $30.00 a month assigned pay has been deducted from Pte. Graham's pay since the 1st. of May?
A. The first of May this year $30.00 is deducted.

22. Q. You verify that?
A. Yes.

23. Q. Have you examined the signatures on Exhibits "B", "C" and "D" and you have identified?
A. I have.

24. Q. In your opinion are the names signed by the same man all three of them?
A. I would say, although not an expert, that the signatures are made by one and the same man.

25. Q. Do you know whether G 48014 Pte. Graham has been receiving dependents' allowance for a wife in Canada?
A. Yes I do, according to all records his wife has been receiving dependents' allowance since his attestation.

26. Q. That would be in 1940?
A. That is right.

Defending Officer declines to cross-examine the witness.

Third Witness for Prosecution.

L/Cpl. Nellie FALCON, A.T.S., having been duly sworn is examined by the Prosecutor.

27. Q. Where are you stationed?
A. Chester.

28. Q. Where were you in December, 1941?
A. At Strathpeffer

29. Q. Do you know Private John Edward Graham of the Canadian Forestry Corps?
A. Yes I do.

30. Q. Is Pte. Graham present in court?
A. Yes.

31. Q. You identify him?
A. Yes.

32. Q. I am producing to you a document Miss Falcon, can you identify it?
A. Yes.

33. Q. What is that?
A. It is a copy of the marriage certificate.

34. Q. Between whom?
A. Between John Edward Graham and Nellie Falcon that is myself.

35. Q. This document is signed Nellie Falcon is that your signature?
A. Yes that is my signature.

36. Q. It is signed by John Edward Graham, did you see John Edward Graham sign this document?
A. Yes I did.

37. Q. And is he the one and same person who is now the accused before this court?
A. He is.
Exhibit "E".

38. Q. Miss Falcon will you give the court a brief history of what led up to your marriage with the accused?
A. I went to Strathpeffer in December, 1941, and met John Graham soon after I arrived there, I met him every week-end whilst I was there, he suggested that we should be married in February when I was due to rejoin my Unit, we arranged to have our leave together and on February, 25th, 1942, we proceeded to London and on February, 27th., made arrangements to be married, on February, 28th. we were married that day and stayed in London until the 3rd. of March, them he went back to his Unit and I went back to Chester.

39. Q. Did the accused, Pte. John Edward Graham, at any time advise you, previous to your marriage, that he had a wife in Canada?
A. No sir he did not.

40. Q. Did he advise you to the contrary?
A. Yes sir.

41. Q. What did he say?
A. I asked him if he was married and he said no.

42. Q. Were you in any way suspicious that the accused was married previous to your marriage to him?
A. No sir I never had any reason to be suspicious.

43. Q. Who suggested or did the proposing in the alleged marriage?
A. he did sir.

CROSS-EXAMINATION BY MAJOR SHILLINGTON.

44. Q. How long was it after you arrived at Strathpeffer before you met the accused?
A. Three days.

45. Q. I believe you told my learned friend that after you met the accused you met him every week-end?
A. Yes, I think on two occassions I didn't meet him.

46. Q. Apart from two occassions up until February you met him every week-end?
A. Yes.

47. Q. Where would you see him?
A. He came to Strathpeffer.

48. Q. During your conversations with him, prior to February,

48. Q. (Cont'd.).
did you ever make inquiries from him as to whether he was married or not?
A. Yes.

49. Q. Just how did you make those inquiries?
A. When he spoke of getting married I asked him if it would be quite alright he had no wife in Canada or anyone who was expecting him to return to Canada to be married.

50. Q. You asked him that?
A. Yes.

51. Q. Did you ask him more than once?
A. Yes.

52. Q. Why?
A. I wanted to be quite sure everything was alright.

53. Q. When you asked him more than once wouldn't that indicate to you there was a slight suspicion in your mind as to marriage?
A. No I was not suspicious of him but I do know that such things have happened before.

54. Q. How long have you been in the A.T.S.
A. Seventeen months.

55. Q. How long had you been in the A.T.S. prior to meeting the accused?
A. I had only just joined, I had just finished three weeks preliminary training and was at Strathpeffer on a three months clerical course.

56. Q. Did you ever ask the accused to see his pay book?
A. No sir.

57. Q. And yet you say you asked him on various occasxions or other occasions,except the first time, if he was married?
A. Yes.

58. Q. Just when did he suggest marriage as you allege?
A. As far as I can remember about after our third meeting

59. Q. Would that be still in December, 1941?
A. Yes sir.

60. Q. When did you finally agree to marry him?
A. About the same time.

61. Q. The first time he asked you?
A. Yes.

62. Q. About three weeks after you met him?
A. I didn't give a definite answer.

63. Q. When did you definitely agree to marry him?
A. Not until about the end of January.

64. Q. Of 1942?
A. Yes 1942.

65. Q. Did you receive any engagement present?
A. No.

66. Q. Did he give you an engagement ring?
A. No.

67. Q. And on this occasion when you agreed to marry him

67. Q. (Cont'd.) did you make any further inquiries or any inquiries at all from him as to whether he was previously married?
A. I did say that I would marry him if he would promise me it was quite true that he was not married already or engaged to anyone in Canada.

68. Q. And on this occasion at the end of January when you accepted his proposal, how many times had you previously asked him if he was married?
A. I cannot really say.

69. Q. Was it numerous times?
A. I cannot really say, whenever we spoke of getting married or what arrangements we would make, I invariably asked him if it would be alright.

70. Q. You asked him if it would be alright?
A. Yes.

71. Q. Did you know at this time that part of his pay was assigned?
A. No.

72. Q. When did you learn that part of his pay was assigned?
A. At the end of our first leave.

73. Q. When was that?
A. In June.

74. Q. Of 1942?
A. Yes.

75. Q. That is when you learned part of his pay was assigned?
A. Yes.

76. Q. Then I presume it was in January, at the time you allege you became engaged, that you and the accused made arrangements about going on leave in February?
A. Yes.

77. Q. You left on leave 25th. February?
A. Yes.

78. Q. From where?
A. Strathpeffer.

79. Q. Where did you meet the accused?
A. Inverness.

80. Q. Then what did you do?
A. Travelled to London together.

81. Q. Arriving when?
A. Morning of the 26th. of February, we stayed with my married brother in London.

82. Q. Where does he live in London?
A. 35 Albert Square, Stratford.

83. Q. When arriving in London on the 26th. of February you went direct to your married brother's home?
A. Yes.

84. Q. After arriving there on the 26th. what did you do, what did you do all day the 26th.?

A. I stayed in the house most of the day, I went to the hair-dressers, I had not seen my brother for a long time.

85. Q. What did the accused do?
A. I think he visited the hair-dressers or some such establishment and in the afternoon we walked out in the town.

86. Q. On the 26th. then you say you spent the time principally going to the hair-dressers and the accused went out and probably did the same thing?
A. Yes.

87. Q. What did you do in the evening?
A. My brother, John Edward Graham and myself went to a cinema show and we just came back home to supper.

88. Q. Did you have anything to drink?
A. No sir not that day at all.

89. Q. Nothing to drink that day at all?
A. No sir.

90. Q. And after coming back from the cinema you had supper and then what?
A. We went to bed.

91. Q. Did you and the accused occupy one room?
Objection by Capt. Reid.
Objection sustained.
A. I slept with my brother's wife and John Edward Graham slept with my brother.

92. Q. On the 27th. what did you do and what did the accused do?
A. In the morning Sgt. Sisson arrived and she and I spent the morning finding rooms where we could stay.

93. Q. Where who could stay?
A. John Edward Graham and myself and Sgt. Sisson.

94. Q. Then on the morning of the 27th. you and Sgt. Sisson went around looking for rooms where the three of you could stay?
A. Yes.

95. Q. Stay for what period?
A. Saturday and Sunday.

96. Q. Did you find rooms?
A. No sir.

97. Q. How was it that Sgt. Sisson came to your brother's house that day?
A. We were in Strathpeffer together and it was arranged in Strathpeffer that she should come to the wedding.

98. Q. You told her that there was going to be a wedding?
A. Yes.

99. Q. As a result she arrived?
A. Yes.

100. Q. You found no rooms?
A. Not in the morning.

101. Q. What did you do?
A. We had lunch at my brother's and Sgt. Sisson and I went to see the Vicar of Upton Parish Church.

102. Q. Why did you go?
A. Because John Edward Graham said he was not sure what arrangements had to be made and that he would prefer that I made all the arrangements.

103. Q. Did he offer to go with you?
A. Yes.

104. Q. Did he go with you?
A. No.

105. Q. Why didn't he go with you?
A. I cannot say that, it didn't seem necessary at the time, it was only to make arrangements, we were not sure whether the Vicar would be able to marry us.

106. Q. Why?
A. It was very short notice.

107. Q. Was it necessary to obtain a license before the Vicar married you?
A. Yes.

108. Q. Who obtained the license?
A. I got the license and John Edward Graham paid for it.

109. Q. Was he with you at the time the license was obtained?
A. I made the arrangements on Friday afternoon and was given the license on Saturday.

110. Q. You made the arrangements for the license?
A. Yes.

111. Q. You also made the arrangements with the Vicar?
A. Yes.

112. Q. Private Graham was not with you when you made the arrangements for either?
A. No sir, he did know sir what I was doing, that I was doing that.

113. Q. What then took place on the 27th., did you have a party?
A. My brother and John Edward Graham went out after lunch and I think they had something to drink then, and that was the first time anyone had anything to drink.

114. Q. That was the first time?
A. Yes.

115. Q. That was after lunch on the 27th.?
A. Yes.

116. Q. What condition was the accused in when they came back?
A. They were quite sober really sir.

117. Q. What about in the evening or during the evening of the 27th.?
A. After we were married?

118. Q. I am talking of the 27th. still, what did you do during the evening?
A. We were in the house all the evening.

119. Q. Was the accused there too?
A. Yes.

120. Q. And who else?
A. My brother and his wife and a few friends of theirs.

121. Q. Was there any drinking during the evening?
A. Yes sir, but only very little.

122. Q. What was the condition of the accused?
A. He was quite sober, he was not drinking at all no sir there was not any of us drinking.

123. Q. Saturday the 28th., will you please tell us what happened all during that day starting with the morning when you got up, what did you do what arrangements did you make?
A. We tried to find rooms again.

124. Q. When you say "We" who do you mean?
A. Sgt. Sisson and I.

125. Q. Did the accused help you to locate rooms?
A. Yes he knew we were looking for rooms.

126. Q. Did he look for rooms?
A. Yes sir. We had lunch again at my brother's and left for the church about 2.00 o'clock.

127. Q. Who all went to the church?
A. John Edward Graham, myself, Sgt. Sisson, my brother's wife and her two sisters and another A.T.S. friend of mine.

128. Q. Do you know whether the accused had bean doing any drinking during the morning of the 28th.?
A. He might have had one or two drinks, but he certainly didn't have much to drink.

129. Q. He didn't?
A. No.

130. Q. Would you say his condition was that of a perfectly sober man?
A. Yes.

131. Q. What time did the alleged ceremony take place?
A. Half past two.

132. Q. During the ceremony I suppose the accused gave you a wedding ring?
A. Yes.

133. Q. Have you got that wedding ring?
A. Yes.

134. Q. Here?
A. Yes, no I am sorry sir I haven't it here.

135. Q. He gave you a wedding ring?
A. Yes.

136. Q. Do you know where he bought the wedding ring, who bought the wedding ring?
A. It was a ring which I had given to me many years ago from a relation.

137. Q. That was the wedding ring that was used for this ceremony?
A. Yes. John Edward Graham offered to buy a ring and I said I did not think it was necessary to buy another ring because I didn't want to cause unnecessary expense.

Court. 138. Q. Who paid the expenses of the wedding?
A. We shared expenses always.

Capt.Reid. 139. Q. Was there any expenses in connection with the actual wedding?
A. Yes, the license to be paid for and the church fees, which John Edward Graham paid himself.

140. Q. He paid these himself?
A. Yes sir.

Fourth Witness For Prosecution.

Sgt. Florrie Telford SISSON, A.T.S., having been duly sworn is examined by the Prosecutor.

141. Q. You are a Sgt. in the A.T.S.?
A. Yes.

142. Q. In December, 1941, where were you?
A. In Strathpeffer.

143. Q. Do you know Nellie Falcon?
A. Yes.

144. Q. Did you know here in December, 1941?
A. Yes.

145. Q. Were you with Nellie Falcon on February, 28th., 1942?
A. Yes I was.

146. Q. What brings back the date to your attention?
A. I witnessed the marriage of Nellie Falcon to John Edward Graham.

147. Q. Therefore you know John Edward Graham?
A. Yes.

148. Q. Is John Edward Graham present in this court?
A. Yes.

149. Q. Will you point him out?
A. (Witness points to the accused).

150. Q. I produce to you a document which has been filed as Exhibit "E",to these proceedings, can you identify that document?
A. Yes I can.

151. Q. On that document, which has been filed as a marriage certificate, there are two signatures of two witnesses to the marriage, the marriage between one John Edward Graham and Nellie Falcon, whose signatures appear as witnesses?
A. My own and Nellie Falcon's sister-in-law.

152. Q. The first signature of a witness on that document is yours, is that correct?
A. Yes that is correct.

153. Q. The document is also alleged to be signed by Nellie Falcon and John Edward Graham, were you present and did you actually witness the signature of that document by John Edward Graham?
A. Yes sir.

154. Q. You saw him sign it?
A. Yes sir I did.

155. Q. Is the person who signed that document as John Edward Graham one and the same person as the accused before this court?
A. Yes sir he is.

CROSS-EXAMINATION BY MAJOR SHILLINGTON.

156. Q. Sgt. Sisson how was it you happened to be in London at that particular time?
A. We left Strathpeffer and my friend Nellie Falcon wrote me telling me that John Edward Graham and herself were to be married in London.

157. Q. She wrote you and told you?
A. Yes.

158. Q. You had left Strathpeffer then?
A. I left a month before she did.

159. Q. You left in January?
A. Yes.

160. Q. Did you know the accused prior to you meeting him in London?
A. Yes.

161. Q. Where did you meet him?
A. In Strathpeffer.

162. Q. Did you meet him on more than one occasion in Strathpeffer?
A. Yes I did.

163. Q. Under what circumstances did you meet him in Strathpeffer?
A. During the week-ends he came from Beauly to see Nellie Falcon.

164. Q. That was when you met him?
A. Yes, I cannot say exactly how many times.

165. Q. Did you ever hear John Edward Graham, the accused, speak of his approaching marriage with Nellie Falcon?
A. No I cannot recollect.

166. Q. You cannot recollect him having done so?
A. No.

167. Q. Would you be prepared to say he didn't?
A. I am prepared to say that I didn't hear him any time.

168. Q. So that all your information concerning the approaching wedding came from Nellie Falcon?
A. Yes.

169. Q. When did you first learn from Nellie Falcon that she was going to be married?
A. Before we left Strathpeffer.

170. Q. Before we left Strathpeffer?
A. Before I left Strathpeffer.

171. Q. And that you say was in January?
A. Yes.

172. Q. And Nellie Falcon had told you then that she was going to be married?
A. They were thinking of being married on her next leave.

173. Q. When did Nellie Falcon write to you asking you to come to London for the wedding?
A. I received a letter approximately 25th. February.

174. Q. You received a letter approximately the 25th. of February?
A. Yes.

175. Q. Where were you located at the time you received this letter?
A. My same Unit as I am stationed with Donnington. (Donnington)

176. Q. How far away from London is that?
A. 85 miles.

177. Q. Relatively close to London?
A. Yes.

178. Q. After receiving the letter you proceeded to London, what day did you arrive in London?
A. Friday the 27th. of February, 1942.

179. Q. After getting in London where did you go?
A. I went to Nellie Falcon's brother's house.

180. Q. You stayed there?
A. Yes, I cannot remember the street.

181. Q. You stayed there and who was there when you arrived?
A. Nellie Falcon, John Graham and her brother's family.

182. Q. What time of day was it when you arrived?
A. About 8.45 A.M.

183. Q. In the evening or morning?
A. A.M.

184. Q. Did any conversation take place between you and the accused about the marriage?
A. None whatever.

185. Q. At no time then did he say anything to you about his approaching marriage to Nellie Falcon?
A. No sir.

186. Q. What did you do during the 27th., the day of the 27th.
A. During the morning I went out with Nellie Falcon to try and arrange for rooms, this was unsuccessful and we got an appointment at a hair-dressers, we came back for lunch, during the afternoon we visited the Vicar, Upton Parish.

187. Q. Who visited the Vicar?
A. Nellie Falcon and I.

188. Q. The accused was not present?
A. No.

189. Q. Did the accused mention anything in your presence about making arrangements with the Vicar?
A. No sir, but I do know that he was fully aware of everything we were doing.

190. Q. How do you know that?
A. Nellie Falcon told me.

191. Q. You don't know it of your own knowledge, only hearsay?
A. Yes.

192. Q. Actually nothing was said by the accused in your presence at any time prior to the actual ceremony, nothing was said about the approaching marriage?
A. No nothing at all.

193. Q. And you and Nellie Falcon went to the Vicar and made arrangements, is that correct?
A. Yes that is quite right.

194. Q. What about the issuing of the marriage license, do you know anything about that?
A. No sir.

195. Q. You don't know who made the arrangements for that?
A. I cannot tell you.

196. Q. Now on Friday was there any celebration at all?
A. We had a little party in the evening.

197. Q. Was there anything to drink there?
A. Yes sir.

198. Q. Much?
A. No sir.

199. Q. What was the condition of the accused?
A. I should say he was quite sober sir.

200. Q. Was there anything brought up in the evening during the conversation in which the accused took part about the approaching ceremony the following day?
A. None at all.

201. Q. Let us come to the 28th., what happened on the 28th., starting with the morning, what did you do, what did Nellie Falcon do with you?
A. We didn't get up until late in the morning, had breakfast and generally busied ourselves getting ready for the wedding in the afternoon and about a quarter to two Nellie Falcon, John Graham, myself and Nellie Falcon's sister-in-law went along to Upton Parish Church.

202. Q. How did you go to Upton Parish Church?
A. We walked, no we went on the bus and at two o'clock they were married there.

203. Q. Do you know whether there had been any drinking during the morning of the 28th.?
A. No sir.

204. Q. Did you see the accused during the morning of the 28th.?
A. Yes I did.

205. Q. Early or just when?
A. He had breakfast with us about ten A.M.

206. Q. Did you see him at any time again during the morning?
A. Yes almost all the morning.

207. Q. Was there any mention made during the morning by the accused of the approaching marriage?
A. No sir nothing at all.

208. Q. You proceeded to the Parish Church?
A. Yes.

209. Q. At about 2.00 o'clock and the ceremony took place, what was the condition of the accused during the ceremony?
A. Do you mean to say had he been drinking?

210. Q. Yes, what was his condition?
A. He was perfectly sober.

211. Q. You told my learned friend that you actually saw the accused sign that certificate, that is quite correct?
A. Yes sir that is quite correct.

Fifth Witness For Prosecution.

Capt. John Drummond MAY, Paymaster No. 4 District H.Q., Canadian Forestry Corps, having been duly sworn is examined by the Prosecutor.

212. Q. I produce to you a book can you identify it?
A. Private Graham's pay book.

213. Q. Can you particularize a little more?
A. M.B.M. 1 - Part II.

214. Q. Private Graham, give full name and number?
A. G 48014 Private Graham John Edward.

215. Q. What is the date of the issue of that pay book?
A. 1st. February, 1943.

216. Q. Inside of the pay book is there any entry to show whether or not John Edward Graham was married had a wife?
A. Yes it indicates that Pte. Graham was married.

217. Q. Will you give the name of the wife as shown by the pay book?
A. The name of the wife as shown by the pay book is Lorraine Graham.

218. Q. Has the pay book been signed by John Edward Graham?
A. The pay book is signed by J.E. Graham.

Exhibit "F".

219. Q. What, if any, assigned pay, if any, is shown as being payable to Lorraine Graham?
A. $30.00 assigned pay.

Judge Advocate.

220. Q. I don't know whether it has been brought out or not, do you know the man to be Pte. Graham yourself?
A. I do sir.

221. Q. Did he sign this pay book in your presence?
A. He did sir.

222. Q. I have here exhibits "B", "C" and "D", would you look at these and tell the court whether, in your opinion, I don't pretend you are an expert in handwriting, your own opinion as to whether these signatures are similar or not?
A. On M.F.M. 17 and M.F.M. 16 the soldier has signed the name John Edward Graham, the signature which I have been accustomed to witnessing is J.E. Graham, in all of these three documents the signature of the surname appears similar as the signature of the surname in M.F.M 1 - Part II.

223. Q. Would you be able to say the same thing to this Exhibit "E", marriage certificate, where the accused has signed there?
A. I am not prepared to give any opinion on this signature

Court.

224. Q. Isn't it customary in pay documents to have one signature not three or four?
A. He has been advised on that on various occassions, the signatures in all pay books are to be identical similar with preceding pay books.

225. Q. Has the accused at any time made application to cancel or discontinue his assigned pay to Lorraine Graham?
A. No sir.

THE PROSECUTION IS CLOSED.

AT 1200 HOURS THE COURT ADJOURNED UNTIL 1400 HOURS.

AT 1400 HOURS THE COURT RE-ASSEMBLED.

PURSUANT TO ADJOURNMENT, PRESENT THE SAME MEMBERS AS WHEN ADJOURNED.

JUDGE ADVOCATE. Private Graham the prosecution is now closed and it is my duty at this stage to advise you as to your rights and general conduct of your defence. The procedure that now will be followed will depend on the answers you will give to three questions asked you by the President of the Court, consequently it is important that you understand and appreciate the effect of your answers to these questions. You do not have to give evidence under oath unless you wish to do so, but if you do give sworn evidence then you are liable to be cross-examined by the prosecutor by the members of the court and by myself, if you don't wish to give evidence on oath, you may make a statement which is not upon oath, you will not be sworn and no questions will be asked you with regard to that statement, I must warn you however that a statement made not upon oath will not carry as much weight as a statement made upon oath.

226. Q. Is that quite clear?
A. Yes.

227. Q. You appreciate that?
A. Yes.

BY THE PRESIDENT TO THE ACCUSED.

228. Q. Do you wish to give evidence on oath, or do you wish to make a statement not on oath? You do not have to do either. If you elect to give evidence on oath, you are liable to cross-examination as any other witness. If you make a statement, you will not be sworn, and you will not be cross-examined, nor will be obliged to answer any questions. Evidence on oath carries more weight than a statement. If you make a statement, it will be taken down in writing and will be given due consideration?
A. I would like to make a statement on oath.

229. Q. Do you wish to give evidence as a witness?
A. Yes sir.

230. Q. Do you intend to call any other witnesses on your behalf?
A. No sir.

First Witness For Defence.

G 48014 Pte. John Edward GRAHAM, General Workshops, Canadian Forestry Corps, having been duly sworn is examined by Major Shillington counsel for defence.

231. Q. You are the accused in this trial?
A. Yes.

232. Q. Are you married or single?
A. Married man sir.

233. Q. What is the name of your wife?
A. Lorraine Estella Conroy.

234. Q. Where does she reside?
A. She is living in St. John, New Brunswick.

235. Q. What provision do you make for her care?
A. I am signing over $30.00 a month of my own pay and the Army is taking care of the rest.

236. Q. What do you mean by that?
A. Whatever the allowance is.

237. Q. She is also in receipt of Dependents' Allowance?
A. Yes.

238. Q. The evidence given in court in that regard this morning is perfectly correct?
A. Yes sir.

239. Q. Do you know a member of the A.T.S. known as Nellie Falcon?
A. Yes I do.

240. Q. Under what circumstance did you meet her?
A. I met here in a place called Strathpeffer in December 1941, I started going with her there, in the early part of January I had my both legs mangled all smashed, I was in Raigmore Hospital two weeks, when I came out I went to Reinforcement which I was there one week.

241. Q. During this period did you see Nellie Falcon?
A. One Sunday.

242. Q. That was in January?
A. In January.

243. Q. Did you see her frequently in December?
A. Yes I did.

244. Q. What statement, if any, did you make to Nellie Falcon as to your martial status?
A. The second Sunday afternoon that I was with her.

245. Q. This is still in December?
A. The second Sunday Nellie Falcon and I went to Dingwall from Strathpeffer, we went into the Caldonia Hotel in the dining room we had tea, and there she was asking me different parts about Canada where I was at, I was telling her, she asked me if I would take her back with me, I said no that I had a woman over there, she asked me if it was my wife and I said yes, that is all that she said then.

246. Q. That was in December, 1941?
A. Right sir.

247. Q. Was there any other occasion that you recall that you definitely told ~~xxx~~ Nellie Falcon that you were a married man?
A. Yes.

248. Q. When was that occasion?
A. In February, 1942, Friday the 27th. at 1030 in the morning in London at her brother's home, she asked me that morning if I was going to marry her and I said no I wasn't that I already had a woman and she was my wife and I was going back to her.

249. Q. Are these the only two occasions in which the question of a prior marriage on your part came up between you and Nellie Falcon?
A. Yes that I can remember of.

250. Q. And you definitely state that on both of these occasions you told Nellie Falcon you were a married man?
A. Yes sir.

251. Q. Now I believe from the evidence given in this court this morning that in February, 1942, you and Nellie Falcon proceeded on leave together is that correct?
A. Right sir.

252. Q. What transpired on that leave?
A. We left Inverness on the 25th. of February, we went through to London, stayed at her brother's place, John Falcon, for a few days, then we stayed some other places I don't know where in a different part of the town.

253. Q. How long did you stay at John Flacon's place?
A. If I am not mistaken I think we left there Sunday morning the 29th. of February.

254. Q. Was there a 29th. of February in 1942?
A. No sir there wasn't.

255. Q. Then what date was it?
A. First of January first of March.

256. Q. So that from the 26th. of February to the 1st. of March you stayed at John Falcon's?
A. Right sir.

257. Q. Then a moment ago you mentioned that on the 27th. you told Nellie Falcon that you were a married man?
A. Yes sir I did.

258. Q. What happened after that?
A. Sgt. Sisson came to visit her that morning, her and Sgt. Sisson went out together, I went out by myself, I went to a pub, had a few drinks, came back for noon, I think I spent the night in the house that night.

259. Q. At John Falcon's?
A. John Falcon's.

260. Q. Was there any talk of a marriage ceremony?
A. No sir.

261. Q. All that day?
A. No sir there wasn't.

262. Q. Did you make any arrangements during that day to prepare for a marriage ceremony?
A. No sir I did not.

263. Q. On the night of February, 27th. was there any party at John Falcon's house?
A. There was a little party not very much.

264. Q. Was there anything to drink there?
A. Yes sir there was.

265. Q. Did you have any?
A. Yes sir I did.

266. Q. Did you have very much?
A. Well John Falcon and I went out about eight o'clock and I think we went to a pub called the Caledonia pub or bar I think that is the name, we stayed there until about 10.00 o'clock, we got some liquor we brought it back to the house which produced the liquor around.

267. Q. Do you remember coming back to the house?
A. Yes sir.

268. Q. Do you remember going to bed that night?
A. Yes I do, it wasn't that night it was the next morning about 2.00 o'clock.

269. Q. That you went to bed?
A. Yes.

270. Q. You do recall going to bed?
A. Yes sir.

271. Q. On Saturday morning what did you do?
A. Saturday morning we got up, had breakfast, and I went out and I got my uniform pressed and went to a pub when they opened, I met a fellow there from Saskatchewan he was in civilians an elderly gentleman, him and I drank there I think around 2.00 o'clock when I left and went back to the house.

272. Q. Then what did you do?
A. We stayed around the house until about 6.00 o'clock that night, we went out and went to a show.

273. Q. Saturday the 28th., you went to a show on Saturday night?
A. Yes.

274. Q. From the time you went to the pub and met the chap from Saskatchewan until you went to the show where did you spend your time?
A. I had a bottle with me which I took back to the house we got it at the pub which I got there the civilian he got it for me, a bottle of gin, we drank around the house there until 6.00 o'clock the bottle was finished.

275. Q. And you didn't go out of the house at all that Saturday afternoon?
A. No sir not at all that I can recall.

276. Q. Do you recall going to a church?
A. No sir.

277. Q. Do you recell going through any ceremony?
A. No sir I don't.

278. Q. Of any kind?
A. No sir I don't.

279. Q. I want you to look at that document which has been filed as Exhibit "G" and tell the court what it is and if you have seen it before?
A. I seen it this morning sitting back here the first time I have seen it, that looks very much like a marriage certificate.

280. Q. Down in the left hand corner there is the name John Edward Graham, that is your name?
A. Yes sir that is my name.

281. Q. Is that your signature?
A. It looks similar to mine.

282. Q. Did you write it?
A. Not that I know of.

283. Q. Do you mean to say you have no recollection of signing that?
A. No sir I have not.

284. Q. You definitely swear that you have no recollection of going through any ceremony any marriage ceremony with Nellie Falcon the afternoon of February, 28th.?
A. That is right.

285. Q. That you do recollect returning from the pub?
A. Yes sir I do.

286. Q. What happened Saturday night?
A. I don't remember right off what happened Saturday night.

287. Q. The night after this alleged ceremony took place?
A. I don't remember now.

CROSS-EXAMINATION BY CAPT. J.L. REID, PROSECUTOR.

288. Q. Do you consider that you have an average memory of the average man?
A. Yes I do.

289. Q. What happened Sunday the 1st. of March?
A. I don't know right now.

290. Q. You don't know what happened on Saturday?
A. Yes sir I do Saturday afternoon I do.

291. Q. You can remember Saturday but not Sunday, how long did you stay at Nellie Falcon's brother's house after the 28th.?
A. We left there Sunday morning.

292. Q. Did you on Sunday and for the balance of your leave live with Nellie Falcon, that is the young girl that was in here this morning, as man and wife?
A. That is a personal question.

Court. You will have to answer the question.

293. Q. I am asking you for an answer did you or did you not?
A. I don't want to ruin her name, yes sir I did.

294. Q. You remember that, why did you live with her as man and wife?
A. Because we wanted to.

295. Q. But you have no knowledge of having gone through a marriage ceremony with this girl on the 28th.?
A. No sir.

296. Q. Therefore when Sgt. Sisson and Nellie Falcon swear that they went on a bus with you to the church that they are lying is that correct?
A. According to my knowledge it is.

297. Q. You never left the house that day?
A. Not to my knowledge.

By Major Shillington.

298. Q. Did you ever live as man and wife with Nellie Falcon prior to the 28th. of February?
A. No sir I did not.

By Capt. Reid. to the Court. Due to that question and the answer, in order to discredit this witness further, I would like to put in a letter written by this witness and signed by him.

That letter is written by the accused?
Yes.

I think I am within my rights because I am prepared to discredit him.

You will have to prove the letter.

To the Accused. 299. Q. Is that you hand writing?
A. No I wouldn't say it was mine.

300. Q. Is that your signature?
A. It is my signature but I wouldn't say it was my hand writing.

I would like to read the letter into the evidence.

Major Shillington. I don't think there is sufficient identification.

Letter allowed.

"Dear Madam,- February, 18th., 1943.

I have been up before my C.O. in a charge which you have sent in. I have known this girl for quite a while and we have spent several leaves together, and when she was stationed at Strathpeffer we spent all our week-ends together on our leaves, we have registered as man and wife in hotels, but as far as being married I am not unless I got married when I was drunk and didn't know I did, which I was drunk on all my leaves and she was also. Thanking you very much for your trouble.

Signed John Graham".

Exhibit "G".

By Judge Advocate.

301. Q. You said in your evidence Pte. Graham that one of the things you did on Saturday morning, you had your uniform pressed, is that right?
A. Yes.

302. Q. Did you have any special reason to have your uniform pressed on that Saturday morning?
A. I think it was raining on Friday and the press was all out and it looked like a bag and I had it pressed Saturday morning.

303. Q. You said you went to the pub as soon as the pub opened, what time did the pubs open?
A. 11.00 o'clock.

304. Q. As early as that?
A. They were at that time at that place.

305. Q. Have you any explanation on the point that Nellie Falcon and Sgt. Sisson both swear here on that day that they saw you at the church on Saturday afternoon and that you went through a ceremony of marriage with Nellie Falcon?
A. Not to my knowledge.

306. Q. You have no way of explaining that whatever?
A. No sir.

307. Q. Did you have anything to drink early in the morning before the pubs opened?
A. No sir.

308. Q. What were you drinking in the pub?
A. Whiskey.

309. Q. Who was at the house with you on Saturday afternoon when you went back after you left the pub?
A. I think Mrs. Falcon, Nellie and Sgt. Sisson.

310. Q. You say they were at the house all of Saturday afternoon?
A. As far as I know they were at the house on Saturday afternoon all afternoon

Court. 311. Q. How much liquor did you take back to the house with you?
A. One bottle.

312. Q. One bottle of gin for five?
A. Yes.

313. Q. In going out drinking with Miss Falcon's brother, what was his attitude towards you with your relationship towards his sister?
A. He never said, he never said anything about it.

314. Q. Was it his understanding you were going to marry her?
A. No sir he never said anything about marriage to me.

Third Witness For Prosecution. L/Cpl. Nellie FALCON, A.T.S. Re-called, already sworn, examined by Prosecutor.

315. Q. Cpl. Falcon do you recall the second Sunday, after you had met the accused, John Edward Graham, the second Sunday you were out with him after you had met him?
A. Yes, I don't think it was any different to any other.

316. Q. Do you remember what you did that day?
A. No sir I cannot say definitely.

317. Q. Did you go to Dingwall at any time in the early part of your acquaintanship with the accused?
A. Yes, it is hard to remember time, sometimes we spent Saturday afternoon and Sunday morning.

318. Q. Did you ever ask the accused to take you back to Canada with him?
A. When he talked of getting married would that mean going back to Canada.

319. Q. Married to you?
A. Married to me.

320. Q. Did he tell you at any time in Dingwall or elsewhere that he had a wife in Canada?
A. No.

321. Q. Do you remember Friday, the 27th. of February?
A. Yes.

322. Q. Did you ask the accused on that day if he would marry you?
A. No sir, I understood he was going to marry me.

323. Q. Do you remember on the 28th. what the accused did in the morning, that was the alleged marriage day?
A. I cannot remember exactly, he was with me most of the morning.

324. Q. In the morning?
A. Yes.

325. Q. Did he have lunch at your brother's house?
A. Yes.

326. Q. What time did you have lunch?
A. About 1.00 o'clock.

327. Q. You are prepared to swear he was in the house at 1.00 o'clock?
A. Yes.

328. Q. Do you to your knowledge know whether he had been out drinking on the morning of the 28th.?
A. Yes, he did have a drink with my brother, when they came back for lunch they were both quite sober in fact my brother was very sober.

329. Q. Was Sgt. Sisson there?
A. Yes all the time.

Court. 330. Q. What was your brother's attitude towards the marriage?
A. He wasn't very pleased that my parents didn't know.

331. Q. He knew?
A. He knew we were to be married.

332. Q. Did you tell him or Pte. Graham?
A. I wrote to him before we went to London telling him that I was to be married and could we come to his home and when he answered me said I could always come to his home, when I got there I told him we were going to be married and he said it was my own affair and that he would do what he could to help me but that he thought that my parents ought to know.

333. Q. Why didn't your parents know?
A. Because it was arranged at home that I should marry someone else sir.

Fourth Witness For Prosecution

Sgt. Florrie Telford SISSON, A.T.S. Re-called, already sworn, examined by Prosecutor.

334. Q. On the morning of February, 28th., 1942. where were you what were you doing?
A. I got up about 10.00 A.M.

335. Q. Did you leave the house of Miss Falcon's brother?
A. I don't think so.

336. Q. Do you remember seeing the accused, Pte. Graham, on that morning?
A. Yes.

337. Q. Did he leave the house during the morning?
A. I cannot remember.

338. Q. Was he there at lunch time?
A. Yes sir.

339. Q. He had lunch in the house?
A. If I remember rightly he didn't have any lunch he just had a snack.

340. Q. You are definitely sure Pte. Graham was there?
A. Yes I am positive.

341. Q. I believe in your evidence this morning you said you had gone to visit Nellie Falcon in answer to a letter is that correct?
A. Yes.

342. Q. Do you remember how long before February, 28th. you received that letter?
A. Yes two days.

CROSS-EXAMINATION BY MAJOR SHILLINGTON.

343. Q. With regard to lunch on Saturday, the 28th., are you definitely sure or do you just believe it was that the accused was at lunch at the same/you and Nellie Falcon had lunch?
A. Yes.

344. Q. You are definitely swearing?
A. Yes.

345. Q. You swear he was there for lunch?
A. Yes.

346. Q. What time did you have lunch?
A. I cannot remember exactly what time.

347. Q. Roughly what time would it be?
A. Sometime around 12.30 to 1.00.

348. Q. Did you have anything to drink during lunch hour?
A. No sir.

349. Q. Nothing at all?
A. No sir.

350. Q. But you seen Pte. Graham that morning?
A. Yes.

351. Q. Where had you seen him that morning?
A. In the house.

352. Q. Do you know whether Pte. Graham left the house that morning?
A. I cannot recollect him doing so I cannot remember.

353. Q. You don't know whether he did or didn't he may have for all you know?
A. Yes.

DEFENCE IS CLOSED.

Address by Capt. J.L. Reid, Prosecutor.

I have very little to say Mr. President and gentlemen of the court, this case that I have is about as clear a case as I have had the misfortune to be mixed up in. The documentary evidence is there in the alleged certificate signed, I have produced a witness who signed the certificate as a witness, I have produced the unfortunate young girl who signed the certificate, the accused himself admits the signature looks like his, indefinite as his memory is later, I don't think the court will put much stock in that, the accused has already admitted he is married at home and the facts speak for themselves. This man has committed bigamy or hasn't, my evidence is corroborated in every particular by two witnesses. The accused stated that he did not arrive back at Nellie Falcon's brother's house until 2.00 o'clock, in rebuttal evidence is provided by two witnesses, which I submit the court must take recognition against the accused's evidence. The accused gave evidence on questioning by his counsel that he did not stay with Nellie Falcon as man and wife prior to their marriage and I produced a document signed by the accused that he did. Under the circumstances I am quite content to allow this case to rest with you Mr. President and the members of the court.

Address by Major Shillington, Counsel for the defence.

Mr. President there is no doubt about my learned friend's contention that the documentary evidence is correct, the documents which have been produced during the course of this trial have been admitted, they speak for themselves, but I would draw to the attention of you sir and the court that there are many circumstances concering the whole series of evidence, the evidence of the witness Nellie Falcon would seem to throw a peculiar light on the circumstances surrounding the period just before and immediately after the alleged marriage ceremony. The accused states that shortly after meeting this girl he told her that he was a married man, he also states that he did before the alleged wedding again state that he was a married man. Now let us look through the evidence and see just what steps the accused took, if any, to instigate a marriage or to assist in this conclusion. In this court room at this time are married men and have gone through the experience of getting married, and when we did I believe I would be quite safe in saying that each one of us would be accepted for the normal man, each one of us made the arrangements with the person who was to perform the ceremony, each one of us obtained the license, each one of us arranged for the accommodation which was to be occupied after the ceremony, the evidence of Nellie Falcon herself states that she made the arrangements with the Vicar, she made the arrangements about the marriage license and that

she went out looking for accomodation, the attitude of the accused during that period was apparently negative, so much so that the marriage was not discussed by the accused in the presence of Sgt. Sisson, and Sgt. Sisson says in evidence that at no time from the first she knew the accused up until the time of the alleged ceremony did the accused ever say anything about the marriage that was to take place. The document speaks for itself, it would seem that a marriage ceremony did take place, but I submit that we cannot very well afford not to give some credence to the story told by the accused, he took no active part in the preparation for the marriage and it is borne out and corroborated by the evidence of the two girls, and as far as the accused is concerned he has no recollection of a marriage ceremony taking place, and his recollection of that time during which the ceremony did take place was that they stayed at John Falcon's house and actually it would be from 2.00 o'clock to 6.00 o'clock in the afternoon. I submit that there is a doubt as to the mental attitude on the part of the accused and I would ask this court to weigh that very carefully before arriving at a decision in a case such as this, it is quite easy to conceive where a man could be victimized by a series of circumstances and events and consequently the evidence should be weighed with more care and greater care than possibly it would in another type of case.

Address by Judge Advocate.

Section 103 declares that, if it is necessary, the Judge Advocate should sum up, I believe it is necessary in this case and I will endeavour to be as brief as possible.

It is hardly necessary for me to point out that the court is master of the facts, and, if I should touch upon those particulars, you will realize that I am expressing my own opinion, I will try and clarify the law.

The evidence has now been heard and it is the duty of you as members of the court to reach a conclusion. Two important points must be decided, in the first place have the facts as set out in the charge sheet been proved, and, second, if you are satisfied they have been proved, then has bigamy been committed. As the charge is laid under A.A. Sec. 41 as an offence against the laws of England, for the benefit of all concerned I would like to read section 57 - 1861.

> "Whoever being a party shall marry another person during the life of the former husband or wife whether the second marriage shall have taken place in England, Ireland or elsewhere, shall be guilty of a felony and being convicted thereof shall be liable to be put in penal servitude not exceeding seven years."

That gentlemen is the law of the land and is the law to be applied in that charge laid under section 41 of the Army Act.

In bigamy cases the onus rests upon the prosecution to prove four items:-

In the first place there is the celebration of the first marriage and as you see here to-day that alleged marriage did not take place in England and as a result it was necessary that expert evidence be offered as to the legality where the marriage took place.

The same remarks also apply to item number 2, which is the validity of the first marriage.

Item No. 3 is that the first marriage subsisted on the date of the second marriage, and

Item No. 4 is the very important item of the celebration of the second marriage.

Where the prosecution has established these four points then the onus shifts to the accused to put forward a sound defence in law to the charges. As far as I can make out the defence has relied greatly on the defence of drunkeness. In this respect I would like to read to the court M.M.L. Page 106, chap. 7, para.9.

Read by Judge Advocate.

There is one other point which I could touch upon, the evidence in this case, as you all readily agree, has been slightly contradictory, some witnesses have stated one thing and the following witness up stated the opposite thing, I wish to point out the question of the credibility of the witnesses and the amount of weight that you,as members of the court,should attach to any statement by a witness is entirely within your own descretion. You have seen and you have heard the witness and it is your duty as reasonable men to believe whichever witness you believe was telling the truth. I don't think it is necessary to deal on the principle of justice, that every man is innocent until proven otherwise. You know reasonable doubt, I think the best definition of reasonable that I can give is that - it is such a doubt as would make a reasonable man doubt in the handling of his own business, and in the matter that is important to you, such a doubt as would make you hesitate and ponder whether he knew the thing he was contemplating was right or proper. A doubt however must be a real and substantial doubt and not an idle recollection "That nothing in life is certain". In conclusion I would just like to say that I feel certain that whatever the decision of this court may be, the accused and all others can be confident you, as members of this court, shall do all in your power to render justice impartially as you have sworn to do.

COURT ADJOURNED TO CONSIDER EVIDENCE.

COURT RE-OPENS.

COURT IS CLOSED FOR CONSIDERATION OF SENTENCE.

LIST OF EXHIBITS.

"A". Official notice of marriage in the Province of New Brunswick, between John Edward Graham and Lorraine Estelle Conroy, to which is attached certificate signed by the Provincial Secretary of the Province of New Brunswick certifying as to the signature of the Registrar General of Vital Statistics.

"B". M.F.M. 17 Assignment of pay Canadian Army.

"C", M.F.M. 16 Application for Dependents' Allowance Canadian Army.

"D". M.F.M. 19 Change in Assignment of Pay Canadian Army.

"E". Copy of a Entry of Marriage between John Edward Graham and Nellie Falaon in the County of Essex, England.

"F". M.B.M. 1 Part II, Soldier's pay book, John Edward Graham.

"G". Letter signed John Graham dated Feby. 18, 1943.

For certified copies see summary original retd

original retg. certified copy substituted

This form if placed in an envelope, marked "Dominion Statistics—Free, penalty for improper use $300", and properly addressed to the Sub-Deputy Registrar will pass through the Mail "FREE"

FORM C.-2.

Exhibit A. (2) 20 Feb

PROVINCE OF NEW BRUNSWICK
DEPARTMENT OF HEALTH
OFFICIAL NOTICE OF MARRIAGE

REGISTERED No. C McCaul Mayor
(For use of Registrar General only.)

Sub-Health District of Fredericton Sub-Deputy Registrar area of Fredericton City

BRIDEGROOM

1. Full name GRAHAM (Surname) JOHN EDWARD (Given name)
2. Occupation Railway Employee (Section Man)
3. Bachelor, Widower or Divorced Bachelor
4. Age 21 5. Religious Denomination Presbyterian
6. Residence Barker's Point, N.B. (If in Canada, province, county and Post Office address. If foreign, state country)
7. Place of birth Halifax, Nova Scotia (If born in Canada, province, county. If foreign born, country)
8. Name of father Jardine Robert Graham
9. Place of birth of father Rexton, N.B.
10. Maiden name of mother Ella May Donaghy
11. Can bridegroom read? Yes Write? Yes

BRIDE

12. Full name CONROY (Surname) LORRAINE ESTELLA (Given name)
13. Occupation Housework
14. Spinster, Widow or Divorced Spinster
15. Age 16 16. Religious Denomination Presbyterian
17. Residence Boiestown, N.B. (If in Canada, province, county and Post Office address. If foreign, state country)
18. Place of birth Boiestown, N.B. (If born in Canada, province, county. If foreign born, country)
19. Name of father John Gordon Conroy
20. Place of birth of father Boiestown, N.B.
21. Maiden name of mother Estella Josephine Spencer
22. Can bride read? Yes Write? Yes

23. When married Eighteenth day of March (Month) 19 35 (1 year)
24. Place of marriage 824 George St., Fredericton, N.B. (Name of church or clergyman's residence or location of dwelling house)
25. By license or banns License 23253 (If by license, give number)
26. Signature of Groom John Edward Graham
Bride Lorraine E. Conroy
27. Signatures of Witnesses Name Allister K. Craig
Address South Devon, N.B.
Name June G. Bruce
Address Boiestown, N.B.

I certify the above stated particulars are true to the best of my knowledge and belief.

Clergyman George E. Ross, D.D. (Signature)
Address 824 George St., Fredericton
Religious Denomination Presbyterian

Registered No. 16-101 Filed at this office 21 day of March 19 35

E. M. Ferrell
Signature of Sub-Deputy Registrar.

I hereby certify that this is a true copy of certificate of marriage on file at this office.
May 7, 1943
Overseerman
REGISTRAR GENERAL, N.B.

NOTE. This form must not be mutilated. All information asked for is to be given including Full Christian and Surnames of all parties, and if for any reason this is impossible, the reasons for the omission must be stated.

[see other side]

Exhibit A (2)

A

McCaul Major
Pres.

I, J. J. Hayes Doone, Provincial Secretary for the Province of New Brunswick, do hereby certify that the certificate as to the marriage of John Edward Graham and Lorraine Estella Conroy hereto annexed and marked "A" was signed by C. W. MacMillan, the Registrar General of Vital Statistics for the Province of New Brunswick; that the signature "C. W. MacMillan" thereto subscribed is the signature of the said C. W. MacMillan, the Registrar General of Vital Statistics for the Province of New Brunswick; and that the said C. W. MacMillan as Registrar General of Vital Statistics for the said Province is the proper officer authorized by law to sign and issue the said certificate.

Given under my hand and the Great Seal of the Province of New Brunswick this Eleven th day of May, 1943.

J. Hayes Doone

Provincial Secretary for the Province of New Brunswick

P 022426

This is exhibit "C" referred to in the evidence of A/L.cpl. Nellie Falcon J.O. Reid Capt.

C. Exhibit "C" McCaul Major Pres

CERTIFIED COPY of an ENTRY OF MARRIAGE.

Pursuant to the Marriage Acts, 1811 to 1939.

The Statutory Fee for this Certificate is 2s. 7d. If required subsequently to registration, a Search Fee is payable in addition.

M. Cert. Church.

Insert in this Margin any Notes which appear in the original entry.

Registration District

1942 Marriage Solemnized at ST. PETER'S in the Parish of UPTON CROSS in the County of Essex

Columns:— No.	1 When Married.	2 Name and Surname.	3 Age.	4 Condition.	5 Rank or Profession.	6 Residence at the time of Marriage.	7 Father's Name and Surname.	8 Rank or Profession of Father.
295	FEBRUARY 28th 1942	JOHN EDWARD GRAHAM	28	Bachelor	Army	Upton House	Jardine Robert Graham Deceased	Machinist
		NELLIE FALCON	26	Spinster	A.F.S	Upton House	JOHN FALCON	Landlord

Married in the Parish Church according to the Rites and Ceremonies of the Established Church by Licence ~~or after~~ by me.

This Marriage was solemnized between us, John Edward Graham, Nellie Falcon in the Presence of us, J. T. Sisson, M. E. Falcon

A. S. Fanny

I, Allen James Fanny of S. Peters Upton Cross in the County of Essex do hereby certify that this is a true copy of the Entry No. 295 in the Register Book of Marriages of the said Church.

WITNESS MY HAND this 28 day of Feby 1942

A. S. Fanny

State "~~Rector~~," "Vicar," or "~~Curate~~."

CAUTION.—Any person who (1) falsifies any of the particulars on this Certificate, or (2) uses it as true, knowing it to be falsified, is liable to Prosecution.

P 022426

This is exhibit "C" referred to in the evidence of A/L.cpl. Nellie Falcon J.W. Reid cpl.

C. Exhibit "E" McCaul Major Pres

This Statutory Fee for this Certificate is 2s. 6d. If required subsequently to registration a Search Fee is payable in addition.

CERTIFIED COPY of an ENTRY OF MARRIAGE Pursuant to the Marriage Acts, 1811 to 1939.

(Printed by the Registrar-General).

M. Cert. Church.

Insert in this Margin any Notes which appear in the original entry.

Registration District

1942 Marriage Solemnized at ST. PETER'S of UPTON CROSS in the County of Essex in the Parish

Columns— No.	1 When Married.	2 Name and Surname.	3 Age.	4 Condition.	5 Rank or Profession.	6 Residence at the time of Marriage.	7 Father's Name and Surname.	8 Rank or Profession of Father.
295	FEBRUARY 28th	JOHN EDWARD GRAHAM	26	Bachelor	Army	Upton House	Jardine Robert Graham Deceased	Machinist
	1942	NELLIE FALCON	26	Spinster	A.F.S.	Upton House	JOHN FALCON	Landlord

Married in the Parish Church according to the Rites and Ceremonies of the Established Church by Licence or after by me.

This Marriage was solemnized between us. John Edward Graham Nellie Falcon in the Presence of us. F. J. Sisson M. E. Falcon A. S. Fanny

I, Allen James Fanny of S. Peter's Upton Cross in the County of Essex a true copy of the Entry No. 295 in the Register Book of Marriages of the said Church do hereby certify that this is

WITNESS MY HAND this 28 day of February 1942

A. S. Fanny

CAUTION.—Any person who (1) falsifies any of the particulars on this Certificate, or (2) uses it as true, knowing it to be falsified, is liable to Prosecution.

State "~~Rector~~," "Vicar," or "~~Curate~~."

Feb 18-2-43

Dear Madam

I have been up before my C.O. in a charge which you have sent in.

I have known this Girl for a quite a while and we have spent several leaves together and when she was Station at Strathpeffer we spent all our week ends together on our leaves we have Regarded as man and wife in Hotels but as far as been married I am not.

unless I got married when
I was drunk and diden mo
I did, which I was drunk
on all my leaves. and She
was also Thanking you very
much for your Trouble.

Sign I ohn Graham

Exhibit "G"

A McCaul Major
Pres.

SUMMARY OF EVIDENCE in the case of C-48014 Pte. John Edward Graham, General Workshop, Canadian Forestry Corps, charged under A. A. Section 41 with committing a civil offence, that is to say: bigamy.

The Officer Commanding directed that the evidence be taken on oath.

E-62611 Pte. Turpin, J. W., General Workshop, Canadian Forestry Corps acted as stenographer and was duly sworn.

Lieut. J. H. Murray, General Workshop, Canadian Forestry Corps having been duly swory states:

BY CAPTAIN J. L. REID

Q. Will you please give the Court your name and present status in the Army?

A. Lieut. James Hugh Murray, Records Officer, General Workshop, Canadian Forestry Corps.

Q. I understand, Mr. Murray, that some documents have come into your possession pertaining to Pte. J. E. Graham, the accused in this matter?

A. Yes, Sir.

Q. Will you produce them?

A. I produce a statement of evidence purporting to be signed by Lt.-Col W. C. Lawson, marked Exhibit "A" to which is attached a certified copy of official notice of marriage between John Edward Graham and Loraine Estella Conroy. I further produce a statement of evidence purporting to be signed by A/Major A. F. Leggett, CPM which refers to the accused, to which is attached MFM 16, MFM 17 and MFM 19, all of which relate to the accused, marked Exhibit "B"

Q. I understand, Mr. Murray, that due to the exegiencies of the service both Lt.-Col. Lawson and A/Major Leggett are unable to be present to-day; is that so?

A. That is so to the best of my knowledge

The accused declines to cross-examine this witness.

J. H. Murray

(J. H. Murray) Lieut.

Statement of Lt.-Col. W. C. Lawson, with attached documents filed and marked Exhibit "A" to the proceedings and signed by Capt. J. L. Reid.
Statement by A/Major A. F. Leggett, with attached documents filed and marked Exhibit "B" to the proceedings and signed ~~signed~~ by Capt. J. L. Reid.

Captain J. L. Reid read Exhibits "A" and "B" in full to the accused who was then asked if he wished to examine Exhibits "A" and "B" and declined.

Certified that due to the exegiencies of the service, including cost and loss of time involved that the attendance of Lt.-Col. W. C. Lawson and A/Major A. F. Leggett are, in my opinion, not readily procurable.

J. L. Reid, Capt

(J. L. Reid) Capt.

JHR.

A/L/Cpl. Nellie Falcon, A.T.S. having been duly sworn states:

BY CAPTAIN J. L. REID

Q. Will you please give your full name and address?

A. A/Lance Corporal Nellie Falcon, A. T. S. A Company, Chester Sub Area Group.

Q. I understand that you know Pte. John Edward Graham, Canadian Forestry Corps?

A. Yes sir, I do.

Q. Did you go through a form of marriage with the said John Edward Graham.

A. Yes sir.

Q. Have you any document to substantiate your marriage?

A. Yes sir, I have.

Q. Will you produce it?

The witness produced original certificate of marriage number 022426, dated 28 February 1942, which was filed and marked Exhibit "C" to the proceedings.

Captain Reid then proceeded to read the contents of Exhibit "C" to the accused.

Q. Miss Falcon will you give a statement to the Court in your own words of what transpired leading up to your alleged marriage with Pte. John Edward Graham, and also include any statement which Pte. Graham may have made to you which may have induced or influenced you in going through this ceremony.

A. I went to Strathpeffer early in December 1941 and I met Pte. John Edward Graham there about three days after I had arrived. I stayed in Strathpeffer for three months during which time I saw Pte. Graham each week-end. I understood from Pte. Graham that he was not married and he suggested that we should be married before I returned to my unit. My leave was arranged to commence Feb. 25, 1942 and Pte. Graham arranged his leave accordingly, to accompany me to London. We left Inverness on Feb. 25, 1942 and proceeded to London. We stayed with my married brother, John Falcon. On Friday afternoon, that was the 27th February, I saw the vicar of Upton parish church and made arrangements for our wedding on the following day. We were married at 2 o'clock in the afternoon on Saturday, 28th February, 1942 and stayed in London until the 3rd March when Pte. Graham returned to his unit and I left to go to Chester. We had our leave together early in July and visited my home at Dearham in Cumberland. At the end of this leave I asked Pte. Graham if he did not think it was advisable that we should inform the respective authorities of our marriage. He did not think so as he told me that he was making an allowance to a person in Canada. I asked if this was an allowance for a wife and he said no, that it was an allowance to a girl but she was not his wife. When I returned to my unit after my leave I told the A.T.S. authorities that I was married and explained that as we had not obtained permission to be married that I thought it best to use my maiden name. The authorities said that this was irregular and asked me, for my own sake, to have the marriage regularized. My parents were also very anxious that this should be done. In my letters to Pte. Graham I repeatedly asked him if it was quite true that he had not previously been married and asked him to take the matter up with his C. O. In his letters to me he insisted that he had not been married before, but told me that if it came to light that he was married to me there would be trouble because of the allowance he was making to the person in Canada.

Pte. Graham had leave at the end of November 1942 and came to Chester where I stayed with him. I told him at the end of this leave that I myself had decided to ask the A.T.S. authorities to look into the matter. I went into hospital in December 1942 and was ill until the end of January 1943. Early in February 1943 I saw my C. O. and told her the full circumstances.

Q. You state that you saw the vicar. Was Pte. Grahan with you when you saw the vicar?

A. No sir.

Q. Why did you see the vicar instead of having Pte. Graham see him?

A. Pte. Graham was not sure of what arrangements would have to be made.

Q. Do you mean by your reply that Pte. Graham was not familiar with the laws of England.

A. I think that was it.

Q. Did Pte. Graham at any time definitely tell you that he was a bachelor and unmarried?

A. Yes sir.

Q. Were you suspicious that Pte. Graham was already married?

A. Not until seven months after I married him.

Q. In your evidence you have stated that on more than one occasion you asked Pte. Graham if he was paying allowance to a wife in Canada.

A. Yes sir.

Q. Were those questions asked by you before your marriage to Pte. Graham.

A. No sir.

Q. When did you first commence to question Pte. Graham as to the possibility of him having a wife in Canada.

A. At the end of our leave in July 42.

Q. That would be approximately six months after your marriage.

A. Yes sir.

Q. Is Pte. John Edward Graham present in this room?

A. Yes sir.

Q. Can you identify him?

A. Yes sir.

Witness identifies the accused, Pte. John Edward Graham.

The accused declines to cross-examine the witness.

Nellie Falcon

A/Lcpl Nellie Falcon

Sgt. Florrie Telford Sisson, A.T.S. having been duly sworn states:

BY CAPTAIN J. L. REID

Q. Will you please give your full name and rank?

A. Florrie Telford Sisson, Sergeant, A.T.S. No. 1 Company, Donnington. My occupation is clerk, R.A.O.C. Class 1.

Q. Miss Sisson, do you know L/Cpl. Nellie Falcon of the A.T.S.

A. Yes sir, I do.

Q. Do you recollect the 28th day of February 1942?

A. Yes sir, I do.

Q. What particular event took place on that day which recalls the day to your attention.

A. At 2 o'clock in the afternoon, Saturday the 28th I was in London and witnessed the wedding of Nellie Falcon to Pte. John Edward Graham at St. Peters Church, Upton parish.

Q. Were you a subscribing witness to the marriage certificate between Pte. Graham and Nellie Falcon.

A. Yes sir I signed the marriage certificate.

Q. I produce to you a document which has already been filed and is marked Exhibit "C". Can you identify that document?

A. Yes sir.

Q. What is it?

A. It is the marriage certificate between Pte. Graham and Nellie Falcon.

Q. There are the purported signatures of two witnesses to the marriage certificate; whose is the first signature.

A. It is my own.

Q. Can you identify it.

A. Yes sir.

Q. Is Pte. John Edward Graham in this room at the present.

A. Yes sir.

Q. Can you identify him?

A. Yes sir.

Witness identifies the accused, Pte. J. E. Graham.

The accused declines to cross-examine the witness.

Florrie Telford Sisson Sgt
Florrie Telford Sisson, Sgt. A.T.S.

JR.

The hearing being held at the Atholl Arms Hotel, Blair Atholl, Perth-shire was adjourned at 1100 hours on Thursday, July 29, 1943.

Taken down before me in writing in the presence of the accused in the Field this 29th day of July, 1943.

J Reid

(J. L. Reid) Captain,
General Workshop,
Canadian Forestry Corps

The hearing was continued for the purpose of taking evidence at No. 5 Coy, Canadian Forestry Corps, Black Island Camp, Blair Atholl on Monday, August 2nd, 1943 at 1500 hours.

Captain J. D. May, R.C.A.P.C. having been duly sworn states:-

BY CAPTAIN J. L. REID

Q. Captain May will you please identify yourself?

A. Captain John Drummond May, paymaster, No. 4 District Headquarters, Canadian Forestry Corps.

Q. As paymaster of No. 4 District Headquarters, Canadian Forestry Corps is it part of your duties to pay Pte. Graham, J. E. No. G-480147

A. Yes.

Q. Have you in your possession an Acquittance Roll, Pay Book or other document signed by Pte. J. E. Graham which were signed in your presence?

A. I produce herewith M.B.M. 1 Part 2 Pay Book upon which there appears the signature of Pte. J. E. Graham. This signature was executed by the accused in my presence and I identify the same as his ordinary signature.

Q. Captain May, I produce to you M.F.M. 16, M.F.M. 17 and M.F.M. 19 which have already been identified as part of Exhibit "B" to these proceedings. Will you compare the signatures on these forms with the signature on M.B.M. 1 Part 2 which you have produced, and express your opinion as to the similarity and as to whether or not you consider the signatures were made by one and the same person?

A. In comparing the signature on M.B.M. 1 Part 2 with the signatures appearing on M.F.M. 16 and M.F.M. 17 the full Christian names were omitted. On M.F.M. 19 the second Christian name "Edward" is omitted. On the three forms M.F.M. 16, M.F.M. 17 and M.F.M. 19 the signature of the surname is similar to the signature on M.B.M. 1 Part 2.

M.B.M. 1 Part 2 was filed and marked Exhibit "D" to the proceedings.

Captain Reid questioned by Captain May states:

Q. I would like to ask you for a receipt for Pte. Graham's M.B.M. 1 Part 2 as it is necessary to give an accounting to the Chief Paymaster.

Captain Reid furnished Captain May with the required receipt in duplicate.

Q. Captain May, will you please advise what is the name of the wife of the soldier?

A. The name of the wife is Loraine Graham.

Q. Does it show her address ?

A. North Devon, N. D.

Q. Has Pte.Graham at any time made application to you to cancel or discontinue assigned pay to Lorraine Estella Graham ?

A. No.

Q. Has he ever made application to you to cancel assigned pay to Lorraine Graham.

A. No.

Q. I produce to you a document purporting to be a marriage certificate and which has already been filed and identified as Exhibit "C" to these proceedings. Will you please compare the signature of the alleged groom on this document with the signature of Exhibit "D" and express your opinion as to whether or not the two signatures are the same or similar.

A. I am not prepared to give an opinion.

The accused was asked by Captain Reid if he wished to examine Exhibit "D" but declined.

The accused declines to cross-examine this witness.

(J.D.May) Captain, R.C.A.F.C.

Captain Reid to accused;Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

A. I do not wish to make any statement or give evidence at the present time.

Captain Reid to accused; In the event of a Court Martial do you wish an Officer to defend you ? A. Yes I would like Captain J.T.Shillington.

I certify that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

Taken down before me in writing in the presence of the accused in the Field, this 2nd day of August, 1943.

J Reid Capt.

(J.L.Reid) Captain,
General Workshop,
Canadian Forestry Corps.

LIST OF WITNESSES

in the case of C-48014 Pte. John Edward Graham, General Workshop, Canadian Forestry Corps.

LIEUT. J. H. MURRAY,	General Workshop, Canadian Forestry Corps
LT.-COL. W. C. LAWSON	H Wing, No. 7 C.I.R.U.
A/MAJOR A. F. LEGGATT	R. C. A. F. C.
A/L/CPL NELLIE FALCON	A.T.S. Chester
SGT. F. T. SISSON	A. T. S. Donnington
CAPT. J. D. MAY	Canadian Forestry Corps

LIST OF EXHIBITS TO BE PRODUCED IN THE CASE OF G-48014 PTE. GRAHAM, J. E., GENERAL WORKSHOP, CANADIAN FORESTRY CORPS.

A. Statement of evidence by Lt.-Col. Lawson to which is attached Official Notice of Marriage between John Edward Graham and Loraine Estella Conroy, certified by the Registrar of the Province of New Brunswick.

B. Statement of evidence by A/Major A. F. Leggatt, to which is attached M.F.M. 16, M.F.M. 17 and M.F.M. 19 referring to John Edward Graham.

C. Marriage certificate between John Edward Graham and Nellie Falcon.

D. Military Book M. 1, Part 2 (Soldier's Pay Book) of G-48014 Pte. John Edward Graham.

This is a true copy of Exhibit "A" referred to in the evidence of Lieut. J. H. Murray.

J. Reid Capt.

Lieut-Co. Walter C. Lawson, Officer Commanding "H" Wing, No. 7 Canadian Infantry Reinforcement Unit, states:-

I am a member of the Barrister Society of New Brunswick and was engaged in general practice of law in that Province from 1922 until 1939. For many years also I was a sub-deputy registrar of Vital Statistics under the Department of Health in the said Province. I have personal knowledge of the laws of the Province of New Brunswick relating to the matter mentioned herein.

It is the statutory duty of the Registrar General of Vital Statistics of New Brunswick to keep a record in his office of all marriages within the Province and to issue a certified copy of any record of marriage when requested so to do.

The certified copy of Official Notice of Marriage between John Edward Graham and Lorraine Estella Conroy on the 18th day of March 1938, at the city of Fredericton in the Province of New Brunswick now produced to me, certified as a true copy by the Registrar General is the prescribed form of record and according to the laws of the Province shall be prima facie evidence in any court, of the facts therein stated without proof of appointment or signature.

In my opinion the facts as set forth in the certified copy of notice of marriage constitute a valid marriage.

Signed W. C. LAWSON Lt.-Col

I, J. J. Hayes Doone, Provincial Secretary for the Province of New Brunswick, do hereby certify that the certificate as to the marriage of John Edward Graham and Lorraine Estella Conroy hereto annexed and marked "A" was signed by C. N. MacMillan, the Registrar General of Vital Statistics for the Province of New Brunswick; that the signature "C. N. MacMillan" thereto subscribed is the signature of the said C. N. MacMillan, the Registrar General of Vital Statistics for the Province of New Brunswick; and that the said C. N. MacMillan as Registrar General of Vital Statistics for the said Province is the proper officer authorized by law to sign and issue the said certificate.

Given under my hand and
the Great Seal of the
Province of New Brunswick
this eleventh day of
May, 1943.

(S E A L)

Signed J. J. HAYES DOONE
Provincial Secretary for the
Province of New Brunswick

PROVINCE OF NEW BRUNSWICK
DEPARTMENT OF HEALTH

OFFICIAL NOTICE OF MARRIAGE REGISTERED No.

Sub-Health District of Fredericton
Sub-Deputy Registrar area of Fredericton City

BRIDEGROOM

1. Full name GRAHAM, JOHN EDWARD
2. Occupation Railway Employee (Section Man)
3. Bachelor, Widower or Divorced, Bachelor
4. Age, 21 5. Religious Denomination, Presbyterian
6. Residence, Barker's Point, N. B.
7. Place of Birth, Halifax, Nova Scotia.
8. Name of Father, Jardine Robert Graham
9. Place of birth of father, Hexton, N. B.
10. Maiden name of mother, Ella May Donaghy
11. Can bridegroom read? Yes. Write? Yes

BRIDE

12. Full name, CONROY, LORRAINE ESTELLA
13. Occupation, Housework
14. Spinster, Wider or Divorced, Spinster
15. Age 16 16. Religious Denomination, Presbyterian
17. Residence, Boiestown, N. B.
18. Place of Birth, Boiestown, N. B.
19. Name of father, John Gordon Conroy
20. Place of birth of father, Boiestown, N. B.
21. Maiden name of mother, Estella Josephine Spencer
22. Can bride read? Yes. Write? Yes.

---

23. When married, Eighteenth day of March, 1935
24. Place of marriage, 824 George St., Fredericton, N. B.
25. By license or banns, License 23253

26. Signature of (Groom, John Edward Graham
(Bride, Lorraine E. Conroy

27. Signatures of witnesses (Name, Allister K. Craig
(Address, South Devon, N. B.
(Name, June G. Bruce
(Address, Boiestown, N. B.

I certify that the above stated particulars are true to the best of my knowledge and belief.

Clergyman George K. Rose, D. D.
Address, 824 George St., Fredericton
Religious Denomination, Presbyterian

REGISTERED NO. 16-101, Filed at this office 21 day of March, 1935.

"E. M. Farrell"
Signature of Sub-Deputy Registrar

(S E A L)

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF CERTIFICATE OF MARRIAGE ON FILE AT THIS OFFICE.

MAY 7, 1943.

"C. K. MacMillan"
REGISTRAR GENERAL, N. B.

This is a true copy of exhibit "B" referred to in the evidence of Lieut. J. H. Murray

J Murray Capt.

STATEMENT OF A/MAJOR A. F. LEGGATT, R.C.A.F.C., A.F.

G-48014 - Pte. Graham, J. E.
Canadian Forestry Corps.

1. I am employed in the office of the Chief Paymaster, Canadian Army Overseas, and in this office all matters relating to Dependent's Allowance and Assigned Pay and other Service pay are handled.

2. I produce and submit Militia Form M.17 in which Pte. John Edward Graham G-48014 of No. 15 Coy, Canadian Forestry Corps institutes an assignment of pay of $20.00 per month effective Oct. 40 in favour of Mrs. Loraine Estella Graham, North Devon, York Co, N. B. It is stated on this Militia Form that the relationship of the assignee to John Edward Graham is that of wife. This is Exhibit "A".

3. I submit and produce Militia Form M.16 dated 26 Aug 40 and signed by John Edward Graham in which it is stated that one Pte. John Edward Graham, Regimental Number G-48014 of No. 15 Coy, Canadian Forestry Corps applies for Dependents' Allowance for a wife and one child, and states that this marriage took place 18 Mar 35 at Fredericton, York County, N. B. The name of the wife is given as Loraine Estella Graham with her maiden name Conroy. It is alleged in this Militia Form by Pte. Graham that he was supporting his wife prior to enlistment and that he was not married prior thereto. Pte. Graham also submits that he has assigned $20.00 of pay effective Oct. 40 in favour of his wife. This is Exhibit "B".

4. I now produce and submit a Militia Form M.19 dated 19 May 43 in which G-48014 Pte. John Graham of the General Workshop, Canadian Forestry Corps increases his assignment of pay to Mrs. Lorraine Graham, wife, North Devon, N. B. Canada to $30.00 per month. This Militia Form is signed by John Graham, and on this form is a certificate that the relationship of the assignee to him is that of wife. This is Exhibit "C".

5. From an examination of the signatures on these documents, and although my opinion cannot be considered as that of an expert, I am satisfied in accordance with my responsibilities in the Pay Corps that the signatures on the above three pay documents were made by one and the same man.

6. I would state that Assigned Pay deductions since 1 May 43 in the amount of $30.00 have been deducted from the pay of Pte. Graham, and that this amount in addition to Dependents' Allowance of $47.00 is in payment to the marginally named soldier's wife for herself and daughter.

Signed "A. F. Leggatt"
A/Major.

23 Jun 43

Officer Commanding,
No. 4 District Headquarters,
Canadian Forestry Corps,
KINGUSSIE, Inverness-shire.

In the event of the charge of bigamy against me being tried by F.G.C.M. I respectfully request that Captain J. T. Shillington of the Canadian Forestry Corps be appointed as defending officer to represent me.

J P Graham

C-48014 Pte. Graham, J. P.

3 Aug. 43

Certified a true copy of Exhibit "B" on Proceeding of Interior Capt JAL Reid 22 Sept 43

40 P.M. 3 (5/42)

CANADIAN ACTIVE SERVICE FORCE

ASSIGNMENT OF PAY—ALL RANKS AND RATINGS

ALL NAMES ARE REQUIRED IN BLOCK CAPITALS

ADJUSTMENT
D. A. 26.63
A. P.
TOTAL 26.63

ADJUSTMENT
D.A. 47.
a.p.
TOTAL 47.

CURRENT
D.A. 47.
A.P. 20.
TOTAL 67.

LEDGER M.C.P.
INSPECTOR G.M.

DISTRICT
PAYMASTER
SEP 9 1940
M.D. 7
ST.JOHN N.B.
P.L. No. 500
CODING
ST. JOHN 7
DEP LXXX

I, GRAHAM (Surname) JOHN EDWARD (Christian Names)

Official number G-48014 Rank or Rating Private

Unit, station, ship or establishment #15 Coy, Can. Forestry Corps

of the Military (State whether Military, Naval or Air Service)

authorize the following monthly assignment against my pay commencing with the month of October payable to:

GRAHAM (Surname) Mrs. Loraine Estella (Christian Names)

Address North Devon, York, Co. N. B.

Monthly amount to be assigned $ 20.00

I certify that the person to whom this assignment is made is my Wife

signed "John Edward Graham"
(Signature of officer, other rank or rating)

FOR USE OF PAYMASTER AND TREASURY OFFICER

Noted: Deductions will be made commencing with the month of October 1940

"signed" "G. G. Stay"
for Treasury Officer

Place St. John, N. B.

Date Sep. 11 1940

signed "H. L. Currie"
Paymaster

Unit, ship or establishment
#15 Coy, Can. Forestry Corps.

CANADIAN ACTIVE SERVICE FORCE

CANADA

SERVICE: MILITARY OR AIR

APPLICATION FOR DEPENDENT'S ALLOWANCE ON BEHALF OF

(a) Wife with ~~[illegible]~~ child~~[illegible]~~

~~(b) Relative responsible for continued maintenance of home with children, or~~

~~(c) Guardian of children~~.

(Cross out such of (a) (b) or (c) as do not apply.)

The names required by Questions 1, 2, 13, 20, 21 & 24 must be shown in block capitals.

Question 5: Rank for which pay is issuable to be shown. When Warrant Officer state whether Class I or Class II.

1. Surname of applicant GRAHAM
2. Full Christian name or names JOHN EDWARD
3. Date of Birth May 1, 1914
4. Official number G-48014 5. Rank Private
6. Unit, Station, or Establishment #15 Coy, C. F. C.

Question 7: Should be taken on strength for pay on date of enlistment or on reporting when called out for duty. If granted leave of absence, Part II Orders should show record.

7. ~~[illegible]~~ Date of enlistment or appointment ~~[illegible]~~ Aug. 15, 1940
8. ~~[illegible]~~ (b) Date reported for duty Aug 15, 1940

Question 8: In the case of officers, the date of reporting for duty is the date pay commences and dependents' allowances cannot commence prior to such date.

9. Are you a member of the permanent forces, military or air? No

If so: (a) State permanent establishment, unit or station n/a

(b) Are you receiving permanent force rates of pay and allowances? n/a

Questions 10 & 11: Are to determine the degree of eligibility to an allowance where salary or wages as referred to continue in whole or in part.

10. If you are an employee of a Dominion or Provincial Government, Municipality, Board, Commission, or other Public Authority, give particulars of such employment No

11. (a) If your salary or wages, or any part thereof from such Public Authority, are being continued during service, state amount per month n/a

(b) If you are in receipt of disability pension from any source, state amount per month, pension No. and name of Government paying pension No

Question 12: If the answer is in the affirmative, particulars can later be reviewed.

12. Have you made a previous claim for dependent's allowance? No

If so, give Previous Unit and Official Number n/a

Question 13: Surname should be the same as that of the applicant. Give street name, R.R. No., city, town or village and province. If latter is Quebec, Parish must be clearly stated.

13. Name of wife GRAHAM, Loraine Estella (Surname) (Christian names)

Address North Devon, N. B2 York County

Date of marriage March 18, 1935

Place of marriage Fredericton, York, N. B. (Parish, City, Town or Village) (County) (Province or State)

Wife's maiden name Conroy

Questions 14, 16 & 18: Have a bearing on the eligibility for the allowance or the amounts payable.

14. Were you supporting your wife before your appointment or enlistment? Yes

15. During the six months immediately preceding your appointment or enlistment, were you living in normal domestic relationship with your wife? Yes

16. (a) If not, state whether living apart by separation agreement, decree of a court or divorce n/a

(b) If not living in domestic relationship, state amount contributed towards your wife's support during the six months preceding your appointment or enlistment n/a

17. Were you married previous to your marriage to your present wife? No

18. If so, how was your former marriage legally terminated? n/a

(If by death or divorce, official certificate must be submitted)

19. If separated by divorce, judicial decree, formal separation agreement, court order or written agreement and you are obligated to pay a definite amount towards her maintenance, state amount per month n/a

20. If widower or if divorced, or if separated from wife, give name of female relative responsible for the continued maintenance of the home with children.

Questions 20 & 21: Give street name and number, R.R. No. city, town or village and province.

Name n/a
(Surname) (Christian Name) (Mrs. or Miss)

Address
(Street No.) (Town or Village) (County, Province)

Relationship n/a

21. If applicant has dependent children but no wife nor dependent relative to take the place of a wife, state arrangements made for care and maintenance of children

Name of Guardian n/a
(Surname) (Christian Name)

Address
(Street No.) (Town or Village) (County) (Province)

Question 22: This has a bearing on the amount of the allowance.

22. If you have been paying dependent relative (other than wife) responsible for the continued maintenance of home with children, an agreed rate of remuneration: money or in kind, or both money and kind, for services as housekeeper, state:—

(a) Rate per month and (b) valuation in kind n/a

Question 23: A dependent may not receive concurrently an allowance on behalf of more than one member of the Canadian Active Service Force.

23. Is wife, or female relative, as the case may be, already receiving dependent's allowance as a housekeeper on behalf of any other member of the Canadian Active Service Force? n/a

Question 24 (a): Required to determine the date to which allowance is payable. Sex should be indicated by "M" or "F" opposite each name.

24. (a) Give below information concerning each of your dependent unmarried sons not over 16 years of age and your dependent unmarried daughters not over 17 years of age.

NOTE: Dependent's allowance cannot be awarded to more than (3) three dependents of any officer or man.

Surname	Christian Name	Sex	Date of Birth			Place of Birth, (Parish, Town, Province and Country)
			Day	Month	Year	
GRAHAM	Beatrice Geraldine		5	Aug	1935	Boiestown Northumberland Co. N. B.

Question 24 (b): Doctor's certificate will be required to establish claim under (b).

(b) nil — Insert below particulars of unmarried children over 16 years who are dependent on you owing to physical or mental infirmity.

State whether infirmity is permanent or temporary? n/a

Probable Duration n/a

Name and address of family doctor n/a

25. If any child mentioned above is an adopted child, give name of child and date of legal adoption n/a

26. Are any of above dependents maintained in an institution at the expense of a Public Authority or at the expense of some other person? No
(Yes or No)

(If yes, give name and address of Institution)

Question 27: For all ranks other than Commissioned Officers it is necessary for applicant, for Dependents' Allowance under Art. 760 (a) and (b) to make an assignment on behalf of dependents of not less than fifteen days pay of rank. For claims by Commissioned Officers which do require assignment of pay, refer to Regulations.

27. What amount of pay per month have you assigned for the foregoing dependents? $20.00 28. Date assigned pay effective October

Certified that authorization for assigned pay as stated has been received, and that the answers to Questions 1, 2, 3, 4, 5, 6, 7, 8, and 9 are in accordance with records.

Signed H. L. Currie for
(Paymaster) (Rank)

#15 Coy, C. F. C.
Chatham, N. B.

I certify that the above is a true statement.

Signed John Edward Graham
(Signature of Applicant)

Date Aug. 26th, 1940

~~Notes explanatory of provisions applying to the applicant and his service which may be relevant to the assessment and grounds should be explained by~~

(To be submitted in duplicate)

CANADIAN ARMY (ACTIVE FORCE)

CHANGE IN OR RENEWAL OF ASSIGNMENT OF PAY (ALL RANKS AND RATINGS)

Date 19 May 43

Kindly note the following— ~~(a) Change of assignee~~ (b) Change in amount. ~~(c) Renewal of assignment~~ Strike out where not applicable.

To take effect from 1 May 43

PARTICULARS OF NEW ASSIGNMENT:

Name of new assignee ..... Amount of Monthly Assignment:

Certified that the assignee is my .....

Address .....

Certified a true copy to Exhibit "D" on Proceedings Gen Tutorial Capt

PARTICULARS OF ASSIGNMENT TO BE CHANGED:

Name of present assignee ..... Amount of Monthly Assignment:

Certified that the assignee is my .....

Address ..... $ .....

PARTICULARS OF CHANGE IN AMOUNT:

Name of assignee Mrs. Lorraine GRAHAM

Certified that the assignee is my WIFE signed "John Graham"

Address North Devon, N. B. Canada

Previous monthly amount $ 23.00 Monthly amount now assigned $ 30.00

RENEWAL OF ASSIGNMENT:

Name of assignee ..... Amount of Monthly Assignment:

Certified that the assignee is my .....

Address ..... $ .....

Granted Trades Pay Gr. "B" wef 26 July 42. Gen. Workshop, DO. 34, d/16 Apr. 43.

I authorize the change in my assignment of pay as indicated above for the following reason:

G-48014 (Official number) signed "John Graham" (Nature of officer, other rank or rating)

Pte (Rank or Rating) General Workshop, Canadian Forestry Corps, C. A. (Unit, station, ship or establishment)

Service Military (Military, Naval or Air)

FOR USE OF PAYMASTER AND TREASURY OFFICER

Noted in pay records

ENGLAND (Treasury Officer) signed "J. D. MAY" Captain (Paymaster)

Date 4 Jun 43. Place No. 4 Dist. H. Q. C. F. C. C. A.

NOTES:—

1. Unless the information is typewritten, all names are to be shown in block capitals.
2. It is essential that where applicable, the Christian names of female assignees be given.

Exhibit "C" referred to in evidence of A/C Cpl. Nellie Falcon

CERTIFIED COPY OF AN ENTRY OF MARRIAGE
Pursuant to the Marriage Acts 1811 to 1939

REGISTRATION DISTRICT

1942 Marriage Solemnized at St. Peter's, in the Parish of Upton Cross in the County of Essex

No.	When Married	NAME AND SURNAME	AGE	CONDITION	RANK OR PROFESSION	RESIDENCE AT TIME OF MARRIAGE	FATHER'S NAME AND SURNAME	RANK OR PROFESSION OF FATHER
295	February 28th 1942	John Edward Graham	28	Bachelor	Army	Upton House	Jardine Robert Graham, deceased	Machinist
		Nellie Falcon	26	Spinster	A.T.S.	Upton House	John Falcon	Landlord

Married in the Parish Church, according to the Rites and Ceremonies of the Established Church by License by me signed "A. J. GARRY"

This Marriage was solemnized between us { signed "John Edward Graham" signed "Nellie Falcon" } In the presence of us { signed "F. T. Dixon" signed "E. K. Falcon" }

I, Allen James Garry of St. Peter's Upton Cross, in the County of Essex do hereby certify that this is a true copy of the Entry No. 295 in the Register Book of Marriages of the said Church.

Witness my hand this 28 day of Febry, 1942.

signed "A. J. Garry" Vicar (Stamp 1d)

From Feb. 1, 1943.

MILITIA BOOK A I

CANADIAN ARMY

SOLDIER'S PAY BOOK

Regt'l Number G-68014

Surname GRAHAM

Christian Names in full

John Edward

Copy of exhibit "D" front
of book only.

Exhibit "N"
McCaul Major

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G 48014	Pte.	GRAHAM, J.E.	General Workshop, C.F.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

†The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

‡ See secs. 677, K.R., 1940.

* The numbers herein stated should correspond with the number or entries in the conduct sheets, production being given to the court unless silence is made entry, and to any recognition, special acts of gallantry, or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	NO ENTRIES	times.	NO ENTRIES	times.
For		times.		times.
For		times.		times.
For		times.		times.
For		times.		times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL. days in civil custody, and 24 days in military custody, making a total of 24 days, of which, NIL days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 29

6. The date of his ~~[illegible]~~ attestation specified in his record of service ~~[illegible]~~ is 15 Aug 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is NIL.

8. The accused is entitled to deferred pay or gratuity in respect of N.A. service.

9. The accused is entitled to reckon NIL. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). ONE GOOD CONDUCT BADGE

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A. dated N.A. and in his regiment (*or* corps *or* department) the rank of N.A. dated N.A.

(71648) W1.20044/900 75,000 12/40 A.& E.W.Ltd. Gp.499
(17548) W1.4849/1940 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G. 48014 Rank Private Name Graham J.E. of C.F.C. Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charge upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Aug. 43

J. A. Murray Lieut
i/c Administration
General Workshop C.F.C

43. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion:

In the rank of ..... years.

In the rank of ..... years

In the rank of ..... years.

(*Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph completed accordingly.*)

No. C-48014 Name Graham, J. E. | Sqn., Battery, or Company | Corps | Date of enlistment 15-8-40 | G.C. Badges 1 | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character signed "R. H. Montgomery"

M.F.M. 6
A.F.B. 122

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy R. H. Montgomery, Major signed "R. H. Montgomery" AWARDED ONE GOOD CONDUCT BADGE w.e.f. 15 Aug. 42.

Exhibit "I"
MacCaul Maj.
Per

I certify that the above entry is the only entry on the M.F.M. 6 of C-48014 Pte. Graham, J. E.

[J. H. Murray] Lieut.
I/c Administration,
General W/shop, Canadian Forestry Corps.

7703

TT·61
PTE GRAHAM J·F

Correspondence to be PINNED here.

TT-61

P.G.C.M.

A-29037 Pte Graham, J.F.
I C.A.S.C.R.U.
BGHQ 5-6-2/356

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fourteenth day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~ HQ]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint:—~~

~~*[1. Three Officers to form the Court]~~

~~*[2. A Field Officer as President]~~ HQ]

~~for the following reasons, namely:—]~~

'B' GROUP HQ 10 OCT 1943

'B' GROUP HQ 28 OCT 1943

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.S. Pettapiece	HQ CRU

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by	1 CASCRU
A Lieutenant	to be detailed by	1 CERU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.R. Tyner
(H.R. Tyner) Colonel
b/ Commanding "B" Gp C.R.U.
Convening Officer.

Arthur S. Pettapiece

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-29037 Pte GRAHAM, James Forsythe. 1 C.A.S.C.R.U.	First Charge A.A. Sec 15(1)	Guilty	Guilty Sentenced to undergo detention for a period of six (6) months and to be put under stoppages of pay until he has made good the sum of $2-0-3 in respect of the cost of his return. 16 Oct 43.	17 Oct 43 Confirmed HQ

See attached Charge Sheet

~~The question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
~~Answer (to be recorded on separate sheet if necessary):—~~

(Signed) H.R. Tyner Colonel (Signed) Arthur L. Pettypiece, Maj.
A/ Commanding "B" Gp Cdn Rft Units
Convening Officer (a) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses —~~
*(3. ~~The Interpreter) —~~
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 16th day of October 1943.

Arthur L. Pettypiece Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929. ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19—~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 17 day of Oct 1943

H.R. Tyner. Col
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 19 Oct 43 (Signed) L.G. Ramsay Major

Promulgated and extracts taken in the case of

(Dated) 20 Oct 43. (Signed) A.G. Pettypiece Major
Officer i/c Records
1 Cdn. A.S.C. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23001) Wt.20501/4311 60,000 12/42 A.A.&W.Ltd. Gp.698

JAG BRANCH - DEVIEW RECORD

Accused

A 29037 Pte Graham J.F.
No. 1 CASCR.U.

Remarks	Date
Tried in (Country) Eng.	16 oct
Charges 15(1) - 53 dys	
Sentence 6 mos.	16 oct
Rec'd from CR at JAG Branch	8 Nov.
To D.W. for ~~(pre)~~ (post) rev	8 Nov.
Recommendations by Ehh cyt Pass and Record	
(1) ~~Pass and Record~~	
(2) ~~Ltr on irregularities.~~	
(3) ~~Quash~~ charge(s).	
(4)	
Rec'd to JAG Rev 1 by Ehh	8 nov.
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Instrs completed by	

M.F.B. 359
22M—5-41 (1772-35)
H.Q. 1772-39-020
A.F.B. 359

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A 29037	Pte	GRAHAM, James Forsythe	

1. The following is a fair and true summary of the entries in the 1 Cdn. A.S.C. Rft. Unit Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec. 15 (1)	3 times	A.A. Sec. 15 (1)	12 times
For	A.A. Sec. 40	1 times	A.A. Sec. 40	4 times
For		times	A.A. Sec. 19	1 times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for - - - - - - - - beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~1~~ 4 days in civil custody, and ~~1~~ 12 days in Air Force military custody, making a total of ~~11~~ 16 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 37 yrs 250 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 5 SEP 39

7. The service which the accused is allowed to reckon towards discharge is 4 years 40 days

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number A-20037 Rank Pte. Unit Name Graham, James Forsythe, of 1 Cdn. A.S.C. Rft. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
N/A				

Officer i/c Records
1 Cdn. A.S.C. Reinf. Unit.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of October 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

CHARGE SHEET

The accused, A 29037 Pte. James Forsyth Graham RCASC., 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army, Overseas is charged with:

1st charge
A.A. Sec. 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Bordon, Hampshire absented himself without leave from 2359 hours, 8 Aug 43 until 0015 hours, 30 Sep 43 when he was apprehended by the Civil Police at Barnsley, Yorks.
Total time absent 53 days 16 minutes.
Cost of apprehension - £ 2 - 0 - 3 (2 pounds, three pence).

W.C. Fletcher

(W.C. Fletcher) Lt.-Col.,
Comd., No. 1 Trng. Wing,
1 Cdn. A.S.C. Rft. Unit.

Farnborough, Hants.
12 OCT 43.

To be tried by Field General Court Martial.

H.R. Tyner

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

14 Oct 43

Arthur S. Pettapiece Major
President

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. A 29037 .....
Pte. Graham J. F. ....and in my opinion he is fit to undergo
#1 CASC. Rft Unit. ~~unfit~~
trial by Court Martial.

Station: Field

Date: 16 Oct. 43

A. U. Leslowell Capt
(Medical Officer)
1 Cdn A. S. C. - Rft Unit

Arthur S. Pettyjohn, Major

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Blenheim Barracks, Frambrough Heath,
ON THE 16th DAY OF October 1943

The accused R2903 7 Pte Graham, J. F. ..Unit. 1 C.A.S.C.R.U.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Maj. A. S. Pettapiece .....Unit. H.C. C.R.U.....
Members. Capt. W. L. Hill .....Unit. 1 C.A.S.C.R.U.....
...Lt. G. K. McCrae .....Unit. 1 C.E.R.U.....

The officers under instruction are duly sworn:-

.Lt. E. Bracci .....Unit. 1 C.E.R.U.....
..Capt. G. C. H. ~~Stewart~~ Stuart .....Unit. 1 C.A.S.C.R.U.....
Prosecutor. Lt. H. C. Nancekwell .....Unit. 1 C.A.S.C.R.U.....
Defending Officer Lt. J. E. Tappin .....Unit. 1 C.A.S.C.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge~~(s)~~ and R.P. 35(B) is complied with. AHP
The accused does not desire to make a statement in reference to the charge~~(s)~~, R.P. 37(B). AHP
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6. AHP
The Court complies with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~ AHP
~~(b) Calls witnesses as to character.~~ AHP
~~(c) Calls witnesses in mitigation of punishment.~~ AHP
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER. AHP

attached hereto. AHP

Arthur S. Pettapiece.
Major

Plea of mitigation in the case of

A 29037 Pte. Graham, James Forsythe

Sir:

Pte. Graham joined the army on September 5, 1939 and like many other Canadians felt it his duty to defend his country. For four years now he has been patiently waiting to do his part and like other has been, shall I say, "browned off". Admittedly he has crimes of a minor nature against him, but in view of the length of service, these should be partially overlooked.

Pte. Graham has pleaded guilty to the charge against him. He offers no petty excuses in his defence but places himself upon the mercy of this court for as light a sentence as possible.

(J.E. Tappin) Lieut. RCASC
1 Cdn. A.S.C. Rft. Unit.

Exhibit A

THIS ORDER #197.

PAGE 11. NO. 1 CANADIAN ORDNANCE REINFORCEMENT UNIT. 10 Aug. 43.

"B" OTHER RANKS.

ATTACHED:(OUT)(CONT'D)

Attached fap to HQ C.R.U. (ADOS) wef 9 Aug. 43. (Auth. CRU/A-3300 d/6 Aug. 43).

G-60750	PTE.	CLOWATER, R.M.	B-54415	PTE.	FOWLER, W.J.R.
F-75823	"	CORNEY, J.M.	G-4552	"	HEMSWORTH, F.M.
H-100854	"	CRIMAN, S.	H-99271	"	LONGST.FFE, F.G.
D-137101	"	EISENBERG, P.			

Attached fap from Units shown while on Storeman (T & D) T.T. wef 9 Aug. 43 and ceases attach. wef 10 Aug. 43.

B-9445	PTE.	CRAIG, L.E.	1 Cdn. Army Trps. W/S.
B-134457	"	CRAIG, S.G.	"
B-9467	"	HOLAND, J.	
[illegible]766	"	WALL, H.E.	53 LAD (2 Armd. Regt.)

Ceases attach. from #1 C.A.S.C.R.U. on being reported A.W.L. from 2359 hrs. 8 Aug. 43.
A-29037 PTE. GRAHAM, J.F.

Ceases attach. from 10 C.I.B. W/S on compl. of Fitter T.T. wef 9 Aug. 43.
H-37145 PTE. JONES, W.

Attached fap from 53 L.A.D. (2 Armd. Regt.) while on Motor Mech. T.T. wef 9 Aug. 43 and ceases attach. wef 10 Aug. 43.
F-64927 PTE. MacNEIL, L.J.

Ceases attach. from #1 C.A.S.C.R.U. on compl. of Dvr. Mech. Course wef 9 Aug. 43.
C-11812 PTE. McALLISTER, R.E.

Ceases attach. from 22 Cdn. Armd. Regt. while on Dvr. Mech. AFV Course (Insufficient experience) wef 9 Aug. 43.
D-109941 GDSM. McEWEN, M.G.

Attached fap from 8 C.I.B. W/S while on Dvr. Mech. T.T. wef 9 Aug. 43 and ceases attach. wef 10 Aug. 43.
M-63693 PTE. MORGARD, C.L.

Ceases attach. from 3 Cdn. Armd. Recce. Regt. on compl. of Fitter Course wef 9 Aug. 43.
B-62041 TFR. STRATHEY, J.P.

Attached fap to #1 C.B.O.D. (1 Sub Depot) wef 9 Aug. 43. (Auth. "F" Grp. CRU/AT-2395 d/10 Mch. 43).
A-116578 PTE. SUITER, A.
B-77540 " THOMPSON, N.B.

AMENDMENT:

Part II Order #195 (para. 4 page 11) d/7 Aug. 43 insofar as it refers to u/n is hereby amended. Delete "HQ 1 Cdn. Army Tk. Bde." substitute "1 Cdn. Army Tk. Bde. W/S."
C-16515 PTE. McCAHEY, B.H.

Certified true copy of #1 C.O.R.U. Daily order #197 dated 10 Aug 43 showing cease attachment on being auth. of A-29037 Pte Graham J.F.

[illegible]
Officer having custody of the original order

"B" OTHER RANKS.

4. COURSES:

Proceeded on Clerks Shorthand Steno. Course at #1 C.G.R.U. wef 9 Aug.43.
D-166165 PTE. FITZGERALD, E.M.
D-114972 " BATTRICK, K.A.

Proceeded on Regt'l. Instr. First Aid Course at #1 C.G.R.U. wef 9 Aug. 43.
D-109387 PTE. FREEMAN, B.
L-41492 " LOWE, A.
C-36652 " BEVETT, C.H. (Storeman "C")

Returned from Armourers Refresher Course at Melton Mowbray wef 9 Aug.43.
E-9814 PTE. LaFRANCE, O. (Armourer "C")

AMENDMENT:

Part II Order #196 (para. 5 page 13) d/10 July 43 insofar as it refers to a/n is hereby amended by adding "Armourer "C".
E-9014 PTE. LaFRANCE, O.

5. HOSPITAL:

Admitted to #17 Gen. Hosp. wef 7 Aug. 43.
D-167316 PTE. BRIERE, J.R.
D-66653 " SHAW, G.A.V.

Admitted to #8 Gen. Hosp. wef 9 Aug. 43.
D-109467 PTE. CAESAR, J.F.

Admitted to #15 Gen. Hosp. wef 7 Aug. 43.
C-30956 PTE. MILOT, R.

Admitted to #2 C.M.C. wef 9 Aug. 43.
D-167285 PTE. HYMINGTON, J.R.

Admitted to #8 Gen. Hosp. while on A.A. MV Course wef 3 Aug. 43.
M-27187 A/L/SGT. WATT, W.R.

Removed from 5 Gen. Hosp. to 1 Neuro Hosp. wef 14 Nov. 42.
D-26733 PTE. HAMBROOK, R.M.

Discharged from Hosp. shown wef 9 Aug. 43.
A-36363 PTE. ARNOLD, P.J. #1 Gen. Hosp.
L-9028 CPL. CUNNINGHAM, P.D. "
L-9814 PTE. GALLANT, W.J. #8 Gen. Hosp.
M-27187 A/L/SGT WATT, W.R. (Fitter MV "A") "
K-48984 PTE. McCONNACHIE, W.I.A. #1 C.M.C.
F-96299 " MURRAY, F.J. #7 Gen. Hosp.

Discharged from #1 C.M.C.wef 2 Aug. 43. (Extract 1 C.B.C.D. DO #148 d/6 Aug. 43).
B-89089 A/CPL. FOWLER, B.

AMENDMENT:

Part II Order #194 (para. 5) d/6 Aug. 43 insofar as it refers to a/n is hereby amended by adding "Inst. Mech. "A".
F-16510 PTE. DAY, C.E.

ADMINISTRATIVE WING - No. 1 CORU 11 Oct 43

E.H.Q.F.B

TO WHOM IT MAY CONCERN

A.29037 Pte Graham, J.F.

1. This is to certify that I issued a pass to the m/n to return to his former unit to pick up his kit. His pass expired on 2359 hrs 8 Aug 43, at which time he failed to report. He has been A.W.L. since that date.

J.E. Small CSM
(J.E. Small)

JES/EC

Exhibit D

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. A29037 Rank Pte Name Grabone, J.F. Unit 1 C.P.R.U.

The following expenses were incurred in apprehending and returning the A/N Soldier to his ~~Unit. From~~ London from Sheffield

Date	Particulars	Amount £	s	d
6 Oct 43	Escorts return fare from LONDON To Sheffield	1	4	5
	Prisoners single fare to LONDON From Sheffield		12	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		3	7
	Total £	2	0	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

Capt.

C.M.H.Q. 1000/55
40/P & S/483(3287)

Exhibit F

Form No. 6

2284.

TELEPHONE No. [redacted]

Any further communications on the subject of this letter should be addressed to

THE CHIEF CONSTABLE, BARNSLEY,

and the following number quoted:—

RI/CID/53.

Your Ref. No.

BARNSLEY COUNTY BOROUGH POLICE (YORKS.).

BOROUGH POLICE OFFICES,

[redacted]

ST. MARY'S PLACE,

2nd October, 1943.

REPORT OF ENQUIRY.

Subject Pte. A.29037 Graham, James Forsyth.

Sir,

I have to report that in consequence of certain enquiries I was making, I visited the common lodging house, 24A Doncaster Road, Barnsley, at 12.15.am. on Thursday, 30th September, 1943. On examining the A.R.-S. Forms respecting persons staying at the lodging house, I found that two Forms had been filled in on the previous night the 29th September, 1943, in the names of William Howard and James Stewart. Enquiries reveal that these two men were soldiers. I wakened both men, and spoke to the above named man who admitted that he had signed the A.R.-S form in the name of James Stewart and that he had given that name to the Lodging House Keeper.

I asked him to produce his leave pass and this he failed to do, but he produced his Army Paybook from which I saw that he was a member of the Canadian Army and that his Pay Book was in the name of James Forsyth Graham. He then admitted that this was his name, and on further questioning he admitted that he was an absentee from his Unit. When I asked him to account for the fact that he had used a false name, he replied, "I'm saying nothing."

Along with the other soldier, who had also been using a false name I brought them to the Police Office. Graham was dressed in ordinary soldier's clothing with forage cap and the Canada flash on each shoulder of his blouse.

He was detained at the Police Office under Regulation 12 (1) of the Defence (Armed Forces) Regulations, 1939, on suspicion of having committed an offence against Regulation 20 of the Defence (General) Regulations, 1939, that of assuming a false name, pending further enquiries.

Further enquiries have failed to reveal from where Graham is absent and I respectfully suggest that this man be brought before the Barnsley County Borough Court at 10.am. on Monday, 4th October, 1943, and remanded in custody to await a Military escort.

I further respectfully suggest that a copy of this report be handed to the escort for the Commanding Officer of Graham's Regiment when that Regiment is located.

I am, Sir,
Your obedient Servant,

Respectfully submitted:-

W. Williams

D/Insp.

H. T. Williams, Esq.,
Chief Constable.

James Hyde P.C.53.

Forwarded for the information of The Commanding Officer of the Unit of Pte. A.29037 Graham, James Forsyth.

Chief Constable's Office.

2nd October, 1943.

H. T. Williams

Chief Constable.

DESCRIPTIVE RETURN OF § Pte A/29037, Graham, James Forsyth who

† apprehended at 10.15 pm (hour) on the 30th day of September, 1918 and was committed to confinement at Barnsley Corporation on the 30th day of September, 1918 as a Deserter (or Absentee without leave) from the ---- Bn. of the Canadian Forces. Regiment of Not known.

Age	37	Height 5 feet 5 inches	
Complexion	rose	Hair brown	Eyes blue
Marks	nil	In uniform or plain clothes	Uniform.

Probable date and place of attestation	5th, September, 1939. London, Ontario.
Probable date of desertion or beginning of absence and from what place	Not known.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	James Kyle. P.C.88.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	*In consequence of enquiries made, the above soldier was found in a house lodging house having signed the AB/E Form with a wrong name I questioned him and he would not give any information regarding himself or his movements nor wher he was stationed although he admitted being absent without leave. He was arrested.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† the before-mentioned Corps.

Herbert Foulston Signature of Committing Magistrate.
Court House Residence
Barnsley. Post Town
4.10.18. Date of Signature
James F. Graham. Signature of Prisoner
James Kyle. P.C.88. Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ---- day of ---- for the purpose of obtaining such evidence.

Signature of Magistrate
Residence
Post Town
Date of Signature

† Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form C.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ---- of ----

Regiment at ---- on ---- by ----

who was committed as a Deserter (or Absentee without leave) on the ----

RECOMMENDATION FOR REWARD.

I RECOMMEND* ----

Address ----

for a reward of ----

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Exhibit C

Army Form O.1618.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

---

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*10054) Wt.12205/256 10,000 5/39 A.&E.W.Ltd. Gp.698 Forms/O.1618/52
(*12357) Wt.35225/1716 50,000 11/39 " "

SUMMARY OF EVIDENCE

in the case of

A 29037 Pte James Forsythe GRAHAM, RCASC., on strength of 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army, Overseas.

The Commanding Officer, Colonel J.M. Pocock, 1 Cdn. A.S.C. Rft. Unit directs that the evidence be taken on oath.

I am. Lieut. H.E. Kelly, Adm. Officer, "C&B" Wing, 1 Cdn. A.S.C. Rft. Unit and am custodian of certain documents pertaining to the case and relative to the accused. I produce:

EXHIBIT "A" - Extract from Daily Order No. 197, 1 C.O.R.U. dated 10 AUG 43, showing the accused, A 29037 Pte GRAHAM, J.F. ceases attachment from 1 Cdn. A.S.C. Rft. Unit on being A.W.L. from 2359 hrs., 8 AUG 43.

EXHIBIT "B" - Statement purporting to be signed by CSM Small, 1 C.O.R.U., giving the commencement date of accused's, A 29037 Pte GRAHAM, J.F., absence.

EXHIBIT "C" - AFO 1618 - Descriptive return purporting to be signed by Herbert Foulston, Magistrate, Court House, Barnsley, showing the particulars of the accused's, A 29037 Pte GRAHAM, J.F., apprehension, namely at 1215 hrs., 30 SEP 43 by P.C. 53, James Kyle.

EXHIBIT "D" - CMHQ 1000/55 - Expense Voucher, purporting to be signed by H.M. Fern, D.A.P.M., London Area referring to the accused, A 29037 Pte GRAHAM, J.F., in the amount of Two Pounds, No Shillings, and Three Pence, being the cost of apprehension from Sheffield, Yorkshire to London.

EXHIBIT "E" - Report on the accused purporting to be signed by James Kyle, P.C. 53, Barnsley Borough Police.

The foregoing documents were read to the accused.

H E Kelly

(H.E. Kelly) Lieut., RCASC.
1 Cdn. A.S.C. Rft. Unit

1st Witness for the Prosecution

James Kyle, Police Constable No. 53, Barnsley Borough Police, Yorkshire.

I hereby certify that in my opinion the attendance of Police Constable James Kyle, owing to expense and loss of time involved, is not readily procurable and written statement signed by him has been read to the accused and is attached hereto.

A C Becher

(A.C. Becher) Lieut., RCASC.
1 Cdn. A.S.C. Rft. Unit

I do not require the attendance of James Kyle, P.C. 53, Barnsely Police for the purpose of cross-examination.

J F Graham

(A 29037 Pte Graham, J.F.)
1 Cdn. A.S.C. Rft. Unit

The accused was cautioned under R.P. 4(e) as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you may give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I hereby certify that the foregoing Summary of Evidence, consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

A.C. Becher

(A.C. Becher) Lieut, RCASC.
1 Cdn. A.S.C. Rft. Unit

I, A 29037 Pte James Forsythe GRAHAM, 1 Cdn. A.S.C. Rft. Unit, desire the assignment of an officer to defende me at my Court Martial.

J.F. Graham

(A 29037 Pte Graham, J.F.)
1 Cdn. A.S.C. Rft. Unit

Farnborough, Hants.
11 OCT 43

Arthur S. Pettapiece Maj

LIST OF WITNESSES

for the Prosecution

in the case of

A 29037 Pte James Forsythe GRAHAM

(Documentary) Police Constable (53) James Kyle
Barnsley Borough Police

LIST OF EXHIBITS

in the case of

A 29037 Pte James Forsythe GRAHAM

Exhibit "A"	Extract from Daily Order 197, 1 C.C.R.U. dated 10 AUG 43.
Exhibit "B"	Statement purporting to be signed by CSM Small, 1 C.C.R.U.
Exhibit "C"	A70 1618 Descriptive return purporting to be signed by Herbert Foulston, Magistrate, Court House, Barnsley.
Exhibit "D"	CMHQ 1000/55 Expense Voucher purporting to be signed by H.M. Fern, D.A.P.M., London Area.
Exhibit "E"	Report on the accused purporting to be signed by James Kyle, P.C. 53 Barnsley Borough Police.

SUMMARY OF EVIDENCE

In the case of

A 29037 Pte James Forsythe GRAHAM, RCASC., on strength of 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army, Overseas.

The Commanding Officer, Colonel J.M. Pocock, 1 Cdn. A.S.C. Rft. Unit directs that the evidence be taken on oath.

I am. Lieut. H.E. Kelly, Adm. Officer, "CAB" Wing, 1 Cdn. A.S.C. Rft. Unit and am custodian of certain documents pertaining to the case and relative to the accused. I produce:

EXHIBIT "A" - Extract from Daily Order No. 197, 1 C.O.R.U. dated 10 AUG 43, showing the accused, A 29037 Pte GRAHAM, J.F. ceases attachment from 1 Cdn. A.S.C. Rft. Unit on being A.W.L. from 2359 hrs., 8 AUG 43.

EXHIBIT "B" - Statement purporting to be signed by CSM Small, 1 C.O.R.U., giving the commencement date of accused's, A 29037 Pte GRAHAM, J.F., absence.

EXHIBIT "C" - AFO 1618 - Descriptive return purporting to be signed by Herbert Foulston, Magistrate, Court House, Barnsley, showing the particulars of the accused's, A 29037 Pte GRAHAM, J.F., apprehension, namely at 1215 hrs., 30 SEP 43 by P.C. 53, James Kyle.

EXHIBIT "D" - CMHQ 1000/55 - Expense Voucher, purporting to be signed by H.M. Fern, D.A.P.M., London Area referring to the accused, A 29037 Pte GRAHAM, J.F., in the amount of Two Pounds, No Shillings, and Three Pence, being the cost of apprehension from Sheffield, Yorkshire to London.

EXHIBIT "E" - Report on the accused purporting to be signed by James Kyle, P.C. 53, Barnsley Borough Police.

The foregoing documents were read to the accused.

H.E. Kelly

(H.E. Kelly) Lieut., RCASC.
1 Cdn. A.S.C. Rft. Unit

1st Witness for the Prosecution

James Kyle, Police Constable No. 53, Barnsley Borough Police, Yorkshire.

I hereby certify that in my opinion the attendance of Police Constable James Kyle, owing to expense and loss of time involved, is not readily procurable and written statement signed by him has been read to the accused and is attached hereto.

A.C. Becher

(A.C. Becher) Lieut., RCASC.
1 Cdn. A.S.C. Rft. Unit

I do not require the attendance of James Kyle, P.C. 53, Barnsely Police for the purpose of cross-examination.

J.F. Graham

(A 29037 Pte Graham, J.F.)
1 Cdn. A.S.C. Rft. Unit

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The accused declines to make a statement and reserves his defence.

I hereby certify that the foregoing Summary of Evidence, consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

A.C. Becher

(A.C. Becher) Lieut, RCASC.
1 Cdn. A.S.C. Rft. Unit

I, A 29037 Pte James Forsythe GRAHAM, 1 Cdn. A.S.C. Rft. Unit, desire the assignment of an officer to defende me at my Court Martial.

J.F. Graham

(A 29037 Pte Graham, J.F.)
1 Cdn. A.S.C. Rft. Unit

Farnborough, Hants.
11 OCT 43

M.F.M. 6
(A.F.B. 121)
40./P & S./136 (2627)

No. A 29037 Name Graham, J. | Sqn., Battery, or Company att. | Corps R.C.O.C. | Date of enlistment | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	9-2-42	Pte		A.A. Sec. 15(1) "A.W.L." in that he W.O.A.S. did absent himself without leave from 1000 hrs. 9-2-42 to 1010 hrs. 11-2-42. Days absent 2 days and 10 mins.	Documentary L-Cp. Kain	Forf. 3 days pay FR&I 149A Stoppage of pay £3:18:11 Forfeits 28 days pay A.A. 462 FR&I 149C Total forf 31 days	14 Feb 42		
Bordon	14 Mar 1942	Pte		A.A. Sec.15 (1) A.W.L. from 1400 hrs 13 Mar.42 to 0300 hrs 14 Mar 42 (Absent 13 hrs)	Documentary	Forf 1 days pay FR&I 149 (1)A. Stoppage of pay £3-4-1 cost of apprehension.	16 Mar 42		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23.12.42	Pte		AWL. from 1400 hrs. 23.12.42 until 0700 hrs. 24.12.42 (Absent 17 hrs.) Sec. 15(1) A.A.	Sgt. Geigen-Miller	7 dys. pay	Lt.Col.	Shields	1 dy. pay.
Field	30/1/43			AWL from 1415 hours 30 Jan 43 until 2345 hours 3 Feb 43 (Total absence of 4 days 9 hours and 30 min.) (Sec. 15(1) A.A.	Documentary	For. 5 days pay under F.R.I. 149(a) For. 3 days pay under F.R.I. 149(2) 8 days pay.	Capt. J.B. Amnand.		
Field	31-3-43	Pte.		An act to the prejudice of good order and military discipline. Sec 40	Cpl. Baldwin	3 days C.B.	A/Major J.B. Annand O.C.		
Field	7/6/43	Pte.		A.W.L. from 0200 hrs 4-6-43 to 0130 hrs 7-6-43 Total 2 days 23½ hrs AA Sec 15(1)	Cpl. Baldwin	14 days field punishment	7 Jun 43	?????????	

CERTIFIED TRUE COPY COMPILED FROM DOCUMENTS NOW IN MY POSSESSION.

J. Pharstn Lt.
Officer i/c Records,
1 Cdn. A.S.C. Rft. Unit.

Arthur S. Pettigrew, Major

M.F.M. 6
(A.F.B. 122)
40/P & S/130 (2637)

No. A 29037 Name GRAHAM J.F. Sqn., Battery, or Company att. Corps R.C.O.C. Date of enlistment G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. HM Burby Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Melton Mowbray	2 Jan 42	Pte		WOAS ~~Absent~~ without leave in that he at Melton Mowbray on 2 Jan 42 was absent from Roll Call at 2330 hrs until reporting to the Billet NCO at 0745 hrs on 5 Jan 42. Total time absent - 2 days 8 hrs 15 min	Sjt McKenna Sjt Poor Sjt Palmer	7 days C.B.	6 Jan 42	Major W.A. Halton	Pfts 3 days pay by Royal Warrant.
Melton Mowbray	7 Jan 42	Pte		WOAS Conduct to the prejudice of good order and military discipline in that he failed to comply with an order given by a Superior Officer whilst undergoing confinement to Barracks.	S/Sjt Cox A/QMS Partridge L/Cpl Pearmain	7 days C.B.	9 Jan 42	Capt. Chittenden	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Melton Mowbray	10 Jan 42	Pte		A.A. Sec. 15(1) A.W.D. from 1400 hrs 10 Jan 42 until 2345 hrs 12 Jan 42 (absent 2 days 9 hrs 45 min	Documentary	7 days Detention Ffts 14 days pay FR&I 149 (1)(e) AA 46/2 Stoppage of pay £3-1-5 apprehending cost.	22 Jan 42	HM Burling Lt.	Ffts 3 days pay FR&I 149(1)(a) Total 17 days pay
Bordon	30 Jan 42	Pte		AA Sec 15(1) A.W.L. from 1200 hrs 30 Jan 42 to 2335 hrs 2 Feb 42(absent 3 days 11 hrs 35 min)	Cpl McNabb Documentary	Ffts 14 days pay AA Sec 46(2) FR&I 149(1)(a) Stoppage of pay £1-4-11 apprehending cost.	9 Feb 42	HM Burling Lt.	FFts 4 days pay FR&I 149(1)(a) Total Fftre 18 days pay.

4P-104

Pte. Graham J.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B81887 Pte John Joseph GRAHAM, 1 CGRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence ~~for~~ Nil beginning on (date) ~~Nil~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for One Hundred and Twenty (120) days.

(Sgd) ..... Judge Advocate, if any. 26 Jan 45 Date Awarded. (Sgd) J M Miller Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

Date 27 Jan 45 (Sgd) W K Connelly Brig Commanding B Group CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B. 81887 Pte J J Graham	29 Jan 45	W Murray Capt. Adjutant
Do. 28	2 Feb 45	No. 1 Cdn. Gen. Regn. Unit. C.A.(Ind.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

IN REPLY PLEASE QUOTE 5-6-3/528 RECORDED AT CMHQ IN AB 180 4P-104

RECEIVED FEB 1945 INFORMATION AND EXAMINATION

FIELD GENERAL COURT-MARTIAL

CPAM (In lieu of AFA81) 40/1 & 2—1000—(1441) 4/38B

Convened by Order of Brig A B Connelly Comd B Gp CRU dated 24 Jan45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B81887	Pte	John Joseph	GRAHAM	1 CGRU

PROCEEDINGS REVIEWED [illegible] REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 26 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number therein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereinafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 131.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1152 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to C96167 Sgt M Brodrick as~~ Interpreter? Ans ~~No~~

~~The Interpreter is sworn.~~(1) Do you object to C96167 Sgt M Brodrick as shorthand writer? Ans No The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E M Miller ED AC	HQCRU
Member	Capt	R A McCabe	1 C G R U
Member	Lieut	J D McMynn	1 C E R U
~~Judge Advocate~~			
Prosecutor	Capt	E.J. Swift	1 C G Res
Defending Offr	Lieut	R.E. Pinning	1 C G Res

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 2.)

A8. The accused ..... before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 24, 33(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A9 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(1) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see* RP 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 80, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*I. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. Nil.(5)
(*I. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*I. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ~~A~~ B, initialled and read aloud by the President.(1)
(*I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*I. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*I. Under B5 such part only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 90(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. .....
Do you intend to call witnesses on your behalf ?
Ans. .....
Are they witnesses as to character only ? Ans. .....
(*I. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*I. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AFB. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*I. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*I. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Reads and files written statement
(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(I) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*I. MFB 355 at AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Re Statement
(*I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*I. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~ (2).
(*I. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its promise, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B.81887 Pte. John Joseph GRAHAM, Royal Canadian Army Medical Corps on strength No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 1 Canadian General Reinforcement Unit absented himself without leave from 1600 hrs 30th November, 1944 until 2100 hours, 15th January, 1945.

Total absence - 46 days 5 hours.

(B.R. Ker) Colonel
COMMANDER
No. 1 Canadian General Reinforcement Unit

Field
23 Jan. 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(A B Connelly) Brig
Comd B Gp
Cdn Rft Units

24 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B81887	Pte		John Joseph	GRAHAM	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 24 Jan 45 endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial ;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E M Miller ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO	1 CGRU
Lieutenant	to be detailed by	1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(AB Connelly) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 24 Jan 45

Commanding HQ B Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAAO 42-9 as at 1/1/47 (4601))

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B-81837 Pte. GRAHAM J.J.
of No. 1 CCRU is in a good state of health,
and fit. to undergo Trial by Court martial.

W.H. Rae. Capt.
Medical Officer

Station No. 1 CCRU

Date 26 JAN 45

M. F. B. 246

CASE OF

B.81687 Private GRAHAM, J.J., RCAMC, on strength No. 1 CCRU.

PLEA IN MITIGATION OF SENTENCE

In addressing the Court in pleading leniency of punishment, I would like to draw your attention to the long service of the accused; he enlisted on the 11 Sep 40 and arrived in England on the twenty-fifth of the same month. He has also served in France in action with the 10 Fd Amb in which he was wounded and returned to England. He has had a very long service, and up until quite recently, he has had quite a good record. He has obviously been a very good soldier. He was worried about his family in Croydon, as you know it was at that time under severe bomb action. This, I think, alone would be enough to make him go AWL. He had been refused leave when he asked to go and see his family; therefore he disregarded army regulations and went any way. I would however like to point out that he returned voluntarily to give himself up.

Members Of The Court.

Sirs-

I, B81887 Pte. Graham J.J. wish to make the following statement in pleading mitigation of punishment.

I returned from France wounded, 11 Oct 44. I was sent to #11 Canadian General Hospital, and later sent to ROMAN WAY Convalescent depot, 31 Oct 44. I applied for a leave from here, but was refused.

I was very worried about my wife and child, living in East-Croydon, a V BOMB district. I wanted to get a place to move them to, away from this district.

While I was away I became sick, and was in bed for TWO weeks.

H Graham

SUMMARY OF EVIDENCE

Summary of evidence in the case of B.81887 Private John Joseph GRAHAM, R.B. & D.M. Coy, No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

First Witness for Prosecution — Lieut. E.H. Dennis, Assistant Adjutant No. 1 Canadian General Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am the Assistant Adjutant of No 1 Canadian General Reinforcement Unit. I produce a certified copy of the declaration of a court of enquiry referring to B.81887 Pte Graham J.J. I do not know the accused. (Certificate admitted as evidence and noted as exhibit "A")

The accused declines to cross examine the witness.

.....Lieut.
No. 1 Canadian General Reinforcement Unit

Second Witness for Prosecution — G.43068 Cpl C.W. Hastings, No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I recognize B.81887 Pte. Graham J.J. as the accused. At 2100 hrs 15 Jan 45 the accused came to me and surrendered himself from being AWL. I am a Corporal of Reception Coy. No 1 Canadian General Reinforcement Unit.

The accused declines to cross examine this witness.

C.W. Hastings.....Cpl
No. 1 Canadian General Reinforcement Unit

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution the accused declined to give evidence for the defence at this time.

The accused does not call any witnesses.

I certify that the above Summary of Evidence, consisting of TWO pages, was taken down by me in the hearing and presence of the accused, and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

(E.L. Elliott) Lieut,
No 1 Cdn Gen Hft Unit,
(Officer detailed to take Summary)

In the Field

This day of January, 1945.

Names of President and Members

PRESIDENT :Capt E.W. Abel, Gen List, 1 C.G.R.U.

MEMBERS: Lieut. J. Foston, CIC, Gen Coy, 1 C.G.R.U.

Lieut.F.W.Knight, CIC, Gen Coy, 1 C.G.R.U.

Signature of Commanding Officer B.R.Ker, Colonel

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(W.Murray) Captain

Adjt. No.1 Cdn Gen Rft Unit

Canadian Army Overseas

Forms B.115/58

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B.81887	Pte.	GRAHAM J.J.	No. 1 Cdn Gen Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Ex-varks in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec 15 (1) 1 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 30 Nov 44

Date of last entry in Field Conduct Sheet 30 Nov 44

2. ~~[illegible]~~

*3. ~~[illegible]~~ ~~xxx~~ of

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 9 11 days in military custody, i.e., No days in open arrest, 9 11 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 25

6. The date of his attestation is 11 Dec 40

7. ~~[illegible]~~

8. The accused is in possession of: CVSM & Clasp

9. ~~[illegible]~~

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Ex B

Ex mi

(**8072) Wt. 29721/3701 32,000 9-44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of January, 1945

(W.Murray) Capt & A.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 23rd day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.81887 Pte GRAHAM J.J., R.B. & D.M. Coy., No. 1 C.G.R.U.

DECLARATION.

The Court declare that B.81887 Pte Graham J.J. illegally absented himself without leave at No 1 C.G.R.U. from 1600 hrs 30 Nov 44, that he is still so absent and that on the 23rd Dec 44 he was deficient of the following articles (see att. list) to the value of £6-11-6½ (100% value) - £4-18-8½ (75% value.)

Names of President and Members

PRESIDENT : Capt E.W. Abel, Gen List, 1 C.G.R.U.

MEMBERS: Lieut. J. Feston, CIC, Gen Coy, 1 C.G.R.U.

Lieut. F.W. Knight, CIC, Gen Coy, 1 C.G.R.U.

Signature of Commanding Officer B.R.Ker, Colonel

CERTIFIED TRUE COPY.

W.Murray

Signature of Officer having custody of the Original Record.

(W.Murray) Captain

Adjt. No 1 Can Gen Rft Unit

Canadian Army Overseas

CASE OF B.81887 Pte. GRAHAM J.J.

(i) List of Witnesses for Prosecution

(a) Lieut J.H. Dennis - No. 1 Cdn Gen Rft Unit

(b) G.43068 Cpl Hashings, E.W. - No. 1 Cdn Gen Rft Unit.

(ii) List of Witnesses for Defence

NIL

(iii) List of Exhibits for Prosecution

(a) Copy of Declaration of Court of Inquiry.

(iv) List of Exhibits for Defence

NIL

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

.....H Graham.....
(B.81887 GRAHAM, J.J.) Pte

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.
I desire the services of.....
if he is available.

.....H Graham.....
(B.81887 GRAHAM, J.J.) Pte

Signed at Field
this day of
January, 1945.

No. B 81887 Name GRAHAM J J | Sqn, Battery, or Company | Corps RCAMC | Date of enlistment 11 Dec 40 | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/F&S/136 (5413)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Nov 44	Pte		Sec 15 (1) A.A. AWL from 0610 hrs 9 Nov 44 to 1730 hrs 28 Nov 44. Absent 19 days 11 hrs 20 mins	Cpl Gervais Cpl Phelan	14 days C.B. Forfeits 21 days pay FR&I 149 (2)	30 Nov 44	(BRKer) Col	Forfeits 20 days pay FR& I 149 (1)(a)

CERTIFIED TRUE EXTRACT FROM MFM 4
IN MY POSSESSION
24 JAN 45

W. Murray

(W. Murray), Capt.,
Adjt. No. 1 Cdn Gen Rft Unit
Canadian Army Overseas.

(P50)

WW-78 (Case # 4)

PTE GRAHAM J.W.

See D-347 for 1st Case
" Q-65 " 2nd "
" X-8 " 3rd "

WW-78

CFAMS (To Hdqrs of AFAS) 40/P & R 1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G. Francoeur Comd "D" Gp, C.R.U. dated 30 Nov 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-73566	Pte	John, William	GRAHAM	4 CIRU 48th Highrs

Proceedings Reviewed.

[signature] Lieut-Col.
Deputy Judge Advocate
Reviewing Officer (J.A.G.'s Branch).
1 Dec 43

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) W. [illegible] England on (date(s)) 1 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~awaiting Members J.A. if any, and Offrs under instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(5), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~an interpreter~~ ~~a shorthand writer~~? Ans

~~The Interpreter is sworn.(1)~~ Do you object to ~~a shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge Advocate, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.B. Carson	7 CIRU.
Member	Capt.	~~D~~ R. Gilchrist	7 CIRU.
Member	Lt.	A.J. St Pierre	7 CIRU.
~~Judge Advocate~~			
Prosecutor	Lt.	C.J.L. Killoran	4 CIRU.
Defending Offr	Lt.	N.T. Weir	4 CIRU.

Questions by President: Is the Prosecutor a lawyer? Ans Yes - Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
Q2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See fn p 33.

A8. ~~The accused applies for trial by civil court before arraignment is entered. Court has no jurisdiction.~~ (1)

~~Motion overruled.~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 77), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(severally)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and also separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 9. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-73566 Pte GRAHAM, John William - 48th Highrs - 4 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Not Guilty	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~As prisoner under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 52 days, of which 31 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Six (6) Months detention

(Sgd) [signature] Judge Advocate, if any. 1 Dec. 1943 Date awarded. (Sgd) W.B. Carson Major. President. (RP 45, 58.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence confirmed, but I remit two Months detention

~~I direct that the accused be (not) committed to prison or detention barracks until further orders.~~(1) B.F.

(1. AA 57A. Delete if not used.)

(Sgd) G. Francoeur BRIG

Date 2 Dec 43 Commanding D GP CON REF UNITS Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B73566 PTE GRAHAM, JOHN WILLIAM	3 DEC 43	[signature] Captain Adjutant, 4 Can Inf Bgn Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President [redacted] shall be satisfied that the accused understands the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans [redacted].[5]
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on [redacted] charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on [redacted] charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings(s) of Guilty in Part I of the Schedule.[1]
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex [redacted], initialled and read aloud by the President.[1]
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D4 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p [redacted].

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras B1 to B5 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, only thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate insert thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p [redacted].

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

This form Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.[1]
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. [redacted][1]
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] [redacted] charge(s).[2] [redacted] charge(s); and allowed on the [redacted] charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans No. Do you intend to call witnesses on your behalf? Ans No. Are they witnesses as to character only? Ans Yes.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the findings.[1] The findings of the Court is recorded in Part I of the Schedule.[2] The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. [redacted] of the Court on the [redacted] charge(s) being subject to confirmation, will be promulgated later.[1] Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself to call any witnesses as to your character?[1]
Ans Yes. statement by the accused. No witnesses as to character.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement[s] as to Character and Particulars of Service[1], and certified true copy [redacted] of Conduct Sheet[s][2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to [redacted] soldier[s] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B, respectively.[3]
(1. MFB 355 or AFB 296. 2. MML p 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement[s] and Conduct Sheet[s], and in mitigation of punishment?[1] Ans Yes, by way of finding [redacted] see attached E.[2]
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to say on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part 1 of the Schedule, which is dated and signed by him [redacted].[2]
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 308, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B 73556, Pte. JOHN WILLIAM GRAHAM, of the 48th Highlanders of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
AA Sec 15(1)

WHILE ON ACTIVE SERVICE, absenting himself without leave,
in that he
at Aldershot, Hants., absented himself without leave from 2200 hours, 12 June, 1943, until surrendering himself to Regimental Police, 4 C.I.R.U., at 1615 hours, 3 October, 1943; (Time absenti- 112 days, 20 hours, 15 minutes.)

(J.H. Christie) Col.,
Officer Commanding,
4 Can Inf Rft Unit, C.A.C.

IN THE FIELD
6 OCTOBER 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FIELD
30 NOV 1943

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

DEC

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

WBC

I certify that I have this morning examined No. B78566

PTE GRAHAM J.W. of # 4 C.I.R.U.

and in my opinion, he is fit to undergo trial by Court Martial.

Station FIELD

Date 1-12-43 (Sgd.) [signature] Capt.
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

CFA95 (In lieu of AF 83)
40/P&R/1697 (2000)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-73566	Pte		John, William	GRAHAM	4 CIRU 48th Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 30 NOV 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". GF

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ GF

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GF

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ GF

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	W. B. Carson	7 CIRU
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

A Captain	to be detailed by CO	7 CIRU
A Lieutenant	to be detailed by CO	7 CIRU
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

G Fromoveur (Signed personally. RP 105 fn 2.) Brigadier. (Rank.)

Date 30 NOV 43

Commanding "D" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

ASC

Evidence in the Case of

B 73566 Pte Graham, John William

First Witness –

B 72984 Sgt. Walsh, A.R. 48th Highrs Can.

B 72984 Sgt Walsh, A.R. having been sworn gave evidence as follows;

I am B 72984 Sgt Walsh, A.R of 48 Highrs on the strength of "B" Coy 4 C.I.R.U. I have been on the strength of "B" Coy since the 27th Nov 43. before that I was on the strength of "A" Coy 4 C I R U from the 18 May 43 until 27 Nov 43. I was orderly sgt of "A" Coy during the period I was in "A" Coy. In my capacity as orderly sgt I received tattoo reports for "A" Coy 4 C I R U. I remember the accused B 72984 Pte Graham J. W. by name and by sight. On the night of 12 Jun 43 when the tattoo report was turned in B 72984 Pte Graham, J.W was reported A.W.L. I looked thru "A" Coy lines and could not find Pte Graham (the accused). I did not see B 72984 Pte Graham, J.W. again until after he had surrendered to 4 C I R U Regtl Police. When Pte Graham came up for C.O.'s Office I was called to give evidence. If B 72984 Pte Graham J.W. had been present at any roll call during the period 12 June 43 — 3 Oct 43 I would have known as I made up all duty rosters and checked all roll calls and made up all absentee reports

Cross examined by Prosecutor

Q. Tell the court the functions of "A" Coy 4 C I R U

A. "A" Coy is the reception coy of 4 C I R U and receives all men from the field, hospital, detention, etc. The function of "A" Coy

is to see that men are tested in inf trg. and that their I. T. R's are completed. It takes on the average one week to put men thru this reception programme. "A" coy also has to cover Unit fatigues and on occasions supplies Unit guard.

Q. Where do men go from A Coy

A. They are posted to a trg Coy.

Q Do you recall the time that the accused came to A Coy.

A. No sir.

Q. Can you give an idea how long the accused was in "A" Coy. before 12 June 43

A. I have no record of how long anyone was in 'A' coy before I took over as orderly sjt, but the accused was in "A" coy when I took over and he was listed as "on light duty". I employed him as hut orderly and most of the time he was employed in room No. 7.

R.P. 83 was complied with.

Second Witness

C 66510 Sjt Harvey, E. C. - Pro. sjt 4 C I R U. having been duely sworn gave evidence as follows.

I am C 66510 Sjt Harvey, E. C. Pro sjt 4 C I R U. In my Capacity as Pro sjt 4 C I R U I first saw the accused, B T 3566 Pte Graham J. W. at 1715 hrs 3 Oct 43 when he surrendered himself at the Guard Room. He came in and told us why he surrendered and I placed him under close arrest taking away his battle dress and gave him overalls

R.P. 83 was complied with.

Third Witness

Capt D.J. Fuscdale adj 4 C.I.R.U. having been duly sworn gave evidence as follows.

I am Capt D.J. Fuscdale adj 4 C.I.R.U. I hereby produce M.F.B. 375 - Declaration of Court of Inquiry re absence without leave of B 73566 Pte Graham J.W. and copy of D.O. Pt II 4 C.I.R.U. dated 18 Jun 43 showing date when B 78783 Pte Bryson J. was S.O.S. to T.S.R. Field Unit.

These documents were accepted by the Court and marked exhibits E and D respectively.

R.P. 93 was complied with.

Prosecution closed. Re address of Prosecuting Officer Exhibit "E" "F."

Fourth Witness

B 78783 Pte Bryson J. 4 C.I.R.U. having been duly sworn gave evidence as follows:

I am B 78783 Pte Bryson J. (T.S.R) at present on strength of 4 C.I.R.U. when I am employed as a Regtl Police. I was attached to 4 C.I.R.U. in May and June 1943 and then went to my Field Unit the T.S.R. I knew the accused when I was at 4 C.I.R.U. and I recall that he belonged to "A" coy 4 C.I.R.U. The last time I saw the accused was just before I was transferred. I cant recall just how long before I was transferred that it was I saw him, because I went to "E" coy and used to go back to and hang around "A" coy to play cards with the boys. I saw the accused the same day I was transferred to "E" coy. I was in

E coy approximately two weeks. The day before I left to go to the TSR I saw the accused Pte Graham J.W. he was in "A" coy hut No. 7 playing cards. He was a hut orderly at the time.

Cross examination

Prosecuting Officer

Q. When was the last time you saw B.73566 Pte Graham J.W.

A. On 16 Jan 43.

Court

Q. How did you know that on the 16 Jan 43 B73566 Pte Graham, J.W. was hut orderly for hut No 7.

A. He told me he was.

R.P. 83 was complied with.

Defence closed. See address by defending Officer. Exhibit G,

Witness as to Character"

WBG

B 31764 Sgm Graham F.N. having been duely sworn gave evidence as follows.

I am B 31764 Sgm Graham F.N. RCCS.
I am a brother of the accused, B 73566 Pte Graham J.W. Up until the time the accused joined the army his character had shown no criminal tendencies. He was honest and trustworthy and a very adventurous type. I have known him always as one who would rather obey than disobey the law.

Court Questioned Witness

Q. Have you served in the same unit with your brother B 73566 Pte Graham J.W.

A. No

Q. Are you in the habit of seeing the accused often

A. I saw him five times in 1942 and once previous to Sept in 1943.

R.P. 83 complied with

WB4

Statement of Accused Re Mitigation
In the case of B73566 Pte Graham J.W.

B73566 Pte Graham J.W. having been sworn at his own request gave evidence as follows:-

I have been in the Cdn Army since 15 Nov 39. I came to England on 18th Dec 39 with the 48 Highrs of Canada and served with them, in the Field, until March 1941. In March 1941 I was sent to hospital and from there to No 1. C D1RU. From 1. C D1RU I was sent to Cooking school at North Camp, Aldershot. From the cooking school I was sent on a working party with the Engineers at Ludshott where I remained two and a half (2½) months that is until Sep. 1941. I served in detention one and a half (1½) months and then went back to the ~~[illegible]~~ 48th Highrs in the Field. (This was my second term in detention, the other being in April 1941) I was with the 48th Highrs, in the Field from Jan 1942 until Sept 1942. I went into detention in October 1942. After serving my detention I was sent on a cook's course at North Camp, Aldershot. In Jan. 1943 I was put into detention and while serving my detention I was boarded at No. 15 Cdn Gen Hospital where I was told that I was of no further use to the Cdn Army because I had nervous troubles, and family troubles. They claimed that while in detention I had tried to commit suicide. After finishing my detention I was sent back to the Cook's School and after a week there was to 4 C1RU. At 4 C1RU. I was posted to "A" Coy and

(over)

was put on permanent fatigue as but
orderly. Excepting for the fact that I
had Sundays off I was permanently
confined to barracks as I was not
permitted to leave the hut on other days.
I tried from March 1943 to June 1943
to see the Colonel. I had seen the
Coy Cond "A" Coy and the S.P.O. and
other officers as I wanted a steady
job where I would not be alone so
some treatment to help my condition,
but I got no satisfaction. I was
having family troubles and most
of the time I did not know what I
was doing.

R.P. 83 complied with

was put on permanent fatigue as hut orderly. Excepting for the fact that I had Sundays off I was permanently confined to barracks as I was not permitted to leave the hut on other days. I tried from March 1943 to June 1943 to see the Colonel. I had seen the Coy Comd "A" Coy and the S.P.O. and other officers as I wanted a steady job where I would not be alone or some treatment to help my condition, but I got no satisfaction. I was having family troubles and most of the time I did not know what I was doing.

R.P. 83 complied with.

WBC. Address of Prosecuting Officer (closing)

1 The defence has tried to prove that Pte Graham was in barracks at 4 C.I.R.U. after the 12th June 1943. Pte Bryson, the only witness was obviously not clear as to dates and places. His transfer took place six months ago and it would be abnormal if he were able to remember exactly when he last saw Graham.

2 Sgt Walsh, C.O.S. of A Coy 4 C.I.R.U. at the time in question stated that on 12 June at 2200 hrs Graham was reported absent at Tattoo roll call. Sgt Walsh was permanent C.O.S. and he stated that to his knowledge, in his capacity as C.O.S., Graham was absent from that time until he appeared at the Commanding Officers Orderly Room about six weeks ago.

3 Sgt Harvey, Provost Sgt, was present on Oct 3 at 1715 hrs when Graham presented himself to the guard room, had his battle dress taken away from him along with his personal belongings, and was placed under close arrest. He was placed under arrest because he said he had returned from being absent without leave.

Cameron J L Kilbran Lt.
4th H of C. 4 C.I.R.U.

G
WBC

Defending Officers Address to the Court. (Closing.)

1. Straight question of fact, was the accused absent on the relevant dates. On one side evidence of a C.O.S. of a company operating under difficult circumstances with large numbers of men coming and going all the time. On the other side evidence of a trustworthy private that accused was present and apparently carrying out his duties on the 16 or 17 of June.

2. The evidence of the prosecution is clear but not absolutely direct in that the C.O.S. was defending upon reports furnished him by other N.C.O's who called or should have called the rolls. Added to this is the recollection of 6 months that he searched quarters and would have heard if the accused had been present.

3. May the court be reminded that if any real doubt exists, the onus of proof is upon the prosecution and any balance must be resolved in favour of the accused.

J.W. Weir Lt. (QOR)
4 C.I.R.U.

H

WIBC

Defending Officers Plea in Mitigation.

1. Draw attention to Medical report showing E category hence unability to serve detention at Headley, hence must be confined within unit for any sentence.

2. Has spent 52 days in dells awaiting trial in solitary confinement on orders of MO.

3. Any punishment awarded must consider that a short term to this man may be as severe a punishment as a long term to a man in A1 physical and mental shape who has the normal ability to accept and adjust himself to lifes ups and downs.

J E Wen Lt.

Hospital A & D No. 1668/43.

A.M.D.2—1
In lieu of A.F. W.3017
40/P & S/2 (3166)

I
WBC

HOSPITAL DISCHARGE NOTIFICATION

To: Officer Commanding #4 C.I.R.U. (Unit)

It is notified for your information that the undermentioned was discharged from Basingstoke Neuro & Plastic Surgery Hospital, R.C.A.M.C., admitted on 12 Oct 43. 194

Disch/~~Tmcs~~ to #4 C.I.R.U. on 19 Nov 43. 194

He shall attend the first Unit Sick Parade after reporting to his Unit. This document must be passed to the Medical Officer of the Unit immediately.

Name GRAHAM, John, William No. B.73566 Rank Pte.

Diagnosis Dull normal intelligence. (0622) (code) M.O. i/c Case Major G.R. Telfer, RCAMC.

Psychoneurosis- Reactive depression. (0627) (code)

(code)

Precis Case History:

This soldier could not receive treatment in the neurosis unit because he is under sentence for F.G.C.M. Any improvement that could be expected would only be temporary when one considers his inadequate personality of civil life. The domestic situation is what is causing all his difficulties now & he has neither the ability or stability to deal with the situation. To be boarded & my own recommendation would be discharge from the army. There has been no appreciable change in this soldier's condition since his admission to hospital.

THIS PATIENT IS FIT TO UNDERGO TRIAL - F.G.C.M.

BOARDED CATEGORY "E" - BERTH.

Recommendation:

Discharged to:- #4 C.I.R.U. UNDER GUARD.

WBC

K.C. Bautter-Mayer
For Officer Commanding
REGISTRAR
OFFICER COMMANDING
BASINGSTOKE NEUROLOGICAL &
PLASTIC SURGERY HOSPITAL RCAMC

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B 73566 Pte. Graham, J.W., 48 Highrs., on strength of 4 Cdn Inf Bft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the summary of evidence is taken on oath.

FIRST WITNESS

For the Prosecution

Capt. D.J. Fusedale, Sask L.I., of 4 Cdn Inf Bft Unit. A record of the declaration of a Court of Inquiry assembled at Waterloo Bks. on the 5 Jul 43, purported to be signed by Capt. D.J. Fusedale has been read to the accused and is included in the summary of evidence.

D.J. Fusedale Capt
Officer taking Summary

The accused does not demand the attendance of this witness for cross-examination.

SECOND WITNESS

For the Prosecution

B 72964 Sjt. Walsh, A.R., 48 Highrs., on strength of 4 Cdn Inf Bft Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

At Waterloo Bks East at 2000 hrs. 12 Jun 43 tattoo roll call was called and Pte. Graham, J.W. failed to answer. This was reported to me and after due check of Coy. Area Pte. Graham was posted as A.W.L. Pte. Graham was not present at any coy. roll calls, nor did I see him at any time from that date until he surrendered himself.

A.R. Walsh.
A.R. Walsh

The accused declines to cross-examine this witness.

THIRD WITNESS

For the Prosecution

C 65510 Sjt. Harvey, E.C., Inf. S.L., on strength of 4 Cdn Inf Bft Unit, a soldier of the Canadian Army Overseas having been duly sworn states:-

At Talavera Brs. Guard Room 1715 hrs 5 Oct 43, Pte. Graham, who I now recognize, surrendered himself stating, himself, that he was absent without leave. He was searched and all personal property removed and placed under close arrest.

E.C. Harvey Sgt
E.C. Harvey

The accused declines to cross-examine this witness.

The accused was cautioned as follows:- "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e), (f) and (g), as applicable, have beencomplied with.

Officer detailed to take Summary

IN THE FIELD
6 OCTOBER 1943

5 Oct 43

This is to certify that I have received the following documents, free of charge.

1 copy of Summary of Evidence
1 copy of Charge Sheet
1 copy of List of Witnesses
1 copy of List of Exhibits.

Pte. J. W. Graham

B 73566 Pte. Graham, J.W.

LIST OF WITNESSES

In the case of No. B 75866 Pte. Graham, J.W., 4 C.I.R.U.

FOR THE PROSECUTION

1. Capt. D.J. Pumsdale, Adjutant, 4 C.I.R.U.
2. B 70984 Sgt. Walsh, A.R., 4 C.I.R.U.
3. C 66510 Sgt. Harvey, E.C., 4 C.I.R.U.

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of No. B 75866 Pte. Graham, J.W., 4 C.I.R.U.

"A" - Record of the Declaration of a Court of Inquiry assembled at Waterloo Bks., Aldershot, Hants.

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, S.M.(O). 40/24

5 Oct 1943

I, No. [illegible] Rte. [illegible] J.R. ....., wish to have
(Rank) (Name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Lt. B. Roberts .....
if he is available.

(Sgd.) Pte. J. W. Graham

Exhibit "D"

LAST ORDER NO 90 17 JUN 43

NO 4 CANADIAN INFANTRY REINFORCEMENT UNIT C A O
D A I L Y O R D E R S
P A R T II
A/COLONEL J H CHRISTIE MC ED O C

THIS ORDER NO 91 18 JUN 43

"A" OFFICERS

1. STRENGTH INCREASE-Amendment
Pt II Order No 77, para 1(a) d/2 Jun 43, insofar as it refers to the u/m, date of T O S is amended to read "26 May 43" NOT "1 Jun 43" as shown
CAPT H W ADAMS "IRC"

2. CHANGE OF ADDRESS N-of-K
Address of N-of-K changed to: Mrs Sally Hamilton Phibbs(wife) 179 Teddington Park, Toronto Ontario, Canada.
LIEUT G O G PHIBBS "48th"

3. STRENGTH DECREASE
(a) S O S on posting to 2 Cdn Div Spt Bn (TSR) w e f 17 Jun 43
(AUTH: 2 ECH Demand No 487 d/13 Jun 43)
A/CAPT S R SMITH "2CDSB"

(b) S O S on posting to R R of C w e f 17 Jun 43
(AUTH: 2ECH Demand No 388 d/13 Jun 43)
LIEUT EL McGIVERIN "RRC"

(c) [illegible] D E L E T E D

"B" OTHER RANKS

4. STRENGTH INCREASE-Cancellation
Pt II Order No 2, para 6(c) d/6 Feb 43, insofar as it refers to the u/m is hereby CANCELLED
B 66938 SGT NEARY J A "RRC"

5. POSTINGS
(a) Posted from PE (Clerk Records) to 2 Cdn Div Spt Bn (TSR) reinf w e f 17 Jun 43
B 17209 PTE WAGG W W

(b) Posted from reinf Q O R of C to PL "I" Wing (Dvr Mech) w e f 14 Jun 43
B 63531 RFN WORSTER L

6. COURSES
Returned from C/HQ Crse 1109 Ser 9(Motor Mech) and cease to be att w e f 9 Jun 43
f a p to No 4 T T C
B 55771 PTE WARNER GH "IGL"
B130726 PTE WATSON B J R"IRC"

7. REVERSIONS
(a) Ceases to hold the appt of Acting Sergeant and revert to permanent grade of Corporal on proceeding to field unit w e f 17 Jun 43
B 41704 CPL(A/SGT) SECORD D W "48th"
B 76550 CPL(A/SGT) CAUGHEY C D "2CDSB" TSR

(b) Ceases to hold the appt of Acting Sergeant and revert to permanent grade of Private on proceeding to field unit w e f 17 Jun 43
B105074 PTE(A/SGT) COOK R F "

(c) Ceases to hold the appt of Acting Corporal and revert to permanent grade of Lance Corporal on proceeding to field unitw e f 17 Jun 43
B133133 L/CPL(A/CPL) MacCALLUM J A

(d) Ceases to hold the appt of Acting Corporal and revert to permanent grade of Private on proceeding to field unit w e f 17 Jun 43
B 77129 PTE(A/CPL) WELCH J
G 53769 PTE(A/CPL) ALWARD S M
B 76143 PTE(A/CPL) JENKINS W "2CDSB"
C 40613 PTE(A/CPL) CROAN E R
B42172 PTE(A/CPL) YOUNG W
B127545 PTE(A/CPL) O'NEILL O R
B134852 PTE(A/CPL) DAVIDSON T A
B 65634 PTE(A/CPL) JONES J C C
B 76889 PTE(A/CPL) MOORE G T

PAGE 2 FOLLOWS (OVER)

1 Dec 43 certified a true copy of the Record in my possession
H. Dunbar
Capt

7. REVERSIONS-Cont'd

(e) Ceases to hold the appt of Acting Lance Corporal and revert to permanent grade of Private on proceeding to field unit

C 6374 PTE(A/L/C) McDERMAID N E w e f 17 Jun 43
~~B 63857 PTE(A/L/C) LEDSON J S~~ CANCELLED by D.C. 139 - 20 Nov 43.
B 76742 PTE(A/L/C) LAVERY W J "2CDSB"

8. STRENGTH DECREASE

(a) S O S on posting to C O R of C (-)
(AUTH: 2ECH Demand No 390 d/13 Jun 43) w e f 17 Jun 43

B 79254	PTE	BARTON	P B	"IRC"	C100791	RFN	BECK	J R	"QOR"
C 65360	PTE	CHISHOLM	A H	"IGL"	B 64227	RFN	DUNCAN	K	"QOR"
B 66115	RFN	FARRELL	J H	"QOR"	B 72512	PTE	FAULDS	A	"48th"
C 65157	PTE	GIGLIO	P	"IGL"				(Dvr Mech "C")	
B113100	PTE	HERVIEUX	L	"IRC"	B112565	RFN	KENNEDY	A W	"QOR"
B 63857	RFN	LEDSON	J S	"QOR"	F 78812	PTE	MacDOUGALL	J A	"IRC"
B 65549	SGT	MITCHELL	JM	"RRC"				(Dvr Mech "C")	
B 65038	RFN	O'NEILL	F M	"QOR"	B 65897	RFN	PERRI	L	"QOR"
B113826	PTE	PERRY	J H	"RRC"	B126593	PTE	ROSZEL	D R	"IGL"
B 41781	PTE	HOGULIK	J	"IGL" (Dvr Mech "C")					
B136756	PTE	SAWYER	L	"IGL"	B 42748	PTE	TURY	S A	"IGL"
B17209	PTE	WAGG	W W	"2CDSB" (Clerk Grp "C")					
B 42649	PTE	WILLITS	E N	"IGL"	B 43456	PTE	WILSON	F G	"IGL"
B 79278	PTE	WILSON	T J	"IRC"	B135760	RFN	WOLNO	D	"QOR"
B 64164	RFN	ARSENAULT	W	"QOR"	B 64713	RFN	FREAKE	E F	"QOR"

(b) S O S on posting to 2 Cdn Div Spt Bn (TSR) w e f 17 Jun 43
(AUTH: 2ECH Demand No 487 d/13 Jun 43)

B 77445 PTE FORSTER A C "2CDSB"
B111070 PTE FORTIN A J "2CDSB"

(c) S O S on posting to 2 Cdn Div Spt Bn (TSR) 4 C I B Sp Gp
(AUTH: 2ECH Demand No 488 d/13 Jun 43) w e f 17 Jun 43

B 59073	PTE	ABBOTT	J J	"IGL"	D 82994	PTE	ADKINS	C R	"IGL"
B 42673	PTE	ALETTER	D J	"IGL"	A 59902	PTE	ANDERSON	A J	"IGL"
A 57904	RFN	ANDERSON	M J	"QOR"	B 88259	A/CPL	ATKINSON	A J	"2CDSB"
C 65603	PTE	AVERY	L L	"IGL"	A104100	PTE	BAKER	M	"2CDSB"
B 63704	PTE	BATEMAN	RE	"2CDSB"	C 75683	PTE	BEATTY	W J	"IGL"
B 40046	PTE	BECLEY	H S	"IRC"	B 42271	PTE	BELLAMY	G R	"IGL"
B 43265	PTE	BOOKER	S E S	"IGL"	B134825	PTE	BOURNE	A W	"IGL"
B 43440	PTE	BOWMAN	F E	"IGL"	B 42693	PTE	BRANDLE	T E	"IGL"
B135621	PTE	BRILL	J I	"IGL"	C 40608	PTE	BROWN	C G	"IGL"
B 42607	PTE	BROWN	D A	"IGL"	B 43452	PTE	BULL	R W	"IGL"
B 42674	PTE	CAMPBELL	H C	"IGL"	B 42559	PTE	CARLYLE	W	"IGL"
B134818	PTE	SHERRIERE	S R	"IGL"	B 58714	PTE	CHOMA	M J	"IGL"
K 47056	PTE	CLARKSON	R D	"2CDSB"	B 37900	PTE	HOGGER	R E	"IGL"
B 43179	PTE	COLVIN	H G	"IGL"	B 42992	PTE	CONNOR	F	"IGL"
B 46940	PTE	COOK	DEH	"IGL"	B 42698	PTE	COX	E E	"IGL"
B 42013	PTE	CRAWLEY	J A	"IGL"	B 43046	PTE	DALE	C F	"IGL"
B134852	PTE	DAVIDSON	T A	"IGL"	B 43085	PTE	DAY	W C	"IGL"
B130791	PTE	DEMAINE	J P	"IGL"	B 42784	PTE	DICK	W M	"IGL"
B 67663	PTE	DOUGHTY	H	"2CDSB"	B 42633	PTE	DURNFORD	G A	"IGL"
B 80142	CPL	EALASCHUK	F	"IGL"	B 38088	PTE	ELLINGTON	J T	"IGL"
B 43052	PTE	ENGLISH	E M	"IGL"	B111547	PTE	ESHKIBOK	F A	"IGL"
B 46862	PTE	FERGUSON	H C	"IGL"	B 43432	PTE	FIRSTBROOK	W A	"IGL"
B 42561	PTE	FIRTH	W	"IGL"	B135880	PTE	FLOOD	W H	"IGL"
B 43487	PTE	FYFE	F	"IGL"	B 75357	PTE	GEARY	E A	"IGL"
B134868	PTE	GEARY	P J	"IRC"	B 43391	PTE	GILES	A C	"IGL"
B 42037	PTE	GILES	I D	"IGL"	B 42659	PTE	GINSBERG	I	"IGL"
H101217	PTE	GODKIN	T E	"2CDSB"	B 77431	PTE	HALES	J	"2CDSB"
B 42791	PTE	HALL	M H	"IGL"	B 75756	PTE	HALLAM	G W	"2CDSB"
B 43131	PTE	HARRIS	H L	"IGL"	B 46826	PTE	HAW	K J	"IGL"
B131533	PTE	HAMMAN	J L	"2CDSB"	B 76155	PTE	HEATH	R L	"2CDSB"
B 43003	PTE	HILL	J R	"IGL"	B 75803	PTE	HUGHSON	V J	"2CDSB"
B 76225	PTE	HUTCHINSON	J A	"2CDSB"	B 75699	PTE	HUTCHISON	R M	"2CDSB"
B 42763	PTE	IONSON	A	"IGL"	B 43031	PTE	JACKSON	P T	"IGL"
B 46622	PTE	KEMP	E S	"IGL"	B 43496	PTE	KERACHER	D R	"IGL"
B131027	PTE	KINGDON	C G	"IRC"	M 12004	PTE	KIRKO	M	"2CDSB"
B133693	PTE	JACKSIE	B J	"2CDSB"	B 77088	PTE	JARDIN	K J	"2CDSB"

PAGE 2 FOLLOWS (OVER)

2. STRENGTH DECREASE-Cont'd

(c) Cont'd

B133463	PTE	JUKES	H W	"2CDSB"	B112790	PTE	JULOP	B J	"CDSB"
B101080	PTE	LALONDE	L A	"2CDSB"	B134377	PTE	LAWRENCE	W A	"2CDSB"
B 41653	PTE	LIBERTY	J E L	"IGL"	B 42208	PTE	LISTER	R G	"IGL"
B 46951	PTE	LOUTH	F B	"IGL"	B112526	PTE	McLAUGHLIN	J	"2CDSB"
B 75829	PTE	MAGUIRE	O R	"2CDSB"	B 75799	PTE	MARTIN	J	"2CDSB"
B 76512	PTE	MILLS	E G	"2CDAB"	B 73088	PTE	MOORE	M	"48th"
B131632	PTE	NEWTON	W H	"2CDSB"	B 75944	PTE	NOBLE	H C	"2CDSB"
B130186	PTE	O'BRIEN	J J	"2CDSB"	B127545	PTE	O'NEIL	O R	"IGL"
B 66875	PTE	PEACOCKE	D A	"2CDSB"	H195021	PTE	PURVES	W	"2CDSB"
B130283	PTE	RAND	A S	"2CDSB"	B76944	PTE	REID	R W	"2CDSB"
B 75773	PTE	RIDLER	R R	"2CDSB"	B132609	PTE	RIOUX	A	"2CDSB"
B 77468	PTE	SKAROTT	D A	"2CDSB"	B 74036	PTE	SNOWBALL	C R	"48th"
K 42623	PTE	STYAN	J D	"IRC"	B 76190	PTE	TOWNSON	J	"2CDSB"
B 75629	PTE	WALLER	C B	"2CDSB"	B 76561	PTE	WILKES	F F	"2CDSB"
B133183	PTE	WILLIAMS	R J	"2CDSB"	B 22247	PTE	WORR	W A	"IRC"

(d) S O S on posting to 2 Cdn Div Spt Bn (TSR) 5 C I D Sp Gp (AUTH: 2ECH Demand No 492 d/13 Jun 43) w e f 17 Jun 43

B 75856	PTE	ABRAM	R	"2CDSB"	G 53769	PTE	ALWARD	S M	"2CDSB"
B135930	PTE	ARMSTRONG	R B	"2CDSB"	B130104	PTE	ATKINS	O R	"2CDSB"
B114102	PTE	BELISLE	J H	"2CDSB"	B130278	PTE	BLYTH	H	"2CDSB"
B 77265	PTE	BOWDEN	J A	"2CDSB"	A103969	PTE	BOYLE	R F A	"2CDSB"
C 65207	PTE	BROOKS	A A	"2CDSB"	B 76513	PTE	BURNS	D J	"2CDSB"
B130076	PTE	BUTKEVICK	E	"2CDSB"	C 65169	PTE	CHANNELL	L B	"2CDSB"
B 75638	PTE	CHAPMAN	D A	"2CDSB"	B130300	PTE	CHOUINARD	J S	"2CDSB"
C 40550	PTE	FOLEY	W	"IGL"	B103186	PTE	GENNOE	W C	"IGL"
C 6400	PTE	GODFREY	R	"IGL"	B134847	PTE	GORDON	L J	"IGL"
B134442	PTE	HARNADEK	S R	"IGL"	C 65038	PTE	HEELS	H R	"IGL"
B 76143	PTE	JENKINS	W	"2CDSB"	B133003	RFN	JERRY	S W	"QOR"
C 65425	PTE	KHELER	A T	"IGL"	B 76957	PTE	KNAPP	M H	"2CDSB"
B 76742	PTE	LAVERY	W J	"2CDSB"					
D121874	PTE	LITTLE	G	"2CDSB"	B112401	PTE	LITTLE	A A	"2CDSB"
B 43095	PTE	McCREARY	H	"IGL"	B133133	PTE	MacCALLUM	J A	"2CDSB"
B 43261	PTE	McDOWELL	D H	"IGL"	B 43065	PTE	McGINTEE	G W B	"IGL"
B 37919	PTE	MacGRANILES	D S	"IGL"	B130136	PTE	McISAAC	H W	"2CDSB"
B 42515	PTE	McKENZIE	M A	"IGL"	B 42250	PTE	McLAUGHLIN	J B	"IGL"
C 5387	PTE	McMAHON	F F	"IGL"	B 75942	PTE	MAJOR	H	"2CDSB"
B 134555	PTE	MARSHALL	W W	"IGL"					
B 43062	PTE	MARTIN	A	"IGL"	B 43503	PTE	MARVIN	J E	"IGL"
B 42276	PTE	MATHEWSON	B W	"IGL"	B 42575	PTE	MAVIN	J W	"IGL"
B 43138	PTE	MILLER	A N	"IGL"	B 42101	PTE	MONTAGNA	A D	"IGL"
B 76889	PTE	MOORE	G T	"2CDSB"	B 43326	PTE	MORRISON	J C	"IGL"
B 42215	PTE	MURPHY	J T	"IGL"	B 42129	PTE	MURRAY	L A	"IGL"
B 80712	PTE	NELSON	J H	"2CDSB"	W 52104	PTE	NEWELL	E	"IGL"
B 52779	PTE	NICHOLLS	J E	"2CDSB"	B 53394	PTE	NIELSEN	V	"IGL"
B 42603	PTE	OAKES	J E L	"IGL"	B111006	PTE	O'DONNELL	E J	"IGL"
B 42737	PTE	PERRY	J F	"IGL"	B 43523	PTE	PRADY	N F	"IGL"
B 43272	PTE	PRINE	J K	"IGL"	B 43300	PTE	RAGSDALE	R	"IGL"
B 43580	PTE	RAINEY	G T	"IGL"	B 42825	PTE	REYNOLDS	A E	"IGL"
B 42744	PTE	RIDDLER	R B	"IGL"	B 59783	PTE	RIVERS	AGM	"IGL"
B 41924	PTE	ROBERTS	M A	"IGL"	B 43012	PTE	ROBERTS	R	"IGL"
B 41912	PTE	ROMBOUGH	M A T	"IGL"	Dvr Mech Grp "C"				
B 43431	PTE	ROSZELL	H W	"IGL"	B 42275	PTE	SCULLY	A B	"IGL"
B 42521	PTE	SHANTZ	S L	"IGL"	B 46865	PTE	SIMPSON	R E	"IGL"
B 43195	PTE	SIMS	R J	"IGL"	B 38122	PTE	SMITH	G E	"IGL"
E 52670	PTE	SMITH	J L	"IGL"	B 38058	PTE	SMITH	V A	"IGL"
B 42088	PTE	SPENDIFF	P A	"IGL"	D 46883	PTE	STEEP	J A	"IGL"
B 41752	PTE	STEVENS	P J	"IGL"	B 42771	PTE	STREET	J	"IGL"
G 41385	PTE	STUBINSKI	W F	"IGL"	B 37928	PTE	SUDDS	A J	"IGL"
B126615	PTE	SWAYZE	K D	"IUL"	B 41990	PTE	TAGGART	H E	"IGL"
B135841	PTE	TAYLOR	A R	"IRC"	B130567	PTE	TOOMATH	H E	"IRC"
B 79087	PTE	TOWNLEY	T	"2CDSB"	H 70564	PTE	WALL	J A	"2CDSB"
B 77189	PTE	WELCH	J	"2CDSB"	B 77406	PTE	WHYTE	JA	"2CDSB"
B 76717	PTE	WILLIAMS	J A	"2CDSB"	B 76869	PTE	WILSHAW	J P	"2CDSB"
B 76837	PTE	WOOD	E L	"2CDSB"	B131968	PTE	WOOD	G E	"2CDSB"
B130161	PTE	YOUNG	H C	"2CDSB"	A116252	PTE	TRANTER	C E	"2CDSB"
B131658	PTE	WICKSON	F E	"2CDSB"					

PAGE 4 FOLLOWS (OVER)

8. STRENGTH DECREASE-Cont'd

(e) S O S on posting to R H L I w e f 17 Jun 43
(AUTH: 2ECH Demand No 404 d/13 Jun 43)

B 42776	PTE	ADLAM	R J	"IGL"	B136593	RFN	ANTHONY	J	"QOR"
B 37179	PTE	AUSTIN	J	"RHLI"	B 43389	PTE	BASKETT	R J	"IGL"
K 47674	PTE	BENSON	S G	"RHLI"	B 42941	PTE	BECKETT	F W	"IGL"
B 37463	A/SGT	BILLINGS	G M	"RHLI"	B 42592	PTE	BOOTH	E J	"IGL"
B 38425	PTE	BORDIAN	G	"RHLI"	B111216	RFN	BOURDAGE	F X	"QOR"
B 42054	PTE	BOWMAN	W J	"IGL"	B 20532	PTE	BRADLEY	K S	"RHLI"
B 38076	PTE	BULLOCK	W R	"IGL"	B 43364	PTE	CAMPBELL	G D	"IGL"
B134880	RFN	CANDLER	G	"QOR"	B 43460	PTE	CASEY	J F	"IGL"
B 43379	PTE	CERIKO	J	"IGL"	B 42631	PTE	CLEVELAND	R J	"IGL"
B 42695	PTE	CONSTANT	H A	"IGL"	B 42536	PTE	COOPER	V C	"RHLI"
B 43117	PTE	COULL	W L	"IGL"	B 43292	PTE	COX	J	"RHLI"
B 56449	PTE	CROSSON	E F	"RHLI"	B134930	PTE	DANIELS	S E	"IRC"
B 43120	PTE	DAVIDSON	L	"IGL"	B 40674	PTE	DAVIDSON	C	"RHLI"
B 42914	PTE	DEFIELDS	E	"IGL"	B 37851	PTE	DIONNE	A	"RHLI"
B 65728	RFN	DOWNE	R	"QOR"	B 42505	PTE	FAIRLIE	A	"IGL"
B 45956	PTE	FARRINGTON	T	"RHLI"	B133605	RFN	FRAZER	B J	"QOR"
B 42896	PTE	FULLER	S J	"IGL"	B 42242	PTE	GRACE	M D	"IGL"
B 42918	PTE	GRAM	N	"IGL"	B 43464	PTE	GREEN	P W	"IGL"
B 59955	PTE	GRIMSELL	S A	"RHLI"	B 37908	PTE	GRUDERNEY	M F	"IGL"
B 43446	PTE	GUERTEN	D O	"IGL"	B103151	RFN	GUMERSON	L A	"QOR"
B 42681	PTE	HAM	W J	"IGL"	B 42567	PTE	HAMILTON	J R	"IGL"
B 43489	PTE	HETMANSKI	M	"IGL"	B 43479	PTE	HORTAM	C W	"IGL"
B 42713	PTE	JANVEAUX	H	"IGL"	B 43421	PTE	JAY	J W	"IGL"
B 42597	PTE	JOEL	L C	"IGL"	B 42641	PTE	JOHNSON	R&G	"IGL"
B 38100	PTE	JOHNSON	W	"IGL"	B 59583	PTE	KANE	J C	"RHLI"
B 41893	PTE	KRIEGER	W J	"IGL"	B 36987	PTE	LAWRENCE	V A	"RHLI"
B 43141	PTE	McGARRELL	W	"IGL"	B 41950	PTE	McRAE	E A	"IGL"
A 37310	PTE	MABEY	W M	"RHLI"	B 42972	PTE	MUIR	R S	"IGL"
B 56908	CPL	OPENSHAW	T	"RHLI"	B 42256	PTE	OSADAC	SD	"IGL"
B 38014	CPL	OWENS	H W	"RHLI"	B 56714	PTE	PAQUETTE	A J	"RHLI"
G 32575	PTE	PAWSEY	F J	"RHLI"	B 43192	PTE	PAYNE	W S	"IGL"
B 43253	PTE	PETERSEN	G E	"IGL"	B 60829	PTE	PIERCE	M	"RHLI"
B 37259	CPL	PRINCE	H	"RHLI"	B 41964	PTE	RILEY	J E	"IGL"
B 43371	PTE	RINK	J	"IGL"	B 41749	PTE	ROBBINS	M G	"IGL"
B 42743	PTE	ROCHON	A	"IGL"	B 43375	PTE	ROGERS	G W	"IGL"
B 38470	PTE	SHORROCK	J T	"RHLI"	B134452	RFN	SLINGERLAND	C	"IGL"
B 37777	PTE	STOVER	D	"RHLI"	B 37523	PTE	TAYLOR	G E	"RHLI"
B 42752	PTE	VEILLETTE	J	"IGL"	B126601	PTE	WATTS	N	"IGL"
B 41995	PTE	WETTLAUFER	W J	"IGL"	B 38222	PTE	WILLIS	G C	"RHLI"
B 70068	PTE	WISEMAN	H G	"RHLI"				Dvr Mech "G"	

(f) S O S on posting to 2 Cdn Div Sgt Bn (TSR) 6 C I B Sp Gp w e f 17 Jun 43
(AUTH: 2ECH Demand No 500 d/13 Jun 43)

B135974	PTE	ANTLER	G M	"IRC"	B135226	PTE	ARSENAULT	J I	"IRC"
B137208	PTE	BIGGLEY	R E	"IRC"	B134381	PTE	BLENKINSOP	H C	"IRC"
B 74139	PTE	BOYCE	S J	"48th"	B136934	PTE	BRADY	V J	"IRC"
B 75597	CPL	BREMNER	G	"2CDSB"	B77077	PTE	BROCKLESBY	J J	"2CDSB"
B134401	PTE	BRUNELLE	BJG	"IRC"	B 79464	PTE	BRUNER	V F	"IRC"
B 78783	PTE	BRYSON	J	"IRC"	B133340	PTE	BULLOCK	R J	"IRC"
B136894	PTE	BURTON	R L	"IRC"	C 65266	PTE	CABLE	J	"IRC"
B 76559	CPL	CAUGHEY	C D	"2CDSB"	Motor Mech Grp "B"				
B136489	PTE	CHEESMAN	D	"IRC"	B130252	PTE	CLAVELLE	HC	"2CDSB"
B112868	PTE	CLEARWATER	D	"2CDSB"	B131971	PTE	CLEMENT	J E	"2CDSB"
B132563	PTE	COLE	E R	"2CDSB"	B77424	PTE	COLE	P J	"2CDSB"
B130265	PTE	COLEMAN	C J	"2CDSB"	B136578	PTE	COLVIN	J H	"IRC"
B 76730	PTE	COWAN	D F	"2CDSB"	B77416	PTE	COWELL	K A	"2CDSB"
B134423	PTE	CRAWLEY	F C	"2CDSB"	B130259	PTE	CROSS	F G	"2CDSB"
B 77256	PTE	CURRIE	T E	"2CDSB"	B43314	PTE	DARBON	G J	"48th"
B 76327	PTE	DAVIDSON	T	"2CDSB"	B55145	PTE	DEGAZIO	J T	"2CDSB"
H 46611	PTE	DODD	W	"2CDSB"	B112673	PTE	DONALDSON	D A	"2CDSB"
B77381	PTE	FALKNER	E L	"2CDSB"	B125002	PTE	FINLAY	F J	"2CDSB"
B 9585	PTE	FISHER	W L	"2CDSB"	B75767	PTE	FLAXMAN	N W	"2CDSB"
C118504	L/CPL	GLOVER	W L	"IGL"	B137554	PTE	GOODFELLOW	GJ	"IRC"
B134951	PTE	JOYCE	W S	"IRC"	B137519	PTE	LANEESTER	A G	"IRC"
A10053	PTE	McCONNELL	F H	"IRC"	B 6374	PTE	MacDERMAID	N E	"IGL"

PAGE 5 FOLLOWS (OVER)

8. STRENGTH DECREASE-Cont'd

(g) Cont'd

B102094	RFN	RENAUD	O	"QOR"	B133407	RFN	RESIDE	R N	"QOR"
C 65130	PTE	ROBERTS	F	"IRC"	D 157582	PTE	ROMAIN	O P	"IGL"
B 41704	CPL	SECORD	D W	"48th"	C 65212	PTE	SHAW	D	"IGL"
B 22291	PTE	SHEA	A	"IRC"	C 72225	PTE	SHELDON	J	"IRC"
C118529	RFN	SIMMONDS	A H	"QOR"	B 36823	PTE	SLATER	J M	"RHLI"
B 59622	PTE	SMAIL	J	"IGL"	B134569	RFN	NORTON	F R	"QOR"
C 65239	PTE	SMITH	C H	"IGL"	B133457	PTE	SMITH	J V	"IRC"
C 65103	PTE	SNOOKS	C E	"IGL"	B 22293	PTE	STEFINSHEN	W	"IGL"
C 65146	PTE	STEWART	J H	"IGL"	C 40586	PTE	SUFFOLK	J A	"IGL"
C 65618	PTE	SUNDAM	H R	"IGL"	C 65539	PTE	TAIT	W I	"IGL"
C 72211	PTE	TAYLOR	F	"IRC"	B134485	RFN	TESSIER	L J	"QOR"
B134851	PTE	TURNER	J F	"IRC"	B134361	RFN	VERDUN	C	"QOR"
C 72224	PTE	WAGG	C C	"IRC"	B130726	PTE	WATSON	DJR	"IRC"
B 79212	PTE	WATSON	J	"IRC"	B 79501	PTE	WHITE	J A	"IRC"
C 5909	PTE	WILLIAMS	R A	"IRC"	B130262	PTE	WILSON	J C	"IRC"
B132816	RFN	WILSON	L M	"QOR"	C 40677	PTE	WILSON	T	"IGL"
C 65696	RFN	WOLNOUGH	C E	"QOR"	B 42172	PTE	YOUNG	W	"48th"
B110714	PTE	DANNER	T H	"IRC"	B 65014	RFN	BALUDROW	R J	"QOR"
B 79696	PTE	STANLEY	G D	"IRC"	C 5900	PTE	GALLIGAN	J D	"IRC"
B 64904	RFN	MAXIN	G	"QOR"	B 68188	PTE	TAIT	G A	"RRC"
B127475	PTE	TIMCHUCK	M J	"IGL"	B112716	PTE	STUART	S	"IRC"

(h) s o s on posting to R R of C w e f 17 Jun 43
(AUTH: 2ECH Demand No 388 d/13 Jun 43)

B 70331	PTE	ACTON	E A	"RRC"	B 65599	CPL	BARRETT	C G	"RRC"
B 66764	PTE	BRAMFIELD	A	"RRC"	B67400	PTE	BROOK	M R	"RRC"
B 68411	PTE	CARTER	H W	"RRC"	B105074	RFN	COOK	R F	"QOR"
B 65636	PTE	CRONK	E J	"RRC"	B 55453	PTE	DECHENE	E	"RRC"
B128746	PTE	DUNN	C L	"IRC"	A103406	PTE	GOOD	W T	"RRC"
B 65645	PTE	GORDON	W J	"RRC"	B 74037	PTE	HARKER	H R	"RRC"
B 66967	PTE	HARNEY	J ZA	"RRC"	B 68441	PTE	HOCQUE	W S	"RRC"
B 65634	PTE	JONES	JGO	"RRC"	B 43448	PTE	KING	F C	"IGL"
B 43548	PTE	KOZAK	J	"IGL"	B133445	RFN	LAMURE	AAG	"QOR"
B 43428	PTE	LARKIN	J D	"IGL"	B 42159	PTE	LAWSON	W W	"IGL"
G19433	PTE	LEVESQUE	E	"RRC"	B 42794	PTE	LEWIS	W H	"IGL"
B 42926	PTE	LYON	C	"IGL"	B 64927	RFN	LUCAS	L S	"QOR"
B 41858	PTE	McKINNEY	W J	"IGL"	B 43307	PTE	MARLOWE	A F	"IGL"
B 43482	PTE	MILLER	R L	"IGL"	D 59098	PTE	MISHIBINIJIMA	G	"RRC"
B 66502	PTE	MONDERS	E A	"RRC"	B 43067	PTE	MULLIN	T J	"IGL"
B 70093	PTE	PARRISH	M C	"RRC"	B 68392	PTE	PETRANT	A F	"RRC"
B 43439	PTE	PRIVETT	C F	"IGL"	B 59577	PTE	RAJOTTE	M A	"RRC"
B 42802	PTE	SHAW	C A	"IGL"	B 65788	PTE	SHEARDOWN	T B	"RRC"
B 42522	PTE	SMILEY	WJ	"IGL"	B134579	PTE	SMITH	J N	"IGL"
A103753	RFN	SORRELL	J H	"QOR"	B 43384	PTE	STEED	R F	"IGL"
B133417	RFN	SUTHERLAND	G C	"QOR"	B 68429	PTE	THOMPSON	F S	"RRC"
C 65548	PTE	TOMLINSON	W A	"IRC"	B 43453	PTE	TREMBLAY	T	"IGL"
B 65600	PTE	VENTON	H T	"RRC"	B 43363	PTE	VICKERS	I L	"IGL"
B 43362	PTE	WAGNER	H E	"IGL"	B 42091	PTE	WARLOW	J A	"IGL"
B110671	PTE	WATSON	D R	"RRC"	B 42089	PTE	WEBB	H J	"IGL"
B 42754	PTE	WELLS	LJE	"IGL"	B 65051	RFN	WHITEHOUSE	F J	"QOR"
B 42604	PTE	WHITING	A	"IGL"	B 136854	RFN	WILCOVESKY	M	"QOR"
B 42585	PTE	WILLIAMS	EGD	"IGL"	B 59785	PTE	WING	H	"RRC"
D106009	PTE	WING	J	"RRC"	B 65784	CPL	WOOD	S W	"RRC"
B 42774	PTE	YAKE	J F	"IGL"	B 53156	PTE	ZATOR	W J	"RRC"
B130669	L/CPL	ZURBRIGG	M E	"QOR"	B101201	PTE	FEINNEY	W R	"RRC"
B 43396	L/CPL	BECK	A J	"IGL"	B 67898	PTE	BLANCHARD	T E	"RRC"
G 32073	PTE	CONWAY	B J	"RRC"	B 54826	PTE	DEMPSEY	E M	"RRC"
B 67355	PTE	ENGLAND	M L	"RRC"	B 41866	PTE	HEMPHILL	E L	"IGL"
B 42204	PTE	HONSBERGER	R	"IGL"	B135941	RFN	HUMENIK	M	"QOR"
B 43306	PTE	ILLMAN	S T	"IGL"	B 42903	PTE	KARGUS	H W	"IGL"

/jcr

(W A Leask) A/Captain & Records Officer,
No 4 Cdn Infantry Reinforcement Unit, C A O

8. STRENGTH DECREASE-Cont'd

(f) Cont'd

C 53261	PTE	McGUIRE	J A	"IGL"	B136584	PTE	McKEEN	J L	"IRC"
B137556	PTE	McLEOD	J D	"IRC"	B135246	PTE	MELLON	D P	"IRC"
B135556	PTE	MIREAULT	F J	"IRC"	B134809	PTE	MITCHELL	JEF	"IGL"
B 79342	PTE	PATTERSON	H	"IRC"	B135544	PTE	PINKERTON	A E	"IRC"
B132844	PTE	POUNDER	W H	"IRC"	B136943	PTE	PURDY	J R	"IRC"
B133678	PTE	ROGERS	J S	"2CDSB"	B133101	PTE	POMANO	L	"IRC"
B131957	PTE	ROSNAK	J	"2CDSB"	B131958	PTE	ROSNAK	T	"2CDSB"
B103174	PTE	ROUSE	M R	"IRC"	B132889	PTE	RUSSELL	J D	"2CDSB"
C 41294	PTE	SAUVE	H P	"IGL"	B130126	PTE	SCHRYVER	W P	"2CDSB"
B130279	PTE	SHAW	T J	"2CDSB"	B 76707	PTE	SHEEHAN	T W	"2CDSB"
C 65469	PTE	SMITH	D H	"IGL"	B135898	PTE	SMITH	T G	"IRC"
B105109	PTE	SNELL	R E	"2CDSB"	B132602	PTE	SPENCE	L E	"2CDSB"
B 43476	PTE	SPENCER	C C	"48th"	A103133	PTE	STOCKMAN	M V	"IRC"
B 77422	PTE	STORE	W O	"2CDSB"	B 53301	PTE	SUBBHE	M	"IGL"
B 75862	PTE	SUMMERS	R W	"2CDSB"	B134890	PTE	TAVERNER	L G	"IGL"
C 6398	PTE	TEDFORD	W J	"2CDSB"	B43294	PTE	THOMPSON	H J	"IGL"
B 76356	PTE	THOMSON	D N	"2CDSB"	B 43077	PTE	TISDALE	A R	"IGL"
C 65651	PTE	TOUGH	A C	"IGL"	B 42749	PTE	TURCOTT	EMI	"IGL"
B 22256	PTE	TURESKI	P	"IGL"	B 46836	PTE	TURKOSZ	P	"IGL"
B 42627	PTE	ULLMAN	J E	"IGL"	B127755	PTE	UPSON	J	"IGL"
B 43078	PTE	URESHOTT	I	"IGL"	B 76834	PTE	VICKERY	C W	"2CDSB"
B126600	PTE	WILEY	W G	"IGL"	B 43045	PTE	WILSON	R C	"IGL"
B 43355	PTE	WINTER	J E	"IGL"	B131194	PTE	WOODS	I M	"IGL"
B 43017	PTE	WREAKS	R M	"IGL"	C 65165	PTE	YOUNG	R	"IGL"
G 32501	PTE	STEEVES	H L	"2CDSB"					

(g) S O S on posting to Ir R of C w e f 17 Jun 43
(AUTH: 2ECH Demand 717 d/14 Jun 43)

C 65180	PTE	ALLDREAD	D A	"IRC"	C 40689	PTE	ALLDREAD	L K	"IRC"
B 43108	PTE	ANDREWS	O G	"IGL"	B 38077	PTE	BARBER	J C	"IGL"
B 134586	PTE	BARDEN	L H	"IRC"	B127506	PTE	BELGUE	R O	"IRC"
C 40632	SGT	BENNETT	H S	"IRC"	B 79141	PTE	BENNETT	J	"IRC"
B113849	RFN	BERRY	A	"QOR"	B126592	PTE	BLACK	W J	"IGL"
C 6393	PTE	BOYES	LL	"IRC"	C 5872	CPL	BRAY	R H	"IGL"
B 42694	SGT	BRAZEAU	A M	"48th"	B 41846	PTE	BUCKLE	W G	"IGL"
B 75124	PTE	BUTLER	N A	"48th"	Bricklayer Grp "C"				
B133394	RFN	CLUSE	D A	"QOR"	C 36557	PTE	CORBETT	A E	"IGL"
B132851	PTE	CRAWLEY	H A	"IRC"	B103148	RFN	CROSSMAN	W E	"QOR"
C 40613	PTE	CROAN	H R	"IGL"	B 79703	PTE	CROCKER	A E	"IRC"
B 42899	PTE	CROCKETT	A	"IGL"	B133360	RFN	DAVIS	C A	"QOR"
C 65285	RFN	DIXON	D	"QOR"	B 79643	PTE	DOHERTY	J D	"IRC"
B 43183	PTE	EASTMAN	R C	"IGL"	B134384	PTE	EDWARDS	S J	"IRC"
A103173	PTE	ELD	W L	"IRC"	B 78564	PTE	ELFORD	F W	"IRC"
C118517	PTE	ETHIER	J	"IRC"	E 52661	RFN	FERGUSON	O M	"QOR"
B 79174	PTE	FERRIMAN	W J	"IRC"	B134589	PTE	FLEMING	H A	"IRC"
B 65816	RFN	GALLAGHER	P J	"QOR"	B 41989	PTE	GILSON	C	"IGL"
K 42117	PTE	GLAVIN	E	"IRC"	C 65504	PTE	GRAHAM	JLP	"IRC"
C 65013	PTE	GWTRIE	W	"IRC"	B 22229	PTE	HALFORD	H E	"IRC"
C 65580	PTE	HANNA	O J	"IRC"	B135734	RFN	HARDMAN	W	"QOR"
B131102	RFN	HAYES	T E	"QOR"	B135816	RFN	HEIN	A W	"QOR"
B120190	RFN	HOLLAND	C H	"QOR"	C 65136	PTE	ILES	G H	"IGL"
B134533	RFN	INESON	P	"QOR"	B 75987	PTE	KENNEL	L	"IRC"
B133432	RFN	KIRK	JRK	"QOR"	B130182	RFN	KNOTT	JEI	"QOR"
C 5920	SGT	LEAN	R C	"IRC"	B135684	RFN	LITTELL	WJP	"QOR"
A 44693	PTE	McALLISTER	J W	"IRC"	B133130	RFN	McCULLIGH	E R	"QOR"
B133104	RFN	McCUTCHEN	G C	"QOR"	B134869	RFN	McMILLAN	A	"QOR"
C 5869	PTE	McPHERSON	H A	"IRC"	C 65388	PTE	McWAGGART	J D	"IRC"
C 65462	PTE	MAIKA	E	"IRC"	B132905	RFN	MARA	H W	"QOR"
C118518	PTE	MARTIN	E R	"IRC"	B133373	RFN	MAY	S E	"QOR"
C 65660	PTE	MIDGLEY	W E	"IGL"	B132128	RFN	MILLS	S H	"QOR"
B130277	PTE	MUIR	W	"IRC"	B133167	RFN	NANGLE	W B	"QOR"
B132260	RFN	NICHOLS	H R	"QOR"	B134316	RFN	O'HEARN	D G	"QOR"
B 3198	PTE	O'LOUGHLIN	L E	"IRC"	C 6357	PTE	PAPPIN	E R	"IGL"
B 22284	PTE	PASHAK	A T	"IGL"	B103142	RFN	PHILLIPS	R A	"QOR"
C 65356	PTE	POST	C M	"IGL"	B 65926	RFN	PYLYPIW	P P	"QOR"
B135607	RFN	RANDLE	W E	"QOR"	B134373	PTE	REID	C G	"IRC"

PAGE 6 FOLLOWS (OVER)

RECORD of the Declaration of a Court of Inquiry assembled at Waterloo Bks Aldershot, Hants. on the 5 day of July 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-73566 Pte. Graham, J.W. 48th Highrs of C.

DECLARATION

The Court declare that B-73566 Pte. Graham, J.W., 48th Highrs of C. illegally absented himself without leave from 2200 hours 12 Jun 43, and that on the 5 Jul 43, he was and is still so absent, and that he is deficient articles of kit to the value of: Vocabulary price £6-6-8d and £4-15-0d Appraised valu.

Articles.		Vocabulary Price £	s	d	Appraised Value. £	s	d
Badges, cap	1			4			3
Drawers	2prs		4	1		3	0½
Vests, gym	2		3	10		2	10½
Housewife	1			7			5
Jersey, pullover	1		6	9		5	7
Knife, clasp	1		3	4		2	6
Shirts, Drab.	1		10	0		7	6
Vests, woollen	2		15	6		11	7½
Blouse, B.D.	1	1	7	8	1	0	9½
Boots, ankle	1pr	1	2	6		16	11½
Shorts, Gym.	2		4	2		3	1½
Trousers, B.D.	1	1	7	11	1	0	11
		£6.	8.	8d	£4.	15.	0d

(W.G. Symons)
C.S.M. "A" Coy. 4 C.I.R.U.

Names of President and Members:

President:- Capt. R.I.C. Stewart
Members:- Lieut. G.R. Tyrrell
Lieut. H.E.G. Bull

Signature of Commanding Officer (J.H. Christie) A/Col., Officer Commanding, 4 Cdn Inf Rein Unit. C.A.O.

Certified true copy Signature of Officer [illegible] Captain Adjutant, 4 Cdn Inf Rein Unit.

A

WBC

M.F.R. 3/6
40/P & S/678

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-73566	Pte.	Graham, J.W.	(48th H of C) 4 CIRU

1. The following is a fair and true summary of the entries in the Regimental N.Y.P. Conduct sheets N.Y.P. of the accused, exclusive of convictions by a Court-Martial or a Civil Court, N.Y.P. of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	A.A. Sec. 15(1)	1 times	A.A. Sec. 15(1)	4 times
N.Y.P.		N.Y.P.		N.Y.P.
N.Y.P.		N.Y.P.		N.Y.P.
N.Y.P.		N.Y.P.		N.Y.P.

N.Y.P.

N.Y.P.

N.Y.P.

N.Y.P.

N.Y.P.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under N.Y.P. N.Y.P. Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

N.Y.P.

N.Y.P. N.Y.P.

N.Y.P.

4. The accused has been in confinement awaiting trial on the present charges, for N/C days in civil custody, and 52 days in military custody, making a total of 52 days in custody, of which 21 days were spent in hospital.

5. The present age of the accused according to his N.Y.P. attestation paper is 27

6. The date of his N.Y.P. specified in his N.Y.P. is attestation attestation paper 24 Nov 39

7. The service which the accused is allowed to reckon towards discharge is

N.Y.P.

N.Y.P.

N.Y.P.

N.Y.P.

N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P. [illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

[illegible] N.Y.P.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

[illegible] N.Y.P.

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B.73566 Rank Pte.

Name Graham, J.W. of (48th High. of C) 4 CIRU Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	19 Nov 41 Field	A.A. Sec. 15 (1)	45 days detention	
F.G.C.M.	3 Oct 42 Field	A.A. Sec. 15(1)	90 days detention	
F.G.C.M.	18 Jan 43 Field	A.A. Sec. 15(1)	90 days detention	30 days Remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of Nov. 43 [illegible] Captain Adjutant, 4 Cdn Inf Rein Unit.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

B

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	Badges	Service or Proficiency Pay
B 73566	GRAHAM, J.W.		C.I.C.	25 Nov 39		N/A

M.F.M. 6 (A.F. B.127) 40/P & /35206 (2060)

Date of last entry in Company Conduct Sheet	No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No.	Signature O.C. Company, etc.	Character
N/A	N/A	N/A	1		

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Jan 41	Pte.		AA Sec 15(1) WOAS AWL from 2350 hours 9 Jan 41 to 0730 hours, 10 Jan 41 TTA 9 hours 20 mins.	L/Cpl. Evans Sgt. Thompson	4 days C.B.	10 Jan 41	Major J.E. Ganong	
Field	1 Feb 41	Pte		AA Sec 15(1) WOAS AWL from 2359 hours 1 Feb 41 to 0815 hours 3 Feb 41 TTA 1 day 8 hrs 16 mins	Sgt Thompson L/Cpl Evans	7 Days C.B.	5 Feb 41	Capt. J.E. Wright	Forf 2 days PAY FRI 1491a
Field	8 Apr 41	Pte		AA Sec 15(1) WOAS AWL from 2359 hours 8 Apr 41 to 1900 hours 29 Apr 41 TTA 20 days 19 hrs 1 min	Cpl Wilson	28 days det'n	6 May	Lt Col Slack	Forf 21 days Pay FRI 149-1a Forf 28 days Pay FRI 149-1b
Field	16 Sept 41	Pte		AA Sec 15(1) WOAS AWL from 2359 hours 16 Sept 41 to 2000 hours 22 Oct 41 TTA 35 days 20 hours 1 minute, fN ARREST 27 days 4 hours Cost of Apprehension £2-11-9	Documentary	45 days det'n 4(Cost of App £2-11-9)	19 Nov 41	F.G.C.M. G.O.C. Cdn. Base Units	Forf 36 days Pay FRI 149-1a Forf 27 days Pay FRI 149-1c Forf 40 days pay FRI 149-1b

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Aug 42	Pte		AA Sec 15(1) WOAS AWL from 2359 hours 16 Aug 42 to 2200 hours, 29 Sept 42 TTA 43 days, 22 hours, 1 minute IN ARREST 3 days	Cpl Caswell Sgt Buckley	90 days det'n	3 Oct 42	F.G.C.M.	Forf 44 days Pay FR&L 149 (1) (a) Forf 90 days pay FR&I 149(1) (b) Forf 3 days pay FR&I 149(1) (c) (1)
Field	11 Jan 43	Pte		AA 15(1) WOAS AWL 18 days 3 hrs 30 mins. Under arrest 6 days		90 days det'n	18 Jan 43	F.G.C.M.	Forf 19 days FRI 149(1)(a) Forf 90 days pay FRI 149(1b
Released from the Detention Barracks, Headley down on Mar 18 1943, Sentence having Expired. Remission earned under "Rules for Detention Barracks and Prisons, 30 days. Commandants Initials.									Forf 6 days FRI 149 (1) (c)
Field	25 May 43	Pte.		AA Sec 15(1) AWL from 0600 hrs. 25 May 43 to 1030 hrs. 26 May 43 (1 day, 4 hrs. 30 mins).	Sgt Walsh	8 days F.P.	27 May 43	Lt-col.R.J. McPherson	Forf 2 days pay FR&I 149(1) (a)

Certified to be true copy from the Regimental Books and Documents in my possession. [illegible] Capt.

4QQ-80
PTE GRAHAM LF

RECEIVED
JAG BRANCH
C.M.H.Q.
JUN 1944

CPA96 (In lieu of AFA3)
40/P & S/1698 (2804)

444-80

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J R Stewart Lough DSO, MC, VD. Comd 'D' Group CRU dated 30 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11460	Pte	Lorne Fitzgerald	GRAHAM	1 CASCRU

PROCEEDINGS REVIEWED 10 Jul 44

[signature]

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 31 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. [illegible]

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) [illegible]

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 13.30 hours trial commences. [illegible]

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) [illegible]

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... as interpreter ? Ans ...~~ ~~The Interpreter is sworn.(1)~~ Do you object to 425209 SGT KS Pomey as shorthand writer ? Ans NO. [illegible]

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: [illegible]

President	A/ Major	A. O. Allan	1 casc R.U.
Member	Captain	H H MacKay	1 casc R.U.
Member	Captain	A. F. Milne	1 casc R.U.
Judge-Advocate			
Prosecutor	Lieut	J. E. Miller	1 casc R.U.
Defending Offr	Lieut	C. E. Jenion	1 casc R.U.

Questions by President: Is the Prosecutor a lawyer ? Ans NO. Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. ~~The accused ... before arraignment make(s) (no) (a) plea~~ (1) [illegible]

(1. If a special plea is made for separate trial on one or more charges (RP 62(B), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. [illegible]

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. YES (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ~~[illegible]~~ ALL charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on [illegible] charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex F, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

aaa

The accused, C-11460 Pte Lorne Fitzgerald GRAHAM, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas, is charged with, When On Active Service:

1st Charge
A.A. Sec. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 0600 hours 19 April 1944 until 1610 hours 17 May 1944 when he was apprehended by the Corps of Military Police at Hull. (Total Time Absent 28 days, 8 hours and 10 minutes)

2nd Charge
A.A. Sec. 10

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Hull, Yorkshire at approximately 1610 hours 17 May 1944 did make use of one CFA 24, Leave Pass, purporting it to be a genuine pass well knowing it not to be genuine.

3rd Charge
A.A. Sec. 22

WHEN IN CONFINEMENT ESCAPING

in that he

in the Field, on 21 May 1944 at approximately 1930 hours when confined in the Unit Guard Room at 1 Cdn ASC Rft Unit did escape along with several others.

4th Charge
A.A. Sec. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave, when in close arrest, from approximately 1930 hours 21 May 1944 until 2030 hours 22 May 1944 when apprehended in Hull, Yorkshire by Captain C. Wood, D.A.P.M., Adv. H.Q., Cdn Rft Units. (Total Time Absent 1 day and 1 hour.)

In the Field
27 May 44

(H.P. Bonnick) Colonel,
Commanding,
1 Cdn ASC Rft Unit.

To be tried by Field General Court Martial.

(J R Stewart Lough) Brigadier
Commander 'D' Group
Canadian Reinforcement Units

In the Field.
30 May 1944.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authority. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11460	Fte		Lorne Fitzgerald	GRAHAM	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and dated (date) 30 May 44 endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
A/Major		A O Allan	1 CASCRU

MEMBERS.

Officer	To be detailed by OC	1 CASCRU
Officer (Rank.)	To be detailed by OC (Named or detailed. RP 106.)	1 CASCRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 30 May 44

J R Stewart Lough (Signed personally. RP 105 fn 2.)

Commanding (J R Stewart Lough) Brigadier (Rank.)
Commander B Group
Canadian Reinforcement Units

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Rev of AFAS) 40/P & S/1867 (4951)

(See overleaf for oaths and notes for use on trial.)

PAGE 1.

STATEMENT MADE BY C.11460 PTE. GRAHAM, L.F.

Sir: I have been in No. 1 C.A.S.C. R.U. for approximately two years now and during that time I have tried on different occasions to get out to the Field. My former unit is now in Italy and I was too late to get on the last draft before they left. I finally managed, in April, to be sent to the Field. I went to 35 Company and from there was posted to Army Headquarters. Was quite contented and satisfied there with the job. It lasted only five days when I was called back to R.U. My documents show me as a "Cook" and I had to be Trade-tested. I did not want to be a cook and had the Colonel try to keep me on as a driver in Army Headquarters but it was out of his power and I had to be returned here. That was in April. I knew staying around here I would get in the same rut I had just got out of after two years. That was one of my reasons for going A.W.L. That is all, sir.

(C.11460 Pte. Graham, L.F.)

Above Statement was taken down by the Court Short hand writer. [illegible] a/maj

PLEA FOR MITIGATION OF SENTENCE TO COURT RE PTE. GRAHAM, L.F.

As defending officer for the accused, Pte. Graham, L.F., I wish at this time to make a please for mitigation of sentence to this Court.

Whilst this soldier was with 1st Div Amn Coy his record was good. He worked and gained the rank of L/Cpl. This can be easily verified by his MFM 6 showing a clean sheet from May 1940 until April 1942 a period of approximately 22 months. Unfortunately, due to circumstances upon which this soldier had little or no control he was admitted to the hospital and found his way into 1 Cdn A.S.C. Rft. Unit. His conduct whilst in this Reinforcement Unit became worse. These out breaks of bad conduct were brought on by the treatment he came under in this Unit. In activity, fatigues, away from his interests and friends in his former Unit, added to these circumstances were compassionate grounds. Worry and strain were brought about from not hearing regularly from his wife in Canada. The latter was finally settled to his satisfaction after a long delay. In March of this year Pte Graham was interviewed by a psychiatrist who recommended that he be sent to an active unit immediately. The accused approached me personally about this subject. I had him posted to 35 Army Tps Comp Coy on the 2nd of April, 1944. His wish to get to a Field Unit was sincere and he was quite content with the posting. This soldier was transferred on arrival at this Unit to Army H.Q's as driver for Col Pease. At this point Pte Graham found he liked his work and was becoming interested. He was called back to this Unit after several days because of a wrong entry as a cook to be trade tested by C&B Wing. This was a very unfortunate circumstance, the vacancy created was filled by another driver. His hopes of getting back to this Unit under control of N.C.O's and Officers he had soldiered under previously were shattered. This feeling of frustration and disappointment played a great part in his absenting himself without leave on the 19th April 1944. I am convinced this man would have done a fine job had he been left alone at Army H.Q's.

I should like to impress upon the court at this time that Pte Graham could not have had any part in the instigating of the escape from the Guard Room. Pte Graham had been in solitary confinement with Pte Conlin until approx 1715 hrs. The time of the break was approx 1910 hrs. This escape must have been planned ahead of time. The trap door had been nailed down, the way out after reaching the attic must have been planned ahead of time also. Graham had been allowed into the large cell block at supper time and allowed to remain to write letters under fairly close supervision up until 10 minutes before the actual break. The first inkling that other members of the group were escaping was when Graham heard them running along the attic. Graham went into the lavatory and noticed the trap door open. Being of an impulsive nature and easily lead he left also. These actions came about without thought of the consequences.

With due consideration to these facts I beg of the Court to exercise as much leniency in this sentence as is possible. Sir.

(C.E.Jenion),Lieut.

Exhibit "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Victoria Barracks Beverley, Yorks. on the 22 th day of May 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C 11460 Pte. Graham, L.P. 1 Cdn ASC Rft Unit

DECLARATION.

Rft Unit [illegible] declare that C 11460 Pte. Graham L.P. 1 Cdn ASC Barracks, Beverley, Yorks. absented himself without leave from Victoria is still so absent and that on this 19th April 1944 and that he deficient equipment, clothing and regimental necessities to the Value of £7-3-0½ , 75% of the value being £5-7-0½ as per attached list. Appendix "A"

Exhibit "C"

CANADIAN ARMY OVERSEAS

LEAVE PASS

Pass No. H. 86. Date 17/5/44

No. C11460 Rank Pte. Name L.F. Graham.

has permission to be absent from his unit from A.D. hrs. 17/5. 44.

to 1800. hrs. 18/5/44. for the purpose of proceeding to

Hull.

J.C. Jackson.

for Comd. Trng. Wing.
1 Cdn. A.S.C. R.U.

Exhibit "B"

[illegible] OF SECTION 163 (I)(33)

[illegible] that No. C11460 [illegible] Pte. [illegible] GRAHAM. L.F.

of the 1st C.A.S.C. R.U. BEVERLEY was arrested as a ~~Deserter~~ absentee

without leave at JAMESON ST. HULL at 16.10 hrs. on the 12/MAY/44

and at the time of his arrest was wearing

military uniform.

Station Hull

Date 18 May 44 Signature

E. Lynne
[illegible] ADJUTANT
[illegible]

Exhibit "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Victoria Barracks Beverley, Yorks.
on the 19th day of May 1944, for the purpose of investigating
and recording the absence, without leave, from his duty, and deficiency, if any, in the
Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of
No. C 11460 Pte. Graham, L.P. 1 Cdn ASC Rft Unit

COPY

DECLARATION.

The Court declared that C 11460 Pte. Graham L.P. 1 Cdn ASC Rft Unit absented himself without leave from Victoria Barracks, Beverley, Yorks. at 0900 hrs 19th April 1944 and that he is still so absent and that on this 19th day of May 1944 he is deficient equipment, clothing and regimental necessities to the Value of £7-2-0½, 70% of the value being £5-1-0½ as per attached list. Appendix "A".

(L.R.Kertland) Lt RCASC President
1 Cdn ASC Rft Unit

(F.L.Thomas) Lt RCASC Member
1 Cdn ASC Rft Unit

Names of President and Members

(H.L. Bastien) Lt RCASC Member
1 Cdn ASC Rft Unit

Signature of Commanding Officer

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(16958) Wt.58982/1385 100,000 1/41 S.& R.W.Ltd. Gp.684
(17936) Wt.11504/173 200,000 5/41 " " Forms/B110/56

Exhibit "C"

CANADIAN ARMY OVERSEAS

LEAVE PASS

Pass No. H. 86. Date 17/5/44.

No. C11460. Rank PTE. Name L.F. Graham.

has permission to be absent from his unit from A.D. hrs. 17/5. 44.

to 1800. hrs. 18/5/44. for the purpose of proceeding to

Hull.

J.C. Jackson.

for Comd. Trng. Wing.

1 Cdn. A.S.C. R.U.

Exhibit "B"

[illegible] OF SECTION 163 (I)(jj)

[illegible] that No. C11460 [illegible] PTE. [illegible] GRAHAM. L.F.

of the 1st C.A.S.C. R.U. BEVERLEY was arrested as a ~~Deserter~~ absentee

without leave at JAMESON ST. HULL at 16.10 hrs. on the 12/MAY/44

and at the time of his arrest was wearing

Military uniform.

Station Hull

Date 18 May 44 Signature [illegible]

[illegible] ADJUTANT

Exhibit 'E' Appendix 'A'

STATEMENT OF EVIDENCE in the case of C11460 Pte. Graham, L.F. 1st Cdn ASC Rft Unit.

Sir:-

At Hull on the 17 May 44 about 1610 hours acting upon information received I proceeded to Jameson St., where I saw the above mentioned soldier. I asked him to accompany me to the Hull Garrison for questioning. This he did. I asked him if he had a pass. He produced the attached leave pass, which I handed to the Cpl. J.T. Bielby, C.M. Police, who then contacted the Garrison Adjutant (Capt. Rymer). The Garrison Adjt. then contacted the above mentioned soldiers unit, who informed him that the above mentioned soldier was an absentee. Cpl. J.T. Bielby then asked the soldier how he had obtained that attached leave pass. He replied "I have no explanation, you can tear it up". I arrested him, obtained his particulars from his Pay Book and handed him over to CSM Brown, W.D. i/c Guard to be detained. He was sober and properly dressed. 163(1)(jj) and Guard Commander's Statement attached.

Hull
17 May 44.

(sgd) 1613624 L. Donaldson L/C
190 Provost Coy
C.M. Police

CERTIFIED TRUE COPY of original AFB 252 in my possession.

(J.E. Miller) Lieut.
1 Cdn ASC Rft Unit.

SUMMARY OF EVIDENCE EXHIBIT F 0009

IN THE CASE OF C-11460 Pte Lorne Fitzgerald GRAHAM, of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st WITNESS (For the Prosecution) Lieut D.A. Gourley of 1 Cdn ASC Rft Unit, having been duly sworn states:-

" I am Lieut D.A.Gourley of 1 Cdn ASC Rft Unit and produce the following documents:-

(a) AFB 115, Certified True Copy of Record of the Declaration of a Court of Inquiry declaring that C-11460 Pte Graham, L.F., 1 Cdn ASC Rft Unit, illegally absented himself without leave from 0800 hours 19 April 1944.
Marked Exhibit "A"

(b) Certificate in accordance with the Army Act, Section 163 (1) (jj) purporting to be signed by Captain G.E. Rymer, Garrison Adjutant, Hull Garrison, certifying that C-11460 Pte Graham, L.F. 1 Cdn ASC Rft Unit, was arrested at Jameson St., Hull, Yorkshire at 1610 hrs 17 May 1944.
Marked Exhibit "B"

(c) One CPA 24, Canadian Army Overseas Leave Pass, dated 17 May 1944, supposedly issued to C-11460 Pte Graham, L.F. for the purpose of proceeding to Hull and supposedly signed by J.C. Jackson.
Marked Exhibit "C"

(d) Certificate of Arrest in accordance with Section 163 (1) (m) of the Army Act purporting to be signed by Capt C Wood, D.A.P.M. Advance HQ Cdn Rft Units certifying that C-11460 Pte Graham, L.F. of 1 Cdn ASC Rft Unit was arrested at Hull at 2030 hours on the 22nd Day of May 1944, and was wearing Military Uniform.
Marked Exhibit "D"

(e) Statement of Evidence, purporting to be signed by 1613824 L/Cpl Donaldson, L., Corps of Military Police and stating that C-11460 Pte Graham, L.F. was apprehended in Hull, Yorkshire at 1610 hours on 17 May 1944.
Exhibit "E" Marked Appendix "A"

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

D. A. Gourley.
(D.A. Gourley) Lieut

2nd WITNESS (For the Prosecution) 1613824 L/Cpl Donaldson, L., Corps of Military Police. (Documentary).

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

Having regard to the expense and the loss of time involved the attendance of this witness cannot in my opinion be readily procurable.

J.E. Miller Lt
(J.E. Miller) Lieut
Offr detailed to take the Summary of Evidence.

The accused does NOT demand the attendance of this witness for cross-examination.

3rd WITNESS (For the Prosecution)

H-101732 Pte Moser, J.H. having been duly sworn states:-

" I am H-101732 Pte Moser, J.H. Regimental Police on stregnth of 1 Cdn ASC Rft Unit. I was on duty in the unit Guard Room of No 1 CASCRU on the 21 May 44. I was making out my guard reports about 1920 hours. There was a knock on the door of the large detention room, I went over opened the door and Pte Tobin who was confined there told me that seven men had escaped. I immediately checked the detention room and found the trap door in the ceiling above the urinal had been forced. I immediately notified L/Cpl Blackburn who sounded the alarm. I called the roll of the men who were confined and found Pte Graham who I now recognize as the accused, absent. At the time of the knock on the door there was only L/Cpl Blackburn and myself in the outer room. About 1845 hours our special patrol for town of Beverley began coming into the Guard Room, this patrol consisted of about 20 men who were in at the time putting on belts and gaiters and walking about the room and causing quite a noise which made it impossible to hear anything. They left about 1910 hours. The trap door leads up into the attic and comes over the prophylactic room the door of which was always open. One week before carpenters had nailed down the trap door from the attic side and to get in the attic and out they had to remove a strip of plaster board from the ceiling which was never repaired very well. The section of plaster board was hanging open at the time of the break and was in the same condition when I looked in that room after the break out. Pte Graham was in battle dress when confined in the large cell."

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

Pte J.H. Moser

(H-101732 Pte Moser, J.H.)

4th WITNESS (For the Prosecution)

C-12117 L/Cpl Blackburn, P.G. having been duly sworn states:-

" I am C-12117 L/Cpl Blackburn, P.G. Regimental Police on strength of 1 Cdn ASC Rft Unit. I was on duty at the unit Guard Room on 21 May 44. I had just cjecked my books and left the room and went to the desk where Pte Moser was making his charge sheets up for the following day. I heard a kick on the door about 1915 hours and Pte Moser left his desk and went to the door and went in and saw that some of the boys were gone. He immediately yelled to me and I went out the front entrance and around the side of the prophylactic room. There was about ten officers all ranks and one officer told me that they had left this way, him and I ran through the billets over some hedges and down the back road, we did not see any prisoners about, I returned to the unit Guard Room and sent an RP to warn the Orderly Officer. The Beverley town patrol had reported to the Guard Room to get their belts and gaiters previous to the kick on the cell door and were gone by the time we heard the kick. There was quite a noise in the outer room while the patrol was getting ready and it would be impossible to hear what went on in the large room. When I enetered the urinal room the trap to the attic was three quarters open, I went around to the prophylactic room and saw pieces of plaster board on the floor and a piece hanging from the ceiling. The hole the trap made and the section missing from the ceiling was large enough for a man to go through.

.....(cont'd)

R24

The prophylactic room door leading outside must always be open. I recognize Pte Graham the accused as one of the men who,escaped during the breakout. I do not remeber how they were dressed at the time."

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

L/Cpl Blackburn P.G.

(C-12117 L/Cpl Blackburn, P.G.)

5th WITNESS (For the Prosecution)

M-66489 L/Cpl Patterson, R.L. having been duly sworn states:-

" I am M-66489 L/Cpl Patterson, R.L. Regimental Police on strength of 1 Cdn ASC Rft Unit. On 21 May 1944 I was on duty at the desk of the Regimental Police Guard Room at approximately 1900 hrs. We thought we heard a knock at No 3 cell. I went down to see and it was no knock at all, by that time there was a knock from the large cell. Pte Moser went to see what the trouble was and that is the first we heard of the escape of seven men confined in this cell. I went outside to the side of the prophylactic room, did not enter, saw a few officers outside. Lieut Petrie detailed L/Cpl Blackburn and myself to go with him in a lorry, we went out by the parkway and walkin in through the fields towards camp but did not see any of the escaped men. I did not go to the urinal at the time to see where the men broke out from. I did not personally examine the trap door or prophylactic room at any time after the break. No 3 cell is not near the prophylactic room. The town patrol for Beverley had just left before I thought I heard the knock from No 3 cell. There was a lot of noise in the outer room during the time the patrol was getting ready. I identify Pte Graham as one of those men who escaped from the Guard Room during the breakout. I couldn't say for sure how these men were dressed some having battle dress, others fatigues."

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

L/Cpl Patterson R.L.

(M-66489 L/Cpl Patterson, R.L.)

6th WITNESS (For the Prosecution)

B-68549 Pte Rothwell, S. having been duly sworn states:-

" I am B-68549 Pte Rothwell, S. Regimental Police on strength of 1 Cdn ASC Rft Unit. On 21 May 44 I was on duty in the Regimental Police Guard Room 1 CASCRU. At approximately 1855 hrs L/Cpl Patterson issued me with writing material for nine men which I issued to them in the large room, then I went back to my duty which is patrolling the rear hall. At approximately 1915 hours Lieut Petri ordered me outside onto a waiting vehicle. We then proceeded towards Beverley to see about locating the seven men who escaped fromthe Guard Room. While patrolling the back hall I did not hear anything to indicate a break. I could hear the noise in the outer room due to the outgoing town patrol getting ready. This hall is not near the prophylactic room being in the back of the guard room while the prophylactic room is on the end of the building. I knew of the break immediately after it happened. I was in the prophylactic room about 2200 hrs and saw the place in the ceiling where these men entered the prophylactic room in making the break, the section of plaster board was lifted up."

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

S. Rothwell

(B-68549 Pte Rothwell, S.)

.....(cont'd)

7th WITNESS (For the Prosecution)

G-50285 Pte Tobin, V. having been duly sworn states:-

" I am G-50285 Pte Tobin, V, on strength of "B" Coy of No 1 Cdn ASC Rft Unit. On the 21 May 44 about supper time I was in the large cell confined with Pte Graham the accused whom I now recognize. About 1900 hours writing paper was brought into the cell. During the time I was in the cell I did not hear any noise in the urinal. Pte Coles and myself kept together the others in the room did not seem to want to talk to us. I had asked them a couple of questions and they barely answered them so we didnt bother trying to pick a conversation. About the time they brought the writing paper in the cell we all started to write then all of a sudden they gradually left the table one at a time and want into the urinal until there was just Pte Coles and myself left in the room. I took it for granted that they were all in there having a smoke. They hadnt been in there long when I got up opened the door to use the urinal and heard someone running over the roof. At the moment I didnt realize that htye had escaped so I immdeiately went to the door and kicked it and Pte Moser came to the door and I told him that everyone was gone and he was more surprised than we were. I was in "B" Coy of 1 CASCRU at the time I was confined to the Guard Room. I never took notice of what these men were wearing at the time.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

Pte Tobin V.

(G-50285 Pte Tobin, V.)

8th WITNESS (For the Prosecution)

A-37322 Pte Coles L.E. having been duly sworn states:-

" I am A-37322 Pte Coles, L.E. of "E" Coy R.C.A.S.C. Rft Unit. On Sunday 21 May 1944 I was brought back from Hull about 1300 hrs and confined in the large cell, along with some others. After supper we had a writing period, we sat at a table to write letters, there were a few of the boys in the corner talking, they told me it was something personal and then they went into the urinal so I went back to continue writing letters. Later I went to the urinal noting that mostly everybody was missing except Pte Tobin and myself in the cell. When I enetered the urinal I saw that everybody was missing. I told Pte Tobin and we went over and the door was kicked to attract attention of the guard. He yelled to wait a minute and he would be over. When the guard came we told him that everyone except Pte Tobin and myself were missing and had escaped. He looked around and then came back. I identify Pte Graham, the accused, as one of the men who were confined with me at the time.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

L.E. Coles.

(A-37322 Pte Coles, L.E.)

.....(cont'd)

The accused was cautioned as follows, "Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of five (5) pages was taken down by me in writing on the 30th day of May 1944 in the Field in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

(J.E. Miller) Lieut
Offr taking Summary
of Evidence.

In The Field
30 May 1944.

Medical Officers' Certif.
R.R. (Can) para 557

I certify that I have this morning examined No: C.11460

Pte. Graham L.C. and in my opinion he is fit to
(rank) (name) unfit

undergo trial by Court Martial.

Station: Victoria Beks

Date: 31 May 1944.

A. H. Malonald Maj
(Medical Officer)
1 Can A.S.C. Rft Unit

Exhibit 'D'

Certificate of arrest in accordance with section 163(1)(a) of the Army Act.

I certify that C-11440 Pte. GRAHAM, L.F., 1 CASCHM, was arrested at Hull at 2030 hrs on the 22nd day of May, 1944, and was wearing military uniform.

(C. Wood) Captain,
D.A.P.M.,
Advance H.Q., Con Rft Units.

EXHIBIT 6 aaa

M.F.B. 155
2216 5-41 (3579-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-11460	Pte	Graham, L.F.	1 Cdn AGC Rft Unit

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron Battery Conduct sheets Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15 (1)	TWO	times	A.A. Sec 15 (1) ELEVEN	times
For A.A. Sec 24 (2)	ONE	times	A.A. Sec 10 (4) TWO	times
For A.A. Sec 40	ONE	times	A.A. Sec 24 (2) ONE	times
For		times	A.A. Sec 40 ONE	times

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused.

(Note A) If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule A.A.A. 73 annexed to this statement.

3. The accused is not under sentence at the present time.

The accused at the present time is under sentence for [illegible] imposed on the [illegible] day of [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 27 years

6. The date of his enlistment specified in his record of service attestation paper is 8 Sept 39

7. The service which the accused is allowed to reckon towards discharge is Nil

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

The accused is in possession of or entitled to no air force decoration or air force award except [illegible]

Possession of or entitled to [illegible] air force decoration or award

(Note B) If the accused is a warrant officer, the accused before he was made a warrant officer was last mentioned in the regimental books at [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit N/A dated N/A, and in his regiment (or corps), the rank of N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, in the present date:

Date of promotion

In the rank of ..... years.

In the rank of ..... years.

In the rank of NOT APPLICABLE ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number C-11460 Rank Pte Name Graham, L.F. of 1 Cdn ASC Rft Unit Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	25 March 1943 In The Field	A.A. Sec 15(1)	90 days Detention	
F.G.C.M.	24 Jul 43 In The Field	A.A. Sec 15 (1)	6 months Detention	
F.G.C.M.	10 Jan 44 In The Field	A.A. Sec 15 (1)	90 days Detention	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31 MAY '44 day of [signature] Officer having custody of Regimental Books

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked EXHIBIT 'G' signed by the president, and annexed to the proceedings.

[signature] A/Major

The Deputy-Judge-Advocate-General, Canadian Military Headquarters, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved of all consequences of such sentence and I do hereby sentence the accused C-11460 Pte Graham LF to be imprisoned for 18 months, such sentence to be effective as if awarded by the Court-Martial on 31 May 44.

P Montague

London
Jun 44

(P J Montague)
Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS

Judge-Advocate-General
Canadian Military Headquarters
JUN 1944

PART.IV. RE-PROMULGATED AND EXTRACTS TAKEN.

Accused.		Date.
C.11460. Pte. GRAHAM.	L.F.	3rd July,1944.

J. W. Knight
Major,
Assistant Commandant,
Military Prison & Detention Barrack.

R.O. 159 of 7 Jul 44
T. H. Robin Lt.
Officer i/c Records
1 Cdn. A.S.C. Reinf. Unit

Sentence Awarded by Court: To undergo imprisonment for a period of 18 months, and to be discharged from the Canadian Army on completion of sentence.

31 May 44 Adjutant

EXHIBIT '4'

No G-11466 Name GRAHAM, L.F. Sqn. Battery or Company Corps Petrol Park Date of enlistment 8 Sep 39 Sheet No 1 GC Badges Signature OC Company, etc Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensed with (stat	By whom awarded	Remarks
Field	17/3/40	Pte		Breaking out of Barracks	L/Cpl Gaytor	3 days CB	18/3/40	Lieut Sheiles	
Field	30/4/40	Pte		AWL from Tattoo 30 Mar 40 to 0100 hrs 2 Apr 40 2 dys 3 hrs	Cpl James	14 dys CB 3 dys pay FRAI	2/4/40	Capt FI Randolph	
Field	24/5/40	Pte		AWL 2200 hrs to 2225 hrs 24/5/40	Sgt Dawson	2 days CB	27/5/40	Lt J.S. Rogers	
Field	31-5-40	Pte		AWL 2000 hrs 31/5/40 to 1015 hrs 6/6/40 Tot absence 13 hrs 15 mins (A.A. 40)		14 days CB 6 days pay		L.N. Watson Lieut Col.,	
Field	17 Jan 42	L/Cpl		WOAS was AWL from 1600 hrs 17 Jan 42 till 2030 hrs 28 Jan 42 12 days 4 hrs 30 mins A.A. Sec 15(1) E.H.	Sgt Jeynes	Reverts to Pte Forf 12 days Pay	29/1/41	A Bentley Major	
Field	2 Apr 42	L/Cpl		WOAS AWL from 2359 hrs 1/4/42 till 0800 hrs 2/4/42 A.A. Sec 15(1)	Cpl Walker	Forf 1 dys pay	2 Apr 42	A Bentley Major	

(PTO)

Name	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14/6/42	L/Cpl		WOAS AWL from 2359 hrs 14/6/42 till 0130 hrs 15/6/42 absent 7 hrs 31 mins A.A. Sec 15(1)	Cpl Davis	Reverts to perm anent grade Forf 1 dys pay	15 Jun 42	A Bentley Major	
Field	5/9/42	Pte		WOAS AWL from 2230 hrs 5/9/42 to 0600 hrs 7/9/42 A.A. Sec 15 (1)	L/C Ingram C	2 days pay 10 days C.B.	7/9/42	A Bentley Major	
Field	17/9/42	Pte		(1) AA Sec 10(4) breaking out of barracks between 2230 hrs 17/9/42 and 0630 hrs 18/9/42 (2) WOAS AWL fr. 0630 hrs 18/9/42 until apprehended by Cdn Provost Corps in London at 1400 hrs 7/10/42 absent 19 days 14 hrs AA 15(1) Cst of App. 9 shillings.	Cpl Walker Sgt Shepherd Documentary	Stop 9 shill. 20 days Forf 28 days F.P. with forf Total Forf 48 days pay	10/10/42	A Bentley Major	
Field	6/12/42	Pte		AA Sec 15(1) AWL 4 days 18 hrs Costs of apprehension £1-2-8	Cpl Stocks Sgt Somers Documentary	14 days F.P. Cost of app £1-2-8	15/12/42	Major J.M. McGowan	FR&I 149(1)(b) FR&I 158 Forf 5 days pay FR&I 149(1)(a)

No C-11460 Name GRAHAM, L.F. Sqn, Battery or Company Corps Petrol Park Date of enlistment 8/9/39 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

(AFB 122) 40/P&S/136 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jan 43	Pte		AA Sec 15 (1) AWL 2200 hrs 2 Jan 43 till 1100 hrs 10 Mar 43 TTA 66 days 13 hrs TRIED BY F.G.C.M. Promulgated 29 March 43	FGCM	Date of Trial 25 Mar 43 Finding Guilty Sentence 120 days Detention remitted to 90 days detention forfeitures 90 days detention 67 days pay FR&I 149(1)(a) 90 days pay FR&I 149(1)(b) 13 days pay FR&I 149(1)(c)(ii) Cost of apprehension £0-18-4 FR&I 158(2)			
Field	31/5/43	Pte		AA Sec 15(1) AWL fr. 2359 hrs 31 May 43 till 2230 hrs 5 Jun 43 TTA 4 days 22 hrs and 31 mins	Documentary	10 days pay	8 Jun 43	Lt Col HP Bonnick	Forf 10 days pay FR&I 149 (1)(b) Forf 5 days pay FR&I 149 (1)

(PTO)

Unit	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensed with this	By whom awarded	Remarks
									Forf 2 days pay FR&I 149(1)(c)(11)
Field	10/6/43	Pte		AWL Sec 15(1) TTA 33 days 17 hrs 30 mins 2. A.A. Sec 40 an act to the prejudice resisted arrest	Documentary	6 mths Detn	24/7/43	F.G.C.M.	Forf 180 days pay FR&I 149(1)(b)
Field									Forf 34 days pay FR&I 149(1)(a) 10 days pay FR&I 149(1)(c)(ii
Field	20/7/43	Pte		AA Sec 24(2) Losing by neglect his equipment clothing and regtl necessaries	Documentary	stoppage of £1-18-10½	20/7/43	Lt-col WC Fletcher	stoppages of £1-18-10½ FR&I 158(2)
Field	27 Nov 43	Pte		AA Sec 15(1) AWL fr 2359 hrs 27 Nov 43 to 1430 hrs 4 Jan 44 TTA 37 days 14 hrs and 31 mins	Documentary	90 days Detention	10 Jan 44	F.G.C.M.	Forf 34 days pay FR&I 149(1)(a) Forf 90 days pay FR&I 149(1)(b)

No C-1146 Name GRAHAM, L.F. | Sqn. Battery or Company | Corps R.C.A.S.C. | Date of enlistment 8 Sep 39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					(from prev sheet)	Forf 6 days pay FR&I 149(1)(c)(ii)			
Field	20 Mar 44	Pte	1.	AA Sec 15(1) AWL 2200 hrs 20 Mar 44 till 1945 hrs 21 Mar 44 (TTA 21 hrs 45 mins) 2. AA Sec 40 an act to the Prej etc in that he was in possession of a document purporting it to be a genuine pass well knowing that it was not genuine 3. AA Sec 40 Conduct to the Prej etc in that he at London caused unnecessary phone calls to be made.	Documentary	28 days F.P.	24 Mar 44	Major WH Copeland	1 days pay FR&I 149(1)(a) Forf 28 days pay FR&I 149(2) Forf 3 days pay FR&I 149 (1)(c) (ii)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY officer having custody of Regimental Books.				(W.E. Miller) Lieut 1 Cdn ASC Rft Unit Cdn Army Overseas	24 May 44

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP [illegible] 118. 2. RP 40(A), see 84(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "G" and Ex "H" respectively.(3)

(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also by the JA, if any~~.(2) 7/(2)

(1. When several accused tried separately see RP [illegible]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 139, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 753-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 367. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-11460 Pte Lorne Fitzgerald GRAHAM 1 CASCRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 40	Guilty	Guilty	
3rd AA Sec 22	Guilty	Guilty	
4th AA Sec 15(1)	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: ~~To undergo detention for a period of 18 months detention. and on completion of detention to be discharged from the Canadian Army.~~

(Sgd) _____ Judge-Advocate, if any. 31 May 44 Date awarded. (Sgd) A D Allan President. (RP 45(2)) A/Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Confirmation of finding & sentence referred to superior authority

Date 1 Jun 44 (Sgd) J R Stewart Lang Commanding Signature

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 561-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ fee

(1. AA 57A. Delete if not used.)

Date 5/Jun/44 (Sgd) J R Stewart Brigadier Commanding Deputy Comdr C.R.U. (Adv) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 578, 579.)

Accused.	Date.	Signature of Offr.
C.11460 Pte. GRAHAM, L.F.,	7 Jun 44	H P Bennick (H.P.Bennick) Col., Comd., ASC Rft Unit.

Part II Oder 135 d/9 Jun 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

UNIVERSITY OF RECORDS
COL. A.S.C. REIN. UNIV.

BB-44
PTE GRAHAM L.F

9

43 files

F.G.C.M.

C-11460 Pte. Graham L.F.
1 CASCRU
BGHQ 5-6-2/151

BB-44

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this twenty-third day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers [illegible] appointed or detailed hereunder

* Omit if not applicable.

[illegible]

Proceedings [illegible] Capt 13 Apr 43

President.

Rank.	Name.	Regiment.
Lt. Col	D.L. Redman - Calgary Highrs	HQ CRU

Members.

Rank.	Name	Regiment.
A Captain	from	1 CGRU
A Lieutenant	from	1 CASCRU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialed by him.

Signed (P.R.SHIELDS) BRIG
Commanding B GP CDN RFT UNITS.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-11460 Pte. GRAHAM, Lorne Fitzgerald 1 CASCRU	First Charge A.A.Sec 15(1)	Guilty Finding Sentence Dismissed from the service period of One hundred and twenty (120) days and to be put under Stoppages of Pay until he has made £0-18-4 the expenses of his apprehension and return See attached Charge Sheet 25 mar 1943	I confirm the finding and sentence of the Court but remit the sentence to one of 90 days detention with stoppages as awarded 26 mar 43	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (F.H.Shields) Brig (Signed)
Convening Officer (e) *President.*
Commanding B Gp Cdn Rft Units

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of MARCH, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
* Omit if not applicable. *(3. ~~The Interpreter~~)
*(4. The officers under instruction)
were duly sworn.

Signed this 25th day of MARCH 19 43.

President of the Court Martial.

* See footnote (i) on page 762 M.M.L. 1929.

C. Certificate in case of death sentences.

~~I have dealt with the finding and sentence in the case of the above named accused and have ordered that he be kept in custody and remitted to prison until further orders.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 26 day of mar 19 43

Confirming Officer.

Promulgated and extracts taken in the case of C 11460 Pte LORNE FITZGERALD GRAHAM.

(a) (Dated) 26 March 43 (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, C-11460 Pte. Lorne Fitzgerald GRAHAM, 1 Cdn. A.S.C.Rft. Unit., a soldier of the Cdn. Army (Overseas), is charged with, when on active service:-

1st Charge
A.A.
Sec. 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

At Farnborough, Hampshire, absented himself without leave from 2200hrs 2 Jan 43 until 1100 hours 10 Mar 43 when he was apprehended by Corps of Military Police, Coventry. Costs of apprehension £0-18-4.

(H.F.Bonnick) Lt.-Col.
Commanding,
1 Cdn. A.S.C.Rft. Unit.

Farnborough,
Hampshire,
19 Mar 43.

To be tried by Field General Court Martial.

(P.R. Shields) Brig
Comd
B Gp Cdn Rft Units
Convening Officer

23 Mar 43

Medical Officers' Certificate.
K.R. (Can.) Para 557

I certify that I have this morning examined No. C 11460 Pte Graham L.D.

of 1 Cdn A.S.C. - R.H. and in my opinion he is fit to undergo

trial by court martial.

Station. Nuld

Date. 25 Mar 43

Sgd. M G Woolner Capt
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT BLENHEIM BARRACKS, FARNBOROUGH, HANTS.,
ON THE 25th DAY OF MARCH 1943

The accused C 11460 PTE. GRAHAM L.F. .....Unit. 1 CASCRU.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.L. REDMAN, VD...Unit H.Q., C.R.U.....

Members CAPTAIN E.T. STARK.....Unit. 1 CGRU.....

LIEUT. W. DRINKWATER...Unit. 1 CASCRU.....

The officers under instruction are duly sworn:-

LIEUT. T.F. RICHARDSON...Unit. 1 CASCR.....

.....Unit.....

Prosecutor LIEUT. D.R.C. VEDSON..Unit. 1 CASCRU.....

Defending officer LIEUT. T.H. ROOKS..Unit. 1 CASCRU.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
MY The Prosecutor ~~xxxxxxxxxxx~~ produces MFB 355 and MFM 6.
The Court complies with R.P. 46(B) AFB 296

Pursuant to R.P. 37 THE ACCUSED:-

(a) makes a statement in mitigation of punishment.
(b) ~~calls witnesses as to character.~~
MY (c) ~~calls witnesses in mitigation of punishment.~~
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

See Plea by Def Officer and statement by accused attached

[illegible]

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C.1146 Rank Pte Name Graham, L. Unit Edn. A-S.C.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London to Warwick.

Date	Particulars (⅓ portion)	Amount £	s	d
12 Mar. 43	Escorts return fare from LONDON To Warwick.		9	3
	Prisoners single fare to LONDON From Warwick.		6	11
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Beef~~, Meals, Bus fares (⅓ portion		2	2
	Total £		18	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/480

Certificate in accordance with the Army Act, Section 169 (1) (ii).

Certify that No. C/11460..... Rank Pte..... Name Graham.L.F..... Unit Reinforcement

Unit. 1st Canadian Army Service Corps. arrested at .Coventry,..... at .1100... hours on March. 10....

and that at the time of his arrest he was wearing military uniform.

Station. Warwick..... Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken on arrest.

Date. 10th March. 1943.....

[signature]

C 11460 Pte Graham L.
1 CASC A.U.

The Accused, Sworn, states:

In September 39 my brother and I enlisted. At that time, my dad being ill in hospital, and us not knowing when we would be sent overseas, we made arrangements with our wives to make an allowance for mother if anything happened to dad, that they should both make an allowance for her. We came to England in 1940, and since then have only had two letters from my wife, one when my Dad died in August 40, and one previous to that. Since then I have had no word as to what allowances were made or if they ever did keep their promise to make an allowance for her. In December 1942 I decided to look into things myself. I had already gone to higher authority and had gotten no satisfaction. During the time I was absent I tried to get a boat back to Canada, but found out that to do so I would have money and work that was when I went to Coventry to get that, and was picked up by the military police. My reason for doing this was to see how things were at home, and to straighten things out myself. In April 43 I went to my C.O. to have this matter looked into, and on several occasions after that. I received no word from Canada or from the authorities here in England. I had one letter from my wife early in 1943. She said nothing about either of the wives. My brother is still overseas. He has heard nothing and is having the same trouble and since August 41 has had his wife's allowance stopped. I have a 6 years old daughter. I have only

WM

had two letters since I came over. I come from Ottawa Ontario, and as far as I know my wife is still living there. My brother and I talked it over and decided that if one of us could get home we could get it straightened out. It was arranged that he would go home on escort duty, but it fell through at the last minute.

Plea in mitigation of sentence in the case of 611460 Pte Graham L.F.

Sir: Pte Graham has pleaded guilty to an offence under military law. Before the court decides on the sentence, I wish to point out that, having due consideration to the events leading up to this offence, I feel that his case should receive special consideration.

This man, fully believing that the army had failed to do what he would have done himself in civil life — namely, stop his wife's allowance, returned to Canada to obtain the proof necessary for that step, or to put an end to his anxiety.

The army demands that a man suffer proof of a wife's infidelity before it will stop the allowance. How can a man who has been in England for over three years possibly be expected to produce that proof? He, having received only two letters in over three years and fortune by doubt & worry as to how his child and aged mother were living, decided for direct action. The court will note that this decision was made only after repeated appeals to higher authority to take some action in his case. All else having failed, he decided that his only chance was to go A.W.L. and try to return to Canada.

This man is not an habitual A.W.L. He has been in my platoon for the past year and I know that he,

My

during that time has performed his duties well. He was looked upon as being reliable and trustworthy and was slated for promotion, when he left the company.

I am no medical expert to say that this man is suffering from an anxiety neurosis, but I certainly feel that his case should be investigated and arrangements made to provide him with information as to the welfare of his child and of his dependent mother.

J H Rooks Lieut
#1 Transport Coy R.C.A.S.C.

THIRD WITNESS
for the Prosecution

No. C-2363 L/Cpl. Lapierre, G.W. R.C.A.S.C., on strength of 1 Cdn. A.S.C. Reinf. Unit, a soldier of the Canadian Army, Overseas, having been duly sworn states as follows:-

Sir: At Farnborough, Hants. at 2200 hrs 2nd Jan 43 I was on duty in the Orderly Room of #6 Coy. Holding Section. Cpl. Hilton turned in an absentee report stating that Pte. Graham, L, whom I recognize, was absent at roll call. As section N.C.O. it was my duty to call the roll each morning and Pte. Graham, L. failed to answer his name on all subsequent roll calls. I did not see Pte. Graham again until after he was apprehended by the Cdn. Military Police.

The accused declines to cross examine the witness.

Signed...G.W. Lapierre...Cpl.
C-2363 L/Cpl. Lapierre, G.W.

The accused was cautioned as follows:- Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

Signed.....
C-11460 Pte. Graham L.

EXHIBIT

"A" A.F.B. 252 signed by L/Cpl. Benson W. and L/Cpl. York F. of the C.M.P. is attached.

"B" Certificate of Officer into whose custody accused was taken on arrest in accordance with A.A. 163(1) (ii).

"C" Expence vouchers for accused and escort's fare K.R.(Can) 659.

Question To Accused.

Do you wish an officer to represent you at your Court Martial?

Answer,

Yes, I would like to have Lt. Rookes if possible.

Signed.....
C-11460 Pte. Graham L.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Proceedure 4(c), (d), (e) and (g) have been complied with.

Farnborough Hants
16 March 1943.

Signed.....
(D.G.Drummond-Young) Capt.
R.C.A.S.C.
1 Cdn. A.S.C. Reinf Unit.
Officer detailed to take Summary

WITNESSES FOR PROSECUTION

1. M-55395 Cpl. Hilton J. R.C.A.S.C. C.M.H.Q.
2. C-12230 Cpl. Bonnah W.J. 1 C.A.S.C. R/U.

Witness FOR DEFENCE NIL.

M.F.B. 388
40/9 & 5/618

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-11460	Pte.	GRAHAM, L.F	1 Cdn. ASC Rft Unit

1. The following is a fair and true summary of the entries in the [redacted] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the [redacted] Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A.Sec.15(1)	5 times	9 times
For A.A.Sec.10(4)	1 times	2 times
For	times	times
For	times	times

[redacted]

or,

[redacted]

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the [redacted] Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 A.C.G. days in military custody, making a total of 15 A.C.G. days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 26 yrs 148 days

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 8 Sept. 1939

7. The service which the accused is allowed to reckon towards discharge is nil

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward (or is in possession of or entitled to). State any [redacted] military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
N/A	N/A	N/A	N/A	N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twentieth Twenty-fifth day of March 1943 [illegible] Officer i/c Records C.A.S.C. R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

[illegible]

CERTIFIED TRUE COPY

No. C11460 Name GRAHAM, L.F. Sqn., Battery, or Company — Corps RCASC — Date of enlistment 8-9-39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. Maj. Fitz-Randolph

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-3-40	Dvr		Breaking out of Barracks.	L/Cpl. Payter	3 days C.B.	18-3-40	Lt. Schiles	
Field	30-4-40	Dvr		AWL 2 days 3 hrs.	Cpl. James	14 days C.B. 3 days pay	2-4-40	Capt. Fitz-Randolph	
Field	24-5-40	Dvr		25 minutes AWL	Sgt. Dawson	2 days C.B.	27-5-40	Lt. Rogers	
Field	31-5-40	Dvr		AWL 134 hrs 15 min.		14 days C.B. 6 days pay.		Lt-col. L.N. Watson	
Field	17-1-42	L/Cpl		AWL 12 days 4 hrs 30 min. AA 15(1)	Sgt Jeynes	Forf. 12 days pay. Reverts to Private	29-1-41	Maj. A. Bentley	
Field	2-4-42	L/Cpl		AWL 8 hrs 1 min. AA 15(1)	Cpl Walker	Forf 1 days pay.	2-4-42	Maj. A. Bentley	
Field	14-6-42	L/Cpl		AWL 7 hrs 31 min. AA 15(1)	Cpl Davis	Forf 1 days pay. reverts to pte.	15-6-42	Maj. A. Bentley	

P.T.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5-9-42	Pte		AWL 2 days AA 15(1)	L/Cpl Ingram	2 days pay 10 days C.B.	7-9-42	Maj A. Bentley	
Field	17-9-42	Pte		(1) AA 10(4) Breaking out of bks. (2) AA 15(1) AWL 19 days 14 hrs. Cost of app. 9/.	Cpl Walker Sgt Shepherd Documentary	Forf 20 days 28 days F.P. with 28 days Cost of app.	10-10-42	Capt. Ash.	
Field	6-12-42	Pte		AA 15(1) AWL 4 days 18 hrs Cost of app. £1-2-8.	Cpl Stocks Sgt Somers Documentary	14 days F.P. Cost of app.	15-12-42	Maj J.M. McGowan	FRI 149(1)(c) FRI 158 Forf 5 days FRI 149(1a)

Certified true copy of the original

[signature]

Officer i/c Records, 1 C.A.S.C. R.U.

KK-12 (Case #2)

PTE GRAHAM L.F.

See BB-44 for 1st case

C-11460 Graham, L.F. KK-12 "A"
1 CASCRU
BGHQ 5-6-2/273

F.G.C.M.

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

'B' GROUP H.Q. 24 JUL 1943 CDN. REINFORCEMENT UNITS

Order convening the Court.

On Active Service, this Twenty - Third day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

'B' GROUP H.Q. 26 JUL 1943 CDN. REINFORCEMENT UNITS

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder [illegible] appointed or detailed

* Omit if not applicable.

* [illegible]

Proceedings Reviewed

[illegible] Dougall, Capt

17 Aug 43

President.

Rank.	Name.	Regiment.
Major	C.R. Somerville	1 CASCRU

Members.

Rank.	Name.	Regiment.
Captain	To be detailed by	1 CSRU
Lieutenant	To be detailed by	1 CERU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. Shields) Brig
Commanding "B" Gp Cdn Rft Units.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-11460 GRAHAM Lorne,Fitzgerald 1 CASCRU	First Charge A.A. Sec 15(I)	Guilty	Guilty	Confirmed PRS 21 Jul 43 Brig
	Second Charge A.A. Sec 40.	Guilty	Guilty To undergo 6 mos detention 24 July 43 C.R.B. Somerville Maj President	
	See Attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) (P.R. Shields)Brig — (Signed) C.R. Somerville Maj

Commanding "B" Gp Cdn Rft Units. — *Convening Officer* (*e*) — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of July 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
CRB 2. ~~The witnesses~~
CRB (3. ~~The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 24 day of July 1943.

C.R.B. Somerville Maj
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (2) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

CRB ~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ PRS

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 24 day of Jul 1943.

P.R. Shields Brig.
Confirming Officer.

Promulgated and extracts taken in the case of C-11460 Pte Graham L.F.

(*a*) (Dated) 26 July 1943. (Signed) [illegible] Capt. Comd. 1 Trg Coy 1 Can. A.S.C. Reinf. Unit

Promulgated and extracts taken in the case of

(Dated) D.O.179. 26 July 43 (Signed) [illegible] Capt. Officer i/c Records 1 Cdn. A.S.C. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44776) Wt. 46139—983 200 6/42 J.S. G. 640

"B"

CHARGE SHEET

The accused, C-11460 Pte. Lorne Fitzgerald GRAHAM, 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with, When On Active Service:

1st Charge
A.A. Sec 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he, at Farnborough, Hampshire did absent himself without leave from 2200 hrs 10 June 43 until 1530 hrs 14 July 43 when apprehended by the Corps of Military Police at London. (Absent 33 days, 17 hours and 30 minutes).

2nd Charge
A.A. Sec 40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he, at London at approximately 1530 hrs 14 July 43 upon being questioned by the Corps of Military Police ran down the street in an attempt to evade arrest.

W.C. Fletcher

Farnborough, Hampshire.
18 July 43.

(W.C. Fletcher) Lt.-col.
Comd No 1 Trng Wing.
1 Cdn. A.S.C. Rft. Unit.

To be tried by Field General Court Martial.

23 Jul 43

(P.R. Shields) Brig
Comd B Gp
Cdn Rft Units.

'D'

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT 1 CASCRU, BLEMHEIM BARRACKS, FARNBOROUGH
ON THE 24 DAY OF JULY 1943

The accused. CIINGO. Pte GRAHAM L.F. ...Unit.. 1 CASCRU... .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President MAJ C.R. SOMERVILLE ..Unit.. 1 CASCRU.....

Members. CAPT D.F. HAYES .....Unit.. 1 CSRU.....

LT GH. CRASE .....Unit.. 1 CERU.....

The officers under instruction are duly sworn:-

...LT. H.E. KELLY.....Unit.. 1 CASCRU.....

...LT. J.R. POWER .....Unit.. 1 CERU.....

Prosecutor. LT K.B. SHAW .....Unit... 1 CASCRU.....

Defending Officer. LT P.A. BATES ...Unit... 1 CASCRU....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
CRS (b) ~~Calls witnesses as to character~~.
CRS (c) ~~Calls witnesses in mitigation of punishment~~.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

C R Somerville
Maj

24 Jul 43.

E

F.G.C.M.
PC1146 Pte GRAHAM, L.F.

Plea of mitigation of sentence:

(1) Enlisted 8 Sep 39.

(2) Owing to fact that unit (1st Div. AMN. COY) has proceeded overseas, no character witnesses can be produced by the accused.
eg: Major Jones (OC. 1st Div. AMN - 1942)

(3) Went A.W.L. because his unit went into action without him - after 3 years and 7 months waiting!

(4) Main ambition and only interest is to, "Get the devil out of detention and help the boys shoot Heinies and wops!"

P. A. Bates, Lt.
Defending Officer

C. R. Lomeville
Maj

Medical Officers' Certificate. "C"
K.R. (Can.) Para 557

I certify that I have this morning examined No. C 11460 S.E. Graham J.F.

of [illegible] and in my opinion he is fit ~~unfit~~ to undergo

trial by court martial.

Station.

Date. 24 Jul 73. C.R. Somerville Maj

Sgn. [illegible]
(Medical Officer)

EXHIBIT A

Army Form B 115. G

CR8

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Farnborough Hants on the 5th day of July 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-11460 Pte Graham L.F. 1 Cdn.A.S.C.Rft.Unit

DECLARATION.

The Court declare that No.C-11460 Pte Graham L.F. 1 Cdn.A.S.C. Rft.Unit illegally absented himself without leave from 1 Cdn.A.S.C. Rft.Unit at 2200 hours on the 10th day of June 1943, that he is still so absent, and that on the 5th day of July 1943 he was deficient and that he is still deficient of articles to the value of £6.12. ½ and that 75% of their value is £4.19.7½ as listed on reverse side.

L. Begin (Lieut) R.C.A.S.C.
1 Cdn.A.S.C.Rft.Unit

M. Lamarre Lt
M.Lamarre (Lieut) R.C.A.S.C.
1 Cdn.A.S.C.Rft.Unit

R.G. Demarais Lt
R.G. Demarais (Lieut) R.C.A.S.C
1 Cdn.A.S.C.Rft.Unit

C R Somerville
Maj

Names of President and Members

Signature of Commanding Officer COMD. 1 CDN ASC/RU COL

CERTIFIED TRUE COPY.

Signature of Officer having Custody of the Original Record.
1 CDN. A.S.C. REIN. UNIT.

(12281) Wt.34318/1622 75,000 10/39 A.& E.W.Ltd. Gp.498
(13443) Wt.45725/760 225,000 1/40 " " Forms/B115/58

KIT DEFICIENCIES

		List Value			75% Value		
B.D. Blouse.....	1	1	7	8	1	0	9
B.D. Trousers	1	1	7	11	1	0	11 ½
Boots Ankle	1	1	1	6	0	16	11 ½
Brushes Polish	1	0	0	9	0	0	6 ½
" Button	1	0	0	8	0	0	6
" Cloth	1	0	1	1	0	0	0½
" Shaving	1	0	1	4	0	1	0
" Tooth	1	0	0	4 ½	0	0	3 ½
Comb	1	0	0	2	0	0	1 ½
Holdall	1	0	0	9	0	0	7
Housewife	1	0	2	5	0	1	3 ½
Jersey Pullover	1	0	6	9	0	5	1 ½
Razor	1	0	1	10 ½	0	1	5
Socks prs	4	0	6	8	0	5	0
Towels Hand	2	0	1	11	0	1	5
Belts Waist	1	0	4	7 ½	0	3	5 ½
Helmits steel	1	0	10	8 ½	0	7	11
Pack	1	0	9	6 ½	0	6	11 ½
Straps Shoulder	2	0	4	0	0	3	0
Straps Web Supp.	2	0	1	6	0	1	1 ½
TOTAL		£8	12	½	£4	19	7 ½

EXHIBIT B 587 "H" CRS

...IAN FORCES. Army Form B 252
(See King's Regulations)

THE ROYAL NADIAN ARMY SERVICE CORPS. Regiment

HOLDING UNIT

Battery
Squadron
Troop or
Company

CHARGE against No. C. 11460 Rank PTE.

Name GRAHAM. L.F.

Place Date of Offence

OFFENCE W.O.A.S. ABSENT from until apprehended by the Military Police at 1530 hours at EDGWARE ROAD LONDON on the 14th.JULY.1943.(2).Attempting to evade arrest.(3)Being in possession of and producing an A.F.B 295 knowing same to be false at the same time and place.

W Morison Low - Major
MAJOR
ASSISTANT PROVOST MARSHAL

Names of Witnesses :—

L/CPL. C. CHEVALIER. LOC.M.P.

L/CPL. A.E. SHORT. C.M.P.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

C R Somerville
Maj

Adjutant.

30130. W4.W12472/969. 2,000,000. 5/42. K. & H., Ltd. G657/42. P.T.O.

STATEMENT OF **EVIDENCE** IN THE CASE OF

No.C. 11460. PTE. GRAHAM. L.F.
HOLDING UNIT, 1st. C.S.O.R.U.
THE ROYAL CANADIAN ARMY SERVICE CORPS.
FARNBOROUGH, HANTS.

Sir,

At LONDON on the 14th.JULY.1943,at 1330 hours, I was on motor cycle patrol at EDGWARE ROAD in company with L/CPL. A.E. SIGHT. C.M.POLICE when I asked the above named soldier for his pass and M.S.M. 1. He produced these and said," I am on leave."

He then ran away and we gave chase and after covering a short distance GRAHAM was found in a bombed house.

He then said, " Alright I'm A.W.L. and the pass is phoney."

I arrested and conducted him to PADDINGTON GREEN POLICE STATION where he was handed over to await a C.P.C. escort. (A.F.B. 295 attached).

LONDON.
14th.JULY.1943.

C.H. Chevalier L/CPL.
C.M.POLICE.

Sir,

I have read over and corroborate the above statement.

LONDON.
14th.JULY.1943.

REMARKS

L/CPL.
C.M.POLICE.

SUMMARY OF EVIDENCE

IN THE CASE OF C-11460 Pte. Lorne Fitzgerald GRAHAM, 1 Cdn. A.S.C. Rft. Unit, Blenheim Barracks, Farnborough, Hampshire.

Colonel J.M. Pocock, Commanding, 1 Cdn. A.S.C. Rft. Unit, directs that the Evidence be taken on on oath.

Lt. K.B. Shaw, RCASC, 1 Cdn. A.S.C. Rft. Unit.

I produce:

(a) Record of Declaration of a Court of Inquiry on the Illegal Absence of a soldier (AFB 115).

(b) AFB 252 Certificate purporting to be signed by L/Cpl. Chevalier, C. and L/Cpl. Short, A.E. of the Corps of Military Police, London, with a statement of evidence referring to the apprehension of the accused at 1530 hrs 14 July 43.

(c) Certificate in Accordance with P.C. 2797 purporting to be signed by Capt. W. Fern, D.A.P.M., London Area, dated 16 Jul 43, showing the apprehension of the accused.

K.B. Shaw

(K.B. Shaw) Lt.

1st WITNESS (for the Prosecution) L/Cpl. Chevalier, C., Corps of Military Police, London. (Documentary).

2nd WITNESS (for the Prosecution) L/Cpl. Short, A.E., Corps of Military Police, London. (Documentary).

I certify that in my opinion, the attendance of the 1st and 2nd witnesses for the Prosecution, owing to the expense and loss of time involved, are not readily procurable and written statements signed by them have been read to the accused.

K B Shaw

(K.B. Shaw) Lt.

I do not require the attendance of the 1st and 2nd witnesses for the purpose of cross-examination.

L.F. Graham

(C-11460 Pte. Graham, L.F.)

Telephone: [illegible] Ext. 6 or 18.

Chelsea Barracks, London, S.W. 1.

Should it be necessary for the R.C.Cs named as Witnesses on the attached A.F.B 252, to attend a Court Martial, it is requested that at least 72 hours warning be given prior to the date of the Court Martial.

SUMMARY OF EVIDENCE

C-11460 Pte. Graham, L.F., the accused, was then warned in accordance with R.P. 4 (e).

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you will give will be taken down in writing and may be given in evidence."

"I do not wish to make any statement at this time."

L.F. Graham

(C-11460 Pte. Graham, L.F.)

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing on the 18th day of July 43 at 1 Cdn ASC Rft Unit in the presence and hearing of the accused and that R.P. 4 (e) (d) (e) (f) and (g) have been complied with.

K.B. Shaw

(K.B. Shaw) Lt.,
1 Cdn ASC Rft Unit

I, C-11460 Pte. Graham, L.F., desire the assignment of an Officer to represent me at my forthcoming Trial by Court Martial.

L.F. Graham

(C-11460 Pte. Graham, L.F.)

18 July 43.
Farnborough, Hampshire.

EXHIBIT C

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. C.11460 . Rank Pte. . . Name Graham, L.F. . . . .

Unit .1.C.A.S.C.W.W. . . . . was arrested at .London. . . .(place)

at 1930 . . . .(hour) on 14 July 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian clothes~~)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London,
15 July 43.

. . . . . Capt.
(W. Forn) D. A. P. M.,
London Area

C R Somerville Maj

K

M.F.R. 255
2250—5-41 (572-3)
H.Q. 5572-39-620
A.F.S. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-11460	Pte.	Lorne Fitzgerald GRAHAM	1 CASC R/U

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ Regimental and Squadron, Battery Conduct sheets ~~[illegible]~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~[illegible]~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months			Since enlistment or appointment		
For	A.A. Sec 15 (1)	FIVE	times	AA Sec 15 (1)	ELEVEN	times
For	A.A. Sec 10 (4)	ONE	times	A.A. Sec 10 (4)	TWO	times
For	A.A. Sec 24 (2)	ONE	times	A.A. Sec 24 (2)	ONE	times
For			times			times

Number of instances of gallantry or distinguished conduct NIL

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

Previous convictions of the accused by ~~[illegible]~~ summary awards under Section 47 of the ~~[illegible]~~ Army Act and dispensations with trial under ~~[illegible]~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~[illegible]~~

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and ~~Five~~ Eleven days in ~~[illegible]~~ military custody, making a total of ~~Five~~ Eleven days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 26 years 9 Months

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper 8 Sept 1939

7. The service which the accused is allowed to reckon towards discharge is Nil

8. ~~[illegible]~~

9. The accused is in possession of or entitled to no ~~[illegible]~~ military decoration, or ~~[illegible]~~ military reward (or is in possession of or entitled to). State any ~~[illegible]~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Appendix~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number C-11460 Rank Pte Unit

Name GRAHAM, Lorne Fitzgerald of 1 Cdn ASC Rft Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	2 Jan 43 Blenheim Barracks, Farnborough	A.A. Sec 15 (1) AWL for 66 days 13 hrs.	120 dys Det.	30 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~18th~~ 24th day of July 1943.

Officer i/c Records
1 Cdn. A.S.C. Reint. Unit.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. C-11460 Name Graham, L.F. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 8/9/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/9 42	Pte		(absent 19 days, 14 hrs) AA Sec 15 (1). Cost of Apprehension 9 Shillings	Sgt Shepherd Documentary	20 days Forf for AWL. 28 days FP with Forf. Total Forf 48 days	10.10.42	L.K. Ash Major	
Field	6-12 42	Pte		AA Sec 15(1) AWL 4 days 18 hrs Cost of Apprehension : £1-2-8	Cpl Stocks Sgt Somers Documentary	14 days FP Cost of Apprehension:£1.2.8	15-12-42	Major J.M. McGowan	FRI 149(1)(b FRI 158 Forf 5 days pay FRI 149 (1) (a

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jan 43	Pte		AA Sec 15 (1) AWL 2200 hrs 2 Jan 42 until 1100 hrs 10 Mar 43. T.T.A. 66 days 13 hrs TRIED BY F.G.C.M. Promulgated @ 29 Mar 43	F.G.C.M.	Date of Trial - 25 Mar 43 Findings - Guilty Sentence - 120 days Detention remitted to 90 days detention forfeitures - 90 days pay FR&I 149 (1) (b) 67 days pay FR&I 149 (1) (a) 13 days pay FR&I 149 (1) (c) (ii) Cost of Apprehension £0-18-4 FR&I 158 (2)			
Field	31/5/43	Pte		AA Sec 15 (1) AWL from 2359 hrs 31 May 43 to 2230 hrs 5 JUN 43 TTA 4 days 22 hrs 31 mins	Documentary	10 days forf pay	8 Jun 43	Lt Col HR Bonnick	Forf 10 days pay FR&I 149 (1) (b) Forf 5 days pay FR&I 149 (1) (a) Forf 2 days pay FR&I 149 (1) (c) (ii)

CERTIFIED TRUE COPY.....Lt
of the original document now in my possession
[signature]

No. C-11460 Name Graham, L.F. Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Corps PETROL PARK

Period not reckoning towards freedom from extra fine

Date of enlistment 8/9/39 G.C. Badges

Sheet No. 1

Signature O.C. Company, etc.

Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 40/P & S. 136 (2037)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/3/40	Dvr		Breaking out of Barracks	L/Cpl Payater	3 days CB	18/3/40	Lieut. Shiles	
Field	30/4/40	Dvr		AWL from Tattoo 30 MAR 40 to 0100 hrs 2/Apl/40 2 dys 3 hrs	Cpl James	3 days pay 14 days CB	2/4/40	Capt Fitz Randolph	
Field	24/5/40	Pte		AWL from 2200 hrs to 2225 hrs 24 - 5 - 40	Sgt Dawson G.J.	2 days CB	27 - 5 - 40	Lt. J.S. Rogers	
Field	31/5/40	Pte		AWL from 2000 hrs 31/5/40 to 1015 hrs 6/6/40 Total Time absent 134 hrs 15 min (AA [redacted] 40)		14 days CB 6 days Pay		L.N. Watson Lt.-col.	
Field	17 Jan 42	L/Cpl		WOAS AWL from 1600 hrs 17 Jan 42 till 2030 hrs 28 Jan 42 Time Absent 12 days 4 hrs 30 mins AA Sec 15 (1)	Sgt Jeynes	Reverts to Pte Forf 12 days pay	29/1/42	A. Bentley Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Apr 42	L/Cpl		WOAS was AWL from 2359 hrs 1/4/42 till 0800 hrs 2/4/42. AA Sec 15(1)	Cpl Walker	Forf 1 days pay	2 Apr 42	Major A. Bentley	
Field	14/6/42	L/Cpl		WOAS AWL from 2359 hrs 14/6/42 till 0730 hrs 15/6/42 (absent 7 hrs 31 min) AA Sec 15 (1)	Cpl Davis J	Forf 1 days pay. Reverts to Permanent grade	15 Jun 42	Major A. Bentley	
Field	5/9/42	Pte		W.O.A.S. A.W.L. from 2230 hrs 5/9/42 till 0600 hrs 7/9/42 AA Sec 15 (1)	L/C Ingram C	2 days pay 10 days CB	7.9.42	A. Bentley Major	
Field	17/9/42	Pte		(1) AA Sec 10 (4) Breaking out of Barracks between 2230 hrs 17/9/42 and 0630 hrs 18/9/42 (2) WOAS AWL from 0630 hrs 18/9/42 until apprehended by Cdn Provost Coy in London at 1400 hrs 7/10/42.	Cpl Walker	Stoppages 9 Shillings	10.10.42	L.K. Ash Major	

CERTIFIED TRUE COPY.....LT'
of the original document now in my possession

No. C-11460 Name Graham, L.F. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 8/9/39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 40/P & S/130 (2667)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 3 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-7-43	Pte		AA Sec 24 (2) LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES.	Documentary	Stoppage of pay to the amount of £1 - 18 - 10½	20-7-43	Lt.-Col. WC Fletcher	Placed under stoppages of pay £1-18-10½ FR&I 158(2)

CERTIFIED TRUE COPY of the original document now in my possession.

L. E. Mason Lt.
Adj. Trng. Wing,
1, Cdn. A.S.C. R.U.

(P.T.O.)

22-50 (Cont'd 3)

PTE GRAHAM L.F.

See BB-44 for 1st case
" KK-12 for 2nd "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-11460 Pte Lorne Fitzgerald GRAHAM 1 CASCRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15 (1)AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

K ~~At present under sentence for~~ beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of Ninety (90) days

(Sgd) Judge-Advocate, if any. Date awarded 10 Jan 44 (Sgd) President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attained before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) R.R. Dunn Brig
Date 11 Jan 1944 Commanding "B" Group, C.A.A.K. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 573, 577.)

Accused.	Date.	Signature of Offr.
C-11460 Pte Graham L.F.	12 Jan 44	W.P. Fullerton Lt. Col. Comd. 1 Tpt. Wing. 1 Can. A.S.C. R.U.

00 No 10 of 13 Jan 44 HQ Reinf Unit
Officer i/c Records
1 Can. A.S.C. Reinf. Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

ZZ-50

CFAAB (in lieu of AFA3) 47 P.N.G. 1508 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of P.R. Shields, Brigadier Comd HQ "B" Gp dated 7 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-11460	Pte	Lorne Fitzgerald	Graham	1 CASCRU

PROCEEDINGS REVIEWED
J.C. Sinclair Lieut
20 Jan 44 Rank
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

IN REPLY PLEASE QUOTE
5-C-2/95 8

PROCEEDINGS OF TRIAL.

M Held in the Fd in (country) England on (date(s)) 10 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

K A1. The President, Members, ~~waiting Member, JA, if any~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do not include all relevant fore RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on law to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

M A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

K The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

K A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

K A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

M A5. President to accused: ~~Do you object to as interpreter?~~ Ans

K ~~The Interpreter is sworn.~~(1) ~~Do you object to as shorthand writer?~~ Ans
M ~~The shorthand writer is sworn.~~(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir (1)
(1. RP 110. 1. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D L Redman	HQ, C R U
Member	Capt	J A Clazie	1 CER RU
Member	Lieut	G G Hillmer	1 CASC R U
~~Judge-Advocate~~			
Prosecutor	Lieut	R D Munnoch	1 CASC R U
Defending Offr	Lieut	R D Stuart	1 CASC R U

M Questions by President: Is the Prosecutor a lawyer? Ans No, Sir Is the Defending Offr a lawyer? Ans No, Sir (2)
(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

M A8. The accused before arraignment make(s) (no) ~~No~~ plea (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, 67 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full name and name of the accused making the plea.)

K A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, those and make appropriate record per Notes.)

K A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or recalling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans NO - SIR[5]

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~charge(s)~~. The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on charge(s)~~. Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....[1]

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(1. *RP 29(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), *R 14, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

Do you intend to call witnesses on your behalf? Ans .....

Are they witnesses as to character only? Ans .....

(1. *RP 135.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40, fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[1]

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]

Ans NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex C respectively.[3]

(1. *MFB 355 or AFB 296.* 2. *MF 68 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans Under stop may put address - NOTE SET

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to remove an oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(1. *When several accused tried separately see RP 94(e). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 131, 119(A), KR Can 328, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences in the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(15), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C-11460 Pte. Lorne Fitzgerald GRAHAM, on strength of 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with, When On Active Service:

1st Charge
A.A. Sec.
15(1).

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

absented himself without leave from 1 Cdn A.S.C. Rft Unit from 2359 hours 27 November 1943 until 1430 hours 4 January 1944 when he surrendered himself to the Civil Police at Edgware Road, London. (Total Time Absent 37 days, 14 hours and 30 minutes.)

W.C. Fletcher

(W.C. Fletcher) Lt-col.
Comd No. 1 Trg Wing.
1 Cdn A.S.C. Rft Unit.

Farnborough, Hampshire.
6 January 1944.

To be tried by Field General Court Martial

7 Jan 44.

(P.R. Shields) Brig.
Comd "B" Gp
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

CF A95 (In lieu of AFA3)
40/FAS/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-11460	Pte		Lorne Fitzgerald	Graham	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Jan 44 endorsed by me, or by an offr of my staff or unit, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified authy.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate for the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col (Rank.)	D.L. Redman *(Must be named. RP 106.)*	HQ CRU (Unit.)

MEMBERS.

Capt	To be detailed by	1 CERU
Lieut (Rank.)	To be detailed by *(Named or detailed. RP 106.)*	1 CASCRU (Unit.)

WAITING MEMBER.

(Rank.)	*(Named or detailed, if any. RP 106.)*	*(Unit.)*

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in ENGLAND *(Country.)*

R Shields Brig. *(Signed personally. RP 105 fn 2.)* *(Rank.)*

Date 7 Jan 44

Commanding "B" Gp, Cdn Rft Units (P.R.Shields) Brigadier
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use at trial.)

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: C 11460.....
Pte..... GRAHAM L.F.... and in my opinion he is fit to undergo
(rank) (name)
trial by Court Martial.

Station: Blenheim Bks

Date: 10 Jan. 44

MY

A.H. McDonald Capt
(Medical Officer)
1 Cdn A.S.C. Rft Unit

C1144

Field

10 Jan 44

Sir:

This soldier enlisted 8 September 1939. He proceeded to England in ~~December 1939~~ February 1940. As you have seen by the accused's MFM 6 he has been AWL a considerable number of times. Each time he has been meted out punishment of Detention, Field Punishment or Forfeiture of Pay as the Courts saw fit. This has completely failed to put a stop to his tendencies to overstay his passes. I firmly believe this to be the wrong type of cure.

He wishes nothing more than to be given the opportunity to prove that he is not a bad soldier but merely a misguided one, by serving with the Canadian Army under Active Field conditions in any sphere of operations.

May this soldier's desire & hope receive the consideration of the Court as to mitigation of sentence for the offence as charged.

May I also point out that he has pleaded guilty to the charge as read and that he voluntarily surrendered himself on 4th Jan 1944.

NOTE E-3

MM

Ron Stuart, Lieut
1 CASC RU
Defending Officer

EXHIBIT "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at **Farnborough, Hants** on the **21st** day of **December** 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. **C-11460 Pte. Graham, L.F., 1 Cdn A.S.C. Rft Unit.**

DECLARATION.

The Court declare,

that C-11460 Pte. Graham, L.F., illegally absented himself without leave from 1 Cdn A.S.C. Rft Unit, at 2359 hrs 27 Nov 43 and that he is still so absent. That on 20 Dec 43 he was deficient of articles of equipment and clothing to the value of £4-19-11½ the sum being 75% of the vocabulary price.

Attached hereto list of kit deficiencies marked Appendix "A".

(M.R. Cooke) Capt, RCASC
1 Cdn A.S.C. Rft Unit. PRESIDENT

(R.A. Briggs) Lieut, RCASC
1 Cdn A.S.C. Rft Unit. MEMBER

(F.A. Thurgood) Lieut , RCASC
1 Cdn A.S.C. Rft Unit. MEMBER

Names of President and Members

Signature of Commanding Officer ..... Col

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record. Lieut

(16858) Wt.[illegible] 120,000 1/41 A.S.E.W.Ltd. Gp.499 Forms/B115/56
(17936) Wt.11504/579 200,000 5/41

EXHIBIT 'B'

I CERTIFY that the man whose personal description is given below surrendered himself to* Pc. 109D PARKER at EDGWARE ROAD at (hour) 2.30 p.m. on the 4th day of JANUARY as being No. C. 11460 (Rank and Name) Pte. Lorne Fitzgerald GRAHAM a deserter (or absentee without leave) from No. 1 C.A.S.C. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 27 Height 5 Feet 9½ Inches

Complexion Fresh Hair Fair

Eyes Grey

Marks Mole right cheek, Tattoo mark left forearm

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	27-11-43. No. 1 CASC Reinforcement Unit, Farnborough Hants.

J. Hockley Sgt.

Signature of Officer of Police in charge of Mary Wood Lane Station.

4-1-44 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the _____ Police in the case of No. _____ who surrendered to the Police at _____ on _____

Payable to _____

CERTIFIED that this statement of expenses is correct.

_____ Superintendent or Officer in charge of Police Station at _____

_____ Date of Signature.

LIST OF EXHIBITS

(a) A.F.B. 115, Certified True Copy of Record of the Declaration of a Court of Inquiry showing time and date of commencement of absence.

(b) A.F.O. 1617 Certificate of Surrender to the Civil Police showing time and date of surrender.

I, the accused, C-11460 Pte. Graham, L.F. desire Capt Lynch of No. 2 Trg Wing H.Q., 1 Cdn A.S.C. Rft Unit to represent me at my forthcoming Trial by Field General Court-Martial. Failing the ability of the above mentioned Officer I should like the convening authorities to appoint a competent Officer to defend me.

L.F. Graham

(C-11460 Pte. Graham, L.F.)

Officers under Instruction

Lieut P A Pelland	1 CASC R U
Lieut H Martell	1 C E R U
Lieut J A Mc Lean	1 C E R U

MM

SUMMARY OF EVIDENCE

IN THE CASE OF C-11460 Pte. Lorne Fitzgerald GRAHAM, of 1 Cdn A.S.C. Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

I am Lt. R.D. Munnoch of 1 Cdn A.S.C. Rft Unit and produce the following documents:-

(a) A.F.B. 115 Certified True Copy of Record of the Declaration of a Court of Inquiry showing that C-11460 Pte. Graham, L.F. absented himself without leave from 1 Cdn A.S.C. Rft Unit at 2359 hours 27 November 1943. Marked Exhibit "A".

(b) A.F.C. 1617 Certificate of Surrender to the Civil Police, purporting to be signed by F. Hockley of the Marylebone Lane Police Station, and showing that C-11460 Pte. L.F. Graham surrendered himself to P.C. Parker at Edgware Road, London at 1430 hours 4 January 1944. Marked Exhibit "B".

(R.D. Munnoch) Lt.
1 Cdn A.S.C. Rft Unit.

The accused was cautioned as follows, "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of one page was taken down by me in writing on the 6th day of January 1944 at 1 Cdn A.S.C. Rft Unit in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

(R.D. Munnoch) Lt.
Off detailed to take
Summary of Evidence.

Farnborough, Hampshire.
6 January 1944.

EX A
M97

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of NOT APPLICABLE years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number C-11460 Rank Pte Unit

Name Graham, L.F. of 1 Cdn A.S.C. Rft Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	25 Mar 43	AA Sec 15(1)	90 days detention	-
F.G.C.M.	24 Jul 43	AA Sec 15(1) AA Sec 40	6 months detention	-

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 Jan 44 day of Officer having custody of original documents.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.R. 355
(2M—5-41 (372-3)
H.Q. 1772-89-620
A.F.R. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-11460	Pte	Graham, L.P.	1 Cdn ASC Rft Unit

1. The following is a fair and true summary of the entries in the [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A.	Sec 15(1) One (1)	times	A.A. Sec 10(4) Two (2)	times
For A.A.	Sec 24(2) One (1)	times	A.A. Sec 15(1) Ten (10)	times
For		times	A.A. Sec 24(2) One (1)	times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial [redacted] under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24 years

6. The date of his attestation specified in his attestation paper 8 Sep 39

7. The service which the accused is allowed to reckon towards discharge is Nil

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military / military / military N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force Nil

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of NOT APPLICABLE years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number C-11460 Rank Pte Unit
Name Graham, L.F. of 1 Cdn A.S.C. Rft Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	25 Mar 43	AA Sec 15(1)	90 days detention	-
F.G.C.M.	24 Jul 43	AA Sec 15(1) AA Sec 40	6 months detention	-

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 Jan 44 day of [signature] Officer having custody of original documents.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. C-11460 Name Graham, L.F. Sqn., Battery, or Company — Corps Petrol Park — Date of enlistment 8/9/39 — G.C. Badges — Service or Proficiency Pay — M.F.M. & A.F.H. 40/P & S/138

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/3/40	Pte		Breaking out of Barracks A.A.Sec.10(4)	L/Cpl Payater	3 days CB -	18/3/40	Lt.Shiles	
Field	30/4/40	Pte		AWL from Tattoo 30 Mar 40 till 0100 hrs 2 Apr 40 (absent 2 days 3 hrs) A.A. Sec 15(1)	Cpl James	14 days CB 3 days pay	2/4/40	Capt Fitz-Randolph	
Field	24/5/40	Pte		AWL from 2200 hrs to 2225 hrs 24/5/40(absent 25 mins)AA Sec15(1)	Sgt Dawson	2 days CB	27/5/40	Lt.Rogers	
Field	31/5/40	Pte		AWL from 2000 hrs 31/5/40 to 1015 hrs 6/6/40.(Absent 134 hrs 15 min)AA Sec 15 (1)		14 days CB 6 days pay		L.N. Watson Lt.-Col.	
Field	17 Jan 42	L/Cpl		WOAS AWL from 1600 hrs 17 Jan 42 till 2030 hrs 28 Jan 42.(absent 12 days 4 hrs 30 min) AA Sec 15(1)	Sgt Jeynes	Reverts to Pte Forf 12 days pay	29/1/41	A.Bentley Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal with trial	By whom awarded	Remarks
Field	6-12 42	Pte.		A.A. Sec. 15(1) AWL 4 days 18 hrs Costs of apprehension: £1-2-8.	Cpl.Stocks Sgt.Somers Documentary	14 days F.P. 15-12-42 Costs of apprehension £1-2-8		Major J.M. McGowan	FR&I 149(1)(b) FR&I 158 Forf 5 days p FR&I 149(1)(a)
Field	2-1 43	Pte.		A.A.Sec.15(1) AWL 2200 hrs 2 Jan 43 until 1100 hrs 10 Mar 43. T.T.A. 66 days 13 hrs. TRIED BY F.G.C.M.	F.G.C.M.	Date of Trial 25 Mar 43 Finding- Guilty Sentence-120 days Detn remitted to 90 days Detn Forfeitures- 90 days pay FR&I 149(1)(b) 67 days pay FR&I 149(1)(a) 13 days pay FR&I 149(1)(c)ii.			
Field	31-5 43	Pte.		AA Sec 15(1) AWL from 2359 hrs 31 May 43 to 2230 hrs 5 Jun 43. T.T.A. 4 days, 22 hrs and 31 mins	Documentary	Cost of apprehension £0-18-4 10 days Forf pay	8-6-43	Lt-col.H.P. Bonnick	FR&I 158(2). Forf 10 days pay FR&I 149 Forf 5 days FR&I 149(1)(Forf 2 days FR&I 149(1)(

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal with trial	By whom awarded	Remarks
Field	2 Apr 42	L/Cpl		WOAS AWL from 2359 hrs 1/4/42 till 0800 hrs 2/4/42 (absent 8 hrs 1 min) A.A. Sec 15(1)	Cpl Walker	Forf 1 days pay	2 Apr 42	Major A.Bentley	
Field	14 Jun 42	L/Cpl		WOAS AWL from 2359 hrs 14/6/42 till 0730 hrs 15/6/42 (absent 7 hrs 31 min) AA Sec 15 (1)	Cpl Davis J	Forf 1 days pay Reverts to Pte 15 Jun 42		Major A. Bentley	
Field	5/9/ 42	Pte		WOAS AWL from 2230 hrs 5/9/42 till 0600 hrs 7/9/42 (absent 1 day 7 hrs 30 min) AA Sec 15(1)	L/C Ingram C	2 days pay 10 days CB	7/9/42	A. Bentley Major	

M.F.M. 6
(A.F.B. 272)
40/P & S/126 (Sept)

NC-11460 Name Graham, L.F. Sqn., Battery, or Company — Corps Petrol Park — Date of enlistment 8/9/39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/3/40	Pte		Breaking out of Barracks A.A.Sec.10(4)	L/Cpl Payater	3 days CB	18/3/40	Lt.Shiles	
Field	30/4/40	Pte		AWL from Tattoo 30 Mar 40 till 0100 hrs 2 Apr 40 (absent 2 days 3 hrs) A.A. Sec 15(1)	Cpl James	14 days CB 3 days pay	2/4/40	Capt Fitz-Randolph	
Field	24/5/40	Pte		AWL from 2200 hrs to 2225 hrs 24/5/40(absent 25 mins)AA Sec15(1)	Sgt Dawson	2 days CB	27/5/40	Lt.Rogers	
Field	31/5/40	Pte		AWL from 2000 hrs 31/5/40 to 1015 hrs 6/6/40.(Absent 134 hrs 15 min)AA Sec 15 (1)		14 days CB 6 days pay		L.N. Watson Lt.-col.	
Field	17 Jan 42	L/Cpl		WOAS AWL from 1600 hrs 17 Jan 42 till 2030 hrs 28 Jan 42.(absent XXXX 12 days 4 hrs 30 min)AA Sec 15(1)	Sgt Jeynes	Reverts to Pte Forf 12 days pay	29/1/41	A.Bentley Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	2 Apr 42	L/Cpl		WOAS AWL from 2359 hrs 1/4/42 till 0800 hrs 2/4/42 (absent 8 hrs 1 min) A.A. Sec 15(1)	Cpl Walker	Forf 1 days pay	2 Apr 42	Major A.Bentley	
Field	14 Jun 42	L/Cpl		WOAS AWL from 2359 hrs 14/6/42 till 0730 hrs 15/6/42 (absent 7 hrs 31 min) AA Sec 15 (1)	Cpl Davis J	Forf 1 days pay Reverts to Pte	15 Jun 42	Major A. Bentley	
Field	5/9/ 42	Pte		WOAS AWL from 2230 hrs 5/9/42 till 0600 hrs 7/9/42 (absent 1 day 7 hrs 30 min) AA Sec 15(1)	L/C Ingram C	2 days pay 10 days CB	7/9/42	A. Bentley Major	

No. C-11460 Name Graham, L.F. | Sqn., Battery, or Company: 1 Cdn Div Amn Corps RCASC | Date of enlistment: 8-9-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2657)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	17/9 42	Pte.		(1) AA Sec 10(4) breaking out of barracks between 2230 hrs 17-9-42 until 0630 hrs 18-9-42 (2) W.O.A.S. AWL from 0630 hrs 18-9-42 until apprehended by Cdn Prov Corps in London at 1400 hrs 7-10-42. (Absent 19 days 14 hrs) AA Sec 15(1) Cost of apprehension 9 shillings.	Documentary Cpl Walker Sgt Shepherd Documentary	Stoppage of 9 shillings. Forf 20 days pay 28 days F.P. with forf total forf 48 days	10-10-42	L.K. Ash (Capt)	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-12 42	Pte.		A.A. Sec. 15(1) AWL 4 days 18 hrs Costs of apprehension: £1-2-8.	Cpl.Stocks Sgt.Somers Documentary	14 days F.P. Costs of appre-hension £1-2-8	15-12-42	Major J.M. McGowan	FR&I 149(1)(b) FR&I 158 Forf 5 days pay FR&I 149(1)(a)
Field	2-1 43	Pte.		A.A.Sec.15(1) AWL 2200 hrs 2 Jan 43 until 1100 hrs 10 Mar 43. T.T.A. 66 days 13 hrs. TRIED BY F.G.C.M.	F.G.C.M.	Date of Trial 25 Mar 43 Finding- Guilty Sentence-120 days Detn remitted to 90 days Detn Forfeitures- 90 days pay FR&I 149(1)(b) 67 days pay FR&I 149(1)(a) 13 days pay FR&I 149(1)(c)ii.			
Field	31-5 43	Pte.		AA Sec 15(1) AWL from 2359 hrs 31 May 43 to 2230 hrs 5 Jun 43. T.T.A. 4 days, 22 hrs and 31 mins	Documentary	Cost of apprehension £0-18-4 10 days Forf pay	8-6-43	Lt-col.H.P. Bonnick	FR&I 158(2). Forf 10 days pay FR&I 149(1)(b) Forf 5 days pay FR&I 149(1)(a) Forf 2 days pay FR&I 149(1)(c)(ii)

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. C-11460 Name GRAHAM, L.P. Sqn., Battery, or Company Corps RCASC Date of enlistment 8-9-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 3 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-7 43	Pte		A.A.Sec.24(2) Losing by neglect. HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES.	DOCUMENTARY	Stoppage of pay £1-18-10½	20-7-43	Lt.Col.W.C. Fletcher	Placed under stoppage of pay of £1-18-10½ FR&I 158(2
Field	10-6-43	Pte.		1.AWL. Sec 15(1) TTA. 33 days 17 hours and 30 minutes. 2.AA. Sec.40. An acto to the prejudice resisted arrest.	DOCUMENTARY	6 months Detention	24-7-43	F.G.C.M.	Forf.180 days pay FR&I 149 (1)(b) Forf. 34 days pay FR &I 149(1)(a) Fo 10 days pay FR&I 149(1)(c)

CERTIFIED TRUE COPY

[signature]

Officer having custody of documents.

(P.T.O.)

4N-79

Pte. Graham L. R

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A11605 Pte Lorne Newburn GRAHAM - CIC - 2 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

M At present under sentence for ~~—~~ beginning on (date) ~~—~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two (2) years and to be put under stoppages of pay until he has made good the sum of £5-14-5 costs of return

(Sgd) ~~Judge-Advocate, if any.~~ 9 January 45 (Sgd) "E.M. Miller" Major
Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

6 My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I DESIRE THAT THE CASE BE REMITTED TO THE CONVENING AUTHORITY FOR REVISION.~~ (1. AA 57A. Delete if not used.) X

Date Jan 13 1945 (Sgd) EG Blacknder Brig Comd
Commanding 13 Cdn Inf Trg Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A.11605 Pte Lorne Newburn GRAHAM	22 Jan 45	"AJA Baxter" (AJA Baxter) Major Adm Offr 2 CITR

Entered Order No.19
Date 23 Jan 45
By WR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Recd 8 Feb 45
JAG Branch CMHQ

Recorded at CMHQ in AB 160 4N-79

FIELD-GENERAL COURT-MARTIAL

CFA66 (To Ueu of AFA81) 40/P&D/1698 (E44)

4388

Convened by Order of Brigadier EG Blacknder Comd 13 CITB DSO, MC, ED dated 5 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.11605	Pte	Lorne Newburn	GRAHAM	CIC 2 CITR

Proceedings reviewed
3 Feb 45
"RV Chanbery" Capt
Reviewing Officer JAG Branch CMHQ

8 Dec 45 L.J. Brody Major

PROCEEDINGS OF TRIAL.

M Held in the Fd in (country) England on (date(s)) 9 Jany 45 CMHQ

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

M A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number bearing reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

M A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

M A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1110 hours trial commences.

M A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

M A5. President to accused: ~~Do you object to ... as interpreter? Ans ...~~ ~~The Interpreter is sworn.~~(1) Do you object to C96176 Sgt GM Bandrault 1 CGRU as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

M A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M.Miller ED, KC	HQ CRU
Member	Capt	DH Knowles	3 CITR
Member	Lieut	CC Doley	3 CITR
~~Judge-Advocate~~			
Prosecutor	Lieut	P Sapiera	2 CITR
Defending Offr	Lieut	WL Herper	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

M A8. The accused ... before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

M A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. - If otherwise, delete and make appropriate record per Notes.)

M A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~and/or~~, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil.(5)
(1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Statement in addition to plea of Defending Officer
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Defending Officer read and filed plea.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also by the JA, if any.~~(2).
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A.11605,	Pte	Lorne Newburn GRAHAM,	2 CITR.

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company conduct sheets~~ PS of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial the summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, R.R., 1910.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Sec 15(1) AWL 1 times	Sec 15 (1) AWL 6 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~ PS

~~or~~ PS

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted,~~ or PS

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____ PS

4. The accused has been in confinement, awaiting trial on the present charges, for 1 days in civil custody, and 35 days in military custody, making a total of 36 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper PS is 31 yrs 7 mos

6. The date of his ~~commission~~ / attestation PS specified in his ~~record of service~~ / attestation paper PS is 10 Oct 1939

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ PS

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. ~~The accused is entitled to reckon~~ _____ service for the purpose of determining his pension, etc. PS

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)~~ PS CVSM & Clasp

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ _____ PS

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(*25000) Wt.24898/1720 20,000 10/41 A.& E.W.Ltd. Gp.578
(26906) Wt.55984/1490 12,000 2.44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A.11605 Rank Pte Name Lorne Newburn GRAHAM of 2 C.I.T.R Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
D.C.M.	Borden 18-9-41	Sec.15(1) AWL	5 mths detn	
FGCM	Field 23-3-43	Sec 15(1) AWL	10 mths detn	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of Jan 45

"P Saperia" Lieut
Asst Admin Offr

Exhibit "B" "M"

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

Expense Voucher Re—

EXHIBIT "E"

Ref: KR & O (Can) 539

Reg No. A.1160[illegible] Rank Pte Name GRAHAM L.N. Unit 2 CITR

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Halifax

Date	Particulars	Amount		
27 Dec 44	Escorts return fare from LONDON To Halifax	1	9	6
	Prisoners single fare to LONDON From Halifax	own ticket		
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	1	3	5
	Total £	2	12	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"RE Birch" Capt
R.E. Birch, D.A.P.M.

Officer Issuing Railway Warrant and Expense monies Capt
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100[illegible]
45/P & S/483 (6762)

Exhibit "D"

I CERTIFY that the man whose personal description is given below surrendered himself to* PC.232 G.T. Blackburn at Halifax at (hour) 10.45 pm on the 20th day of December 1944 being No. A/11605 (Rank and Name) Pte GRAHAM, Lorne Newburn No.2 C.I.T.R. (Holding Unit) ~~xxxxxx~~ (or absentee without leave) from and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 31 Height 5 Feet 10½ Inches

Complexion Fresh Hair light brown

Eyes blue

Marks Tatooed right forearm (Dagger with r rose & Jess & Loren) left upper arm

In uniform or plain clothes Gypsy woman with Frances underneath. Uniform.

Probable Date and Place of Attestation	1st October, 1939, at Stratford, Ontario Canada
Probable Date of Desertion or beginning of absence, and from what place	26th November, 1944

George Blackburn

Signature of Officer of Police in charge of County Police Office Station HALIFAX

20th December 1944 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the _____ Police in the case of No. _____ who surrendered to the Police at _____ on _____

Payable to _____

CERTIFIED that this statement of expenses is correct.

_____ Superintendent or Officer in charge of Police Station at _____

_____ Date of Signature.

Exhibit "J"

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. A11605 Rank Pte Name GRAHAM, L.N. Unit 2 CITR

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Halifax

Date	Particulars	Amount		
14 Nov 44	Escorts return fare from LONDON To Halifax	1	9	6
	Prisoners single fare to LONDON From Halifax		14	9
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		17	3
	Total £	3	1	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"RE Birch" Capt
(RE Birch)
Admin Officer -DPM's Br
CMHQ

"M" Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-50 (6762)

Exhibit "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S.49 CRISP at King Cross at (hour) 12 noon the 10th day of November as being No. A/11605 (Rank and Name) Pte Loane Newburn GRAHAM a deserter (or absentee without leave) from March 1944 and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 31 Height 5' Feet 10" Inches

Complexion Fresh Hair Fair

Eyes Blue

Marks Tatoo right forearm and left arm

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	Stratford, Canada 22/12/39
Probable Date of Desertion or beginning of absence, and from what place	March 1944 N3 CRIRU Aldershot

Police HQ 10 Nov 44 Halifax H Law Sergt 1/c

Signature of Officer of Police in charge of Central, Halifax Station

"M" 10th Nov 1944 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

Exhibit "A"

Record of the Declaration of Court of Inquiry assembled at In the Field on the 21 Apr 44 for the purpose of investigation and recording the Ammunition, Equipment, Instruments, Regimental Necessaries or Clothing of A.11605 pte Graham, L.N. (PERTH) 3 C.E.R.U.

The Court declare that A11605 Pte Graham L.N. (PERTH) 3 CIRU illegally absented himself without leave from 3 CIRU at 1000 hrs 27 Mar 44 that he is still absent, and at 1330 hrs 21 Apr 44 he was deficient and is still deficient the articles shown hereunder.

ARTICLES	CAT.No.	Sec.	No.	100% PRICES			75%		
Anklets web	CG0081-84	CG	1	0	4	5	0	3	2½
Battle dress blouse	CG0001-26	CG	1	1	3	6	0	17	7½
Battledress Trousers	CG0027-52	CG	1	1	4	1	0	18	1
Boots ankle prs	CG0001-42	CD	1	1	4	5	0	18	3½
Caps F.S.	CG0520-37	CG	1	0	2	6	0	1	10½
Greatcoats drab	CE129-43	CE	1	2	11	8	1	18	9½
Drawers Cell	CC0091-98	CC	1	0	1	11	0	1	6
Gloves woollen	CC0270-74	CC	1	0	2	1	0	1	6½
Vests Woollen	CC0011-17	CC	1	0	5	4½	0	4	0
Braces prs	CC0009-16	CC	1	0	1	4	0	1	0
Brushes hair	CC0043	CC	1	0	1	6	0	1	1½
Brushes shaving	CC0045	CC	1	0	1	8	0	1	3
Combs hair	CC0062	CC	1	0	0	2	0	0	1½
Forks N.S.	CC0177	CC	1	0	0	4	0	1	3
Knives table	CC0533	CC	1	0	0	8	0	0	6
Spoons table	CC0731	CC	1	0	0	4	0	0	3
Badges cap	CB	CB	1	0	0	4½	0	0	3½
Belts waist	AA0228	AA	1	0	3	0	0	2	3½
Tins mess	AA5321	AA	1	0	1	7	0	1	2
Respirator complete	AB0352	AB	1	1	0	11	0	15	8
Outfits A/D	AB0325	AB	1	0	0	2½	0	0	2
Ointment A/G	AB0087	AB	2	0	1	4	0	1	0
Eyeshields (6)	AB0119	AB	1	0	2	0	0	1	6
Detectors, sleeve	AB0321	AB	2	0	0	6	0	0	4½
			TOTALS	£8	15	10½	£6	11	10

Certified that the prices shown hereon are in accordance with those as published from time to time by CMHQ in ORO.

(Sgd) F.E. Giles, Captain
Quartermaster
3 Cdn Inf Rft Unit

"RA Sweet" Maj
PRESIDENT (Sgd) R.A. SWEET Major
R.H.L.I. #3 C.I.R.U.
"AW Baillie"
MEMBERS (Sgd)(A.W. BAILLIE) A/Capt.,
48th Highrs 3 CIRU
"DR Baillie"
(Sgd)(D.R. BAILLIE) Lieut
48th Highrs 3 CIRU

In the field
21 Apr 44

CERTIFIED TRUE COPY

(Thomas E. Rogers) Captain
ADJUTANT
3 Cdn Inf Rft Unit

"AS Pearson"
(A.S. Pearson) Colonel
Commander
3 Cdn Inf Rft Unit

"M"

(2CITR/15)

In the case of A-11605, Pte. Lorne Newburn GRAHAM
CIC on strength of 2 Cdn Infantry Training Regiment a soldier
of the Cdn Army Overseas

(Continued)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE

I certify that the foregoing Summary of Evi dence, consisting of pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(C) (D) (E) (F) & (G) have been complied with.

Laurentide Camp

2 Jan 45

"P Saperia" Lt.
(P Saperia)
Officer detailed to take the Summary of Evidence.

Exhibit "A"

"EM"

SUMMARY OF EVIDENCE

In the case of A-11605, Pte. Lorne Newburn GRAHAM, C.I.C., on strength of 2 Cdn Inf Trg Regt a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

.....

First Witness Prosecution — Lt. H.J. Boake, of Regimental Headquarters, 2 CITR, having been duly sworn, states as follows:

I am Lt. H.J. Boake, of Regt. H.Q., 2 CITR, and I produce the following as Exhibits for the Prosecution:
Exhibit "A": Certified true copy of the Record of Decl. of a Court of Inquiry, assembled at the Field on 21 Apr 44, declaring that A-11605 Pte Graham L.N. absented himself without leave from 3 CIRU at 1000 hrs 27 Mar 44 and that at the date of the Court he was still so absent.

Exhibit "B": A.F.C. 1617, signed by the officer i/c Central Halifax police station on 10 Nov 44 certifying that A-11605, Pte. Lorne Newburn Graham surrendered himself to the Civil Police at 12 noon 10 Nov 44.

Exhibit "C": Expense voucher showing costs of apprehending and returning A-11605 Pte Graham, LN to London from Halifax to be £3-1-6, which voucher is dated 14 Nov 44.

Exhibit "D": A.F.C. 1617 signed by the officer i/c County Police Office Halifax on 20 Dec 44, certifying that A.11605 Pte Graham Lorne Newburn surrendered himself to the Civil Police at 1045 pm (2245 hrs) 20 Dec 44

Exhibit "E": Expense voucher showing costs of apprehending and returning A-11605 Pte Graham, L.N. to London from Halifax to be £2/12/11 which voucher is dated 27 Dec 44.

Which above Exhibits pertain to the accused herein. The accused declines to cross-examine this witness.

"H.J. Boake" Lieut.
(H.J. Boake)

Second Witness Prosecution — B-67700, L/Cpl Foster, I. of Regt Police 2 CITR having been duly sworn, states as follows:-

I am B-67700, L/Cpl Foster, I. of Regt Police, 2 CITR.
At approx. 19540 hrs 26 Nov 44 I was duty NCO of Regt Police, 2 CITR in the Unit Detention Bks and called the roll of soldiers confined there, and the accused, whom I now recognize was one of them. I found the accused absent. He had escaped from the Guard Room. I reported the escape to CSM Hunt i/c Regt Police Staff, also to Orderly Officer and RSM.

The accused declines to cross-examine this witness.

"I Foster" L/Cpl

Plea of Mitigation

In the case of

A.11605 Pte Graham L.N.

Pte Graham enlisted 1 Oct 39 and came overseas in Oct 41. He was with the Perth Regt but was unable to leave with that unit when they went into action. Although he is "A" category, for some unknown reason, he has never been sent as reinforcement to his own or any other unit of the 1st or 4th divisions.

Becoming thoroughly "browned-off" he has taken matters into his own hands.

He is "A" Category, as I mentioned previously, and an experienced driver and only wishes a chance to get into action and prove that he can soldier.

"W.L. Harper" Lieut.
Defending Officer

"M"

FGCM

Case of:

A.11605, Pte Lorne Newburn GRAHAM CIC, No.2 CITR

E1

Statement in Mitigation by the Accused

I am quite willing to go over there with the hand-cuffs on for the simple reason that I have a wife and three children. It is for their sake that I would like to go over there and do my best. I realize that I have made quite a fool of myself. Since I have come back here, and since I have heard the punishments handed out for AWL. I would like to do my best. I am Category A and fully trained.

"M"

MED OFFRS CERTIFICATE 2 CITR/11

K.R. Can Para 557

I certify that I have this morning examined No. A.11605 Pte Graham, L.N. and in my opinion he is FIT to undergo trial by Court-Martial.

Station: Laurentide Camp ....W.A.Sims.....Capt
Date: 9 Jan 45 RCAMC) Attached to 2 CITR

"M"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.11605	Pte		Lorne Newburn	GRAHAM	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint (a) three Offrs~~ to form the Court, (b) a Fd Offr as President, ~~for the reasons I have attached hereto~~.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~also appoint as Judge Advocate thereat the Offr mentioned hereunder~~.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	EM MILLER, ED (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by Commanding Officer	3 CITR
Lieutenant (Rank.)	to be detailed by Commanding Officer (Named or detailed. RP 106.)	3 CITR (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Commanding Officer (Named or detailed, if any. RP 106.)	3 CITR (Unit.)

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

"KG Blacksder" (Signed personally. RP 105 fn 2.)
(K G Blacksder)

Brigadier (Rank.)

Date 5 Jan 45

Commanding 15 Cdn Inf Trg Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of APA 3) 40/P & S/1691 (8148) (See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, A 11605, Pte Lorne Newburn GRAHAM, C.I.C., on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field at 1000 hrs 27 Mar 44 did absent himself without leave until he surrendered himself to the Civil Police at Halifax at 1200 hrs 10 Nov 44, thereby incurring costs of apprehension and return to his unit in the mount of £3-1-6.

(Total absence 228 days, 2 hrs)

SECOND CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, at 1950 hrs 20 Nov 44 while in custody in Unit Detention Bks did absent himself without leave until he surrendered himself to the Civil Police at Halifax at 2245 hrs 20 Dec 44, thereby incurring costs of apprehension and return to his unit in the amount of £2-12-11

(Total absence 24 days, 2 hrs., 55 mins)

...WJA.Wilson?.Col..
(J.A. Wilson) Colonel
Commanding 2 C. I. T. R.

Laurentide Camp,
2 Jan 45

To be tried by Field General Court Martial.

"KG Blackader" Brig
Comd
13 Cdn Inf Trg Bde

In the Field
5 Jan 45

Entered Order No.19
Date 23 Jan 45
"WR"

10/Graham LN/1

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

REVIEW SHEET

~~XXX~~-POST CONFIRMATION (~~XXXXXXX~~ / ~~CXXX~~ / UK)

FGCM 9.Jan.45 (Date of sentence)

No A.11405 Rank Pte

Name Graham LN

Unit CIC...CITB

Charge(s)	15(1)	15(1)				
Plea	G	G				
Finding	G	G				

Sentence ...2 yrs detention and ..... 25-14-5 stoppages .....

Received from CR 2.Feb.45

Passed to Rev Offr .....

Passed to Rev 1 3.Mar.45

Passed to .....

Passed to .....

Returned to Rev Clerk .....

~~XXX~~ Record & Pass JG 3.Feb.45

W.Fraser...Major

RECOMMENDATION OF INITIAL REVIEWING OFFR

Pass ~~XXXXXXX~~

~~XXXXXX

HEADQUARTERS
CANADIAN REINFORCEMENT UNITS 429/CM "G"/1 (DJA)

DEPUTY JUDGE ADVOCATE
REVIEW SHEET

PRE/POST CONFIRMATION

FGCM: 9 Jan 45
(Date of Trial)

Received from CR 29 Jan 45

No: A.11605 Rank Pte

Passed to Rev Offr 29 Jan 45

Name: GRAHAM IN

Passed to CMHQ Jan 29 45

Unit: 2 CITR

Charges: 15(1) 15(1)

Plea: G : G

Finding: G : G

Sentence 2 yrs det and SP £5-14-5

OBSERVATIONS:

1 Medical certificate:
(a) word "unfit" which was deleted is not initialled.

2 MFM6 - undated

3 No illegalities or irregularities affecting finding or sentence.

4 Plea of guilty - nothing in S of E, statment in mitigation or elsewhere warranting change in plea.

5 Passed

Date..29/1/45.

(continued overleaf if necessary)

..Jacques.de.Billy.Capt....
(Reviewing Officer)

MFM 6
(AFB 122)
40/PAS/126 (2423)

No A11602 Name GRAHAM L.N. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 1 Oct 39 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N11 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No L. | Signature OC Company, etc D. Campbell Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed as of 1 Apr 44 (Initialed: D.C.)					
Hamilton	4/2/41	Pte		AA15(1) AWL from 2200 hrs 4/2/41 to 0935 hrs 20 Feb 41	Cpl Dimms	28 dys Detn	20/2/41	Major Randall	16 days pay FR&I 149(1)(a
Hamilton	18/3/41	Pte		AA 15(1) AWL from 0800 hrs 18/3/41 to 1020 hrs 6/4/41	Sgt Binnington	27 days Detn	7/4/41	Lt.Col. Little	20 dys pay w RI 149(1)(a)
Borden	8/6/41	Pte		AA 15(1) AWL from 0200 hrs 8/6/41 to 2300 hrs 24/6/41	Cpl Wilson	28 dys Detn	25/6/41	Lt.Col. Little	16 dys pays FR &I 149(1)(a)
Borden	16/8/41	Pte		AA 15(1) AWL from 0100 hrs 16/8/41 to 2300 hrs 10/9/41	CSM Armstrong L/Cpl Hanely	5 mths Detention Forf 28 days Pay	18/9/41		26 dys pay FR&I 149(1)(a)
Field	22/11/42	Pte		AA 15(1) AWL from 1600 hrs 22/11/42 to 2300 hrs 15/12/42	Cpl Femoran	Forf 2 days' Pay	17/12/42	Lt.Col. Little	28 days pay FR&I 149(2)
Field	19/12/42	Pte		AA 15(1) AWL from 2245 hrs 19/12/42 to 2200 hrs 20/12/42	L/Cpl Woods		22/12/42	Lt.Col. Little	1 dys pay FR &I 149(1)(a)

(PTO)

Place	Date of offence	Rank	Class of crime/misdemeanour	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13/1/43	Pte		A.A. 15 AWL from 0630 hrs 13/1/43 to 1825 hrs 5/3/43	Sgt Brown CSM Armstrong Sgt McColl.	10 mths Detention	23/3/43	FGCM	Forf 51 days Pay FR&I 149 (1)(a)
Field	20/2/44	Pte		AA 15(1) WOAS AWL in that he was absent from his quarters from 0830 hrs 20 Feb 44 till he surrendered to the Unit Gua d Room at 0920 hrs 23 Feb 44 (time Absent 3 days 50 mins)	Sgt. Barlow F.J.	10 days F.P. Forf 10 days pay FR&I 149(2)	24 Feb 44	Charles S. Hadley Lt.Col.	Forf 4 days pay FR &I 149(1)(a), Total forf of 14 days pay
	25/5/44			CERTIFIED TRUE COPY OF ORIGINAL MFM 6.					
				"WE Thorne" (WE Thorne Capt Records Officer 3 Cdn Inf Rft Unit					
				/wh					

AA-119

PTE GRAHAM L.N.

AA-119

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 22nd day of March 1943

Whereas it appears to me, the undersigned, an officer in Command of 11 Cdn Inf Bde 5 Cdn Armd Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ JR

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[I am unable to appoint :—~~

~~*(1 Three Officers to form the Court.)~~

~~*(2 A Field Officer as President.)~~

for the following reasons, namely :—] JR

*Omit if not applicable.

Proceedings Reviewed
[illegible]
for Reviewing Officer (J.A.G. C.M.H.Q.)
8 Apr 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C.D.Arnold	C.S.Highrs

Members.

Rank.	Name.	Regiment.
Capt	R.E.Lockhart	HQ 11 Cdn Inf Bde
A/Capt	J.Bonville-Humphreys	Irish R.
Capt	WAITING MEMBER J.S.White	Perth R

JR ~~Capt S.M.Morrison HQ 5 CAD~~ ~~JUDGE ADVOCATE~~ *Signed J.Rutherford

Commanding (T.J.Rutherford)Brig 11 Cdn Inf Bde Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A 11605 Pte Lorne Newbury GRAHAM Perth Regiment 5 Cdn A'md Div	1st Charge When on Active Service, absenting himself without leave in that he (see charge sheet att. Sec 15 (1) AA	Guilty	Guilty To undergo detention for a period of ten months (10 months) 23 March 43 C.O. Arnold Maj	Confirmed [illegible] Confirmed [illegible]

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) T J Rutherford (*Signed*) C. O. Arnold Maj

(T.J. Rutherford) Brig
Commanding 11 Cdn Inf Bde
Convening Officer (c)

C. B. H.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No A11605 Pte Graham N. L.

of The Perth Regiment C.A. and in my opinion he is fit to undergo trial by court-martial.

Station Field

Date 27 March/43

Capt

M O Perth R

PROCEEDINGS OF A FIELD COURT-MARTIAL
HELD AT Field
ON THE 23 DAY OF March 1943

The accused A11605 Cte Louis Newham Graham Unit Perth Regt

The order convening the Court and charge sheet are laid before the Court who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court
The medical Certificate is laid before the Court, signed by the president and attached to the proceedings.
The order convening the Court is read by the president and the accused having no objection to the president or any member of the Court, the Court is duly sworn.

The following constitute the Court:

President Major C. W. Arnold Unit C. Brit

Members Capt. R. E. Lockhart Unit H.Q. U. Cdn Inf. Bde

Capt. J. Bonville Humphreys Unit Wash. R.C.

The officers under instructions are duly sworn.

Prosecutor Lieut. P. Glenn Unit Perth Regt

Defending Officer Lieut Unit Perth Regt

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge (s) and R.P. 38(B) is complied with.
The accused does not desire to make a statement in reference to the charge (s)
The summary of evidence is read, signed by the President and attached to the proceedings.
The Prosecutor is sworn and produces AFB 296 and MFM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED
(a) ~~makes a statement in mitigation of punishment~~ CDH
(b) ~~calls witness as to character or~~
(c) ~~calls witness in mitigation of punishment~~
(d) addresses the Court by his defending Officer
(e) ~~or in person.~~ CDH

The Court is closed to consider the sentence.
Summary of Statement in Mitigation character Evidence and address of accused or his defending Officer.

See statements attached

(To be signed by the President and attached to A.F.A. 3 (over)

C. W. Arnold Maj
Pres.

Fourth Witness. cont'd.

Said statement shows the accused was apprehended at 1825 hrs 5 Mar 43."

The accused declines to cross examine the witness.

E.M. Hutchinson

Capt. E.M. Hutchinson.

The Declaration M.F.B. 375 d/10-Feb 43 referred to by Capt. E.M. Hutchinson produced, read over to the accused, marked Exhibit "A" signed by me, and attached hereto.

G.P. Ingram Lieut

Lieut. G.P. Ingram.

The signed statement certificate of arrest, referred to by Capt. E.M. Hutchinson, produced read over to the accused, marked Exhibit "B" signed by me, and attached hereto.

G.P. Ingram Lieut

Lieut. G.P. Ingram.

Fifth Witness.

L/Cpl. R.L. Smith, BRIGHTON and HOVE Military Police:-

Document purporting to be a signed statement of the evidence of L/Cpl. R.L. Smith BRIGHTON and HOVE Military Police was read over to the accused, marked Exhibit "C" and attached hereto.

I certify that in my opinion owing to the exigencies of the services including the time and expense involved, the attendance of this witness at the taking of the Summary of Evidence cannot readily be procurred.

G.P. Ingram Lieut.

Lieut. G.P. Ingram.

Sixth Witness.

L/Cpl. E.D. Evans, 2 Cdn Corps Provost Company.

Document purporting to be a signed statement of the evidence of L/Cpl. E.D. Evans 2 Cdn Corps Provost Company was read over to the accused, marked Exhibit "C" and attached hereto.

I certify that in my opinion owing to the exigencies of the services including the time and expense involved, the attendance of this witness at the taking of the Summary of Evidence cannot readily be procurred.

G.P. Ingram Lieut

Lieut. G.P. Ingram.

The accused was warned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be used in evidence."

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 10th day of February 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A11605 Pte Lorne Newbury GRAHAM, "B" Coy, The Perth Regiment C.A.

DECLARATION

The Court declare that No. A11605 Pte Lorne Newbury GRAHAM, The Perth Regiment C.A.

illegally absented himself without leave In the Field

at 0630 hrs on the 13th day of January 1943

that he is still so absent, and that on the 10th day of Feb 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Vocabulary Price	£ s	d	Vocabulary Price	£ s	d
Badge Cap		7½	Boots Ankle prs	1/1	6
Braces pr	1	3½	Shirts Cotton Khaki	5	2½
Brush Clothes	1	1	Pistol	4/10	6
" Button		8	Case Pistol	6	0
" Shaving	1	4	Helmet Steel	10	½
" Shoe Blacking		8	Pack	10	6½
" " Polishing		9	Strap Web Supporting	2	2
" Tooth		4½	Cap F.S.	3	8
Drawers Short	4	1	Respirator Container	4	4
Gloves Wollen prs	2	7½	Facepiece	8	6
Holdall		9	Haversack	6	6
Housewife	2	3	Ointment		5½
Shirt Angola Drab	9	2	Eyeshields	8	3
Vest Under cotton	2	4	Total	16/12	7½
Blouse B.D.	1/7	8			
Greatcoat	3/17	½			
Trousers B.D. prs	1/7	1½			

Capt G.R. Fripp, The Perth Regt. C.A. — President

Lieut R.A. Hamilton, The Perth Regt. C.A. — Member

Lieut P.F. Fisher, The Perth Regt. C.A. — Member

Signed at In the Field

this 10th day of February 1943

Signature of Commanding Officer J.S. H. Lind, Cond Perth R — Lt Col

Certified true copy

Signature of Officer having custody of original record

(E H Hutchinson) Capt & Adjt

M.F.B. 375
A.F.B. 118
11M-12-40 (5598-8)
H.Q. 1771-31-207

This is exhibit "A" referred to in summary of evidence in the case of A11605 Pte Lorne Newbury Graham taken before me this 8th day of March 1943

G.P. Ingram Lieut

Sheet - 2 -

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 10th day of February 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A11605 Pte Lorne Newbury GRAHAM, "B" Coy, The Perth Regiment C.A.

DECLARATION

The Court declare that No. A11605 Pte. Lorne Newbury GRAHAM, The Perth Regiment C.A. illegally absented himself without leave In the Field at 0630 hrs on the 13th day of January 1943, that he is still so absent, and that on the 10th Feb 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Less 25% for Wear and Tear	£ s	d	Less 25% for Wear and Tear	£ s	d
Badge Cap		5½	Boots Ankle prs	16	11½
Braces pr		11½	Shirts Cotton Khaki	3	11
Brush Clothes		10	Pistol	3/17	10½
" Button		6	Case Pistol	4	6
" Shaving	1		Helmet Steel	7	6½
" Shoe Blacking		6	Pack	7	11
" " Polishing		7	Strap Web Supporting	1	8
" Tooth		3½	Cap F.S.	2	9
Drawers Short		3	Respirator Container	3	3
Gloves Wollen prs	1	11½	Facepiece	6	4½
Holdall		7	Haversack	4	10½
Housewife	1	8	Ointment		7½
Shirt Angola Drab	6	10½	Eyeshield	1	8
Vest Under Cotton	1	9	Total	12/10	5
Blouse B.D.	1/0	9			
Greatcoat	2/17	9½			
Trousers B.D.prs	1/0	11			

Capt G.R. Tripp, The Perth Regt C.A. — President

Lieut R.A. Hamilton, The Perth Regt. C.A. — Member

Lieut P.F. Fisher, The Perth Regt. C.A. — Member

Signed at In the Field

this 10th day of February 1943

Signature of Commanding Officer J.S.H. Lind Lt Col

Certified true copy [signature] Signature of Officer having custody of original record

(E M Hutchinson) Capt & Adjt

M.F.B. 375
A.F.B. 113
11M-12-40 (6686-43)
H.Q. 1972-59-257

CHARGE SHEET

The accused No A 11605 Pte Lorne Newburn GRAHAM, The Perth Regiment C A, a soldier of the Canadian Army Overseas,

is charged with

First Charge Sec 15 (1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from his Regiment, The Perth Regiment C A from 0630 hours 13 Jan 43 until apprehended by Military Police in LONDON ROAD, BRIGHTON, SUSSEX at 1825 hours 5 Mar 43. (Total absence 51 days, 12 hrs, 25 minutes).

In the Field
18 Mar 43

(J S H Lynd) Lt Colonel
Comd Perth R

To be tried by Field General Court-Martial

In the Field
21 March 43

(T J Rutherford) Brig
Comd 11 Cdn Inf Bde

The accused does not desire to make any statement or give evidence.

"The accused declines to call any witness on his behalf."

I certify that R.P. 4 has been complied with.

Taken before me in the field in the presence and hearing of the accused this 17th day of March 1943.

G.P. Ingram Lieut.

Lieut. G.P. Ingram.
Officer taking Summary.

Certificate in accordance with Army Act, Section 163 (1) (ii).

I certify that No. A 11605 Rank Pte Name Graham, LN

Unit B Coy Perth Regt was arrested at Boughton

at about 1875 hrs 5.3.43 and that at the time of his arrest he was

wearing military uniform.

Signature of Provost Marshal, A.P.M., or other into whose custody the above-named person was taken into arrest.

This is exhibit "B" referred to in summary of evidence in the case of A 11605 Pte Forrest Newbury Graham, taken before me this 17th day of March 43.

Lieut G. Pedgram

Second Witness, cont'd.

Sgt. Matthews has since left the Perth Regiment C.A. I have not seen Pte. Graham L.N. since nor has he attended any parades since that date."

The accused declines to cross examine the witness.

J. Armstrong C.S.M.

A 11012 C.S.M. Armstrong J.

Third Witness.

A 11139 Sgt. McColl J.J., Provost Sgt., The Perth Regiment C.A., having been duly sworn, states:

"Sir, I am A 11139 Sgt. McColl J.J. Provost Sgt of The Perth Regiment C.A. I was notified by the Provost Corps on 10 Mar 43 that Pte. Graham L.N. had been apprehended by them. I proceeded to Preston Barracks BRIGHTON SUSSEX, ENGLAND on 10 Mar 43 and escorted A 11605 Pte. Graham L.N. back to The Perth Regiment C.A. unit lines where he has been held in custody pending the unit's return from tactical exercise."

The accused declines to cross examine the witness.

J.J. McColl Sgt

A 11139 Sgt. McColl J.J.

Fourth Witness.

Capt. E.M. Hutchinson, Adjt. of The Perth Regiment C.A., having been duly sworn, states:

"Sir, I am submitting an abstract from Military Book 68, Regimental record of Declarations of Courts of Inquiry of illegal absence of soldier's (marked Exhibit "A"). This is in the form of a declaration M.F.B. 375 d/10 Feb 43, showing deficiencies of kit also date of absence as 0630 hrs 13 Feb 43. I am also submitting a signed statement, certificate of arrest, purporting to be signed by C.S.M. T.H. Milin for BRISTOL D.A.P.M. Cdn Corps. (Marked Exhibit "B").

SUMMARY OF EVIDENCE

Accused present at summary when evidence of witnesses taken down in writing.

R.P. 4
Perth Regiment C A
In the Field
17 Mar 43

Summary of Evidence in the case of A 11605 Pte Lorne Newbury GRAHAM, The Perth Regiment C A charged with.

(1) When on Active Service absenting himself without leave.

R.P. 4 F The Commanding Officer directs that all evidence be taken on oath.

First Witness.

A 11607 Sgt. Brown C.E., "B" Coy, The Perth Regiment C.A., having been duly sworn, states:

"Sir, I am A 11607 Sgt. Brown C.E., "B" Coy, The Perth Regiment C.A. I was Platoon Sgt of No 7 Platoon "B" Coy, The Perth Regiment (Motors) C A and on calling the roll on 13 Jan 43 at Pippingford Park, Sussex, England I found that A 11605 Pte Graham L.N. was absent. I reported his absence to the Coy. Orderly Sgt. who was Sgt. Matthews G.C.. Sgt. Matthews has since left the Perth Regiment C.A. Pte. Graham L.N. has not attended any parades nor have I seen him since that date until today 16 Mar 43."

The accused declines to cross examine the witness.

A 11607 Sgt. Brown C.E.

Second Witness.

A 11012 C.S.M. Armstrong J., "B" Coy, The Perth Regiment C.A., having been duly sworn, states:

"Sir, I am A 11012 C.S.M. Armstrong J., "B" Coy, The Perth Regiment C.A. On the roll being called on the 13 Jan 43 at Pippingford Park, Sussex, England, A 11605 Pte. Graham L.N. was reported absent, to me by the Coy. Orderly Sgt who was Sgt. Matthews.

CHARGE

Army Form B 252
(See King's Regulations)

Perth Regt — Regiment

B.Coy. — Battery / Squadron / Troop or Company

5 Div.

CHARGE against No. A.11605 Rank Pte

Name Graham L.N.

Place Brighton Date of Offence 5/3/43

OFFENCE W O A S was absent without leave from -- until apprehended by the Military Police in London Rd. at about 1[illegible] hrs. (51 days 18 hrs and 15 minutes)

[illegible] Adjt for C.B.Pty

Names of Witnesses:—

L/c Smith R.L. Brighton & Hove Mil.Police

Evans E.D. 2 Cdn Corps Pro.Coy.

Signature of O.C. Battery, Squadron, Troop or Company — remanded @ 2.0. 16 Mar 43 [illegible]

Punishment Awarded — Remanded for Summary of Evidence [illegible]

Whom Awarded — Remanded [illegible] 43 [illegible]

Adjutant

P.T.O.

This is evidence [illegible] to be summary of evidence [illegible]

Wt.W34679/1406 1,500,000 10/41 K & H., Ltd. G607947

Statement of **EVIDENCE** in the case of
A.11605 Pte Graham L.N.
R.Coy. Perth Regt.

Sir,

At Brighton on the 5 Mar 43 at about 1825 hrs I was on duty in London Rd. where I saw the a/n soldier. I asked him for his pass, but he admitted he had no pass and was absent. I obtained his particulars and escorted him to Brighton Civil Police Station where he was detained pending arrival of escort.

R.L. Smith L/Cpl
Brighton & Hove Military Police

Sir,

I have read over and corroborate the above statement .

F.B. Evans L/Cpl
2 Cdn Corps Pro. ~~Corps~~ Coy.

Brighton

6/3/43

REMARKS

F O O M :- A 11605 Pte Lorne Newbury GRAHAM
The Perth Regiment C.A.

I desire the convening Officer to detail an officer to represent me at my forthcoming trial by Field General Courtmartial.

I desire the services of Lieut R.W. Mitchell, The Perth Regiment C.A., if he is available.

19 Jan 43

Pte Lorne N Graham

F.G.C.M. A 11605 Pte Lorne Newbury GRAHAM
The Perth Regiment C.A.

LIST OF WITNESSES FOR THE PROSECUTION.

A 11607 Sgt Brown C.E.	Perth Regiment C.A. 5 Cdn Armd Div UCKFIELD SUSSEX.
A 11012 CSM. Armstrong J.	Perth Regiment C.A. 5 Cdn Armd Div UCKFIELD SUSSEX.
A 11139 Sgt. McColl J.J.	Perth Regiment C.A. 5 Cdn Armd Div. UCKFIELD SUSSEX.
Capt. E.M. Hutchinson.	Perth Regiment C.A. 5 Cdn Armd Div UCKFIELD SUSSEX
L/Cpl. Smith L.R.	BRIGHTON and Hove Military Police BRIGHTON SUSSEX.
L/Cpl. Evans E.D.	2 Cdn Corps Provost Coy BRIGHTON SUSSEX.

LIST OF WITNESSES FOR THE DEFENCE.

Nil.

F.G.C.M.

A 11605 Pte. Lorne Newbury GRAHAM.
The Perth Regiment C.A.

LIST OF EXHIBITS.

Exhibit "A"	M.F.B. 375 Declaration of Court of Inquiry.
Exhibit "B"	Certificate of Apprehension.
Exhibit "C"	Evidence of L/Cpls. R.L. Smith and E.D. Evans.

CASE OF PTE GRAHAM

Lt Mitchell cross examines the Prosecutor:

Q. What do you know with respect to the charcater of the accused as indicated by his conduct.

A. Since we came to England 1941 Oct., Pte Graham has been a member of my Pl, he is a Carrier Dvr and at no time did I ever have any reasons to doubt him and have always been able to depend on him.

Q. Can you give any reason for his present absence.

A. Up until we arrived in Brighton, Graham had done a very good job of soldiering. But down there the Wine, Women and Song got the better of him.

C.L. Aind W may
Pres

Address by Defending Officer;—

The accused since arriving in England has been a reliable soldier until the unit was stationed in Brighton when there were too many sources of amusement &c. When going on 7 days leave he spent his leave with a woman in Brighton and at the expiration of his leave had a boil on his stomach so he overstayed his leave. When the boil was cured four days later he was afraid to return as he had already had one break from his Commanding Officer Time dragged on and he eventually decided to return to his unit and when apprehended by the Police was walking along London Road with his full equipment to the bus station.

R W Mitchell Lieut.

M.F.B. 255
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A 11605	Pte	Lorne Newbury GRAHAM	Perth Regiment C.A.

1. The following is a fair and true summary of the entries in the [redacted] Company's Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For AWL	2 times	AWL 5 times

[redacted]

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

[redacted]

2. Previous convictions of the accused by a court-martial or a civil court, summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years, 9 months, days.

6. The date of his [redacted] specified in his attestation paper 1 Oct 39

7. The service which the accused is allowed to reckon towards discharge is 3 years, 5 months, days.

8. The accused is entitled to reckon 3 years 5 mons 17 days service for the purpose of determining his pension, etc.

[redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of Date of promotion.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number A 11609 Rank Pte

Name Lorne Newbury GRAHAM of Perth Regiment C.A.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
D.C.M.	Camp Borden Ontario 18 Sep 41	AA Sec 15 (1) AWL from 0100 hrs 16 Aug 41 until 2230 hrs 10 Sep 41 (25 days 21½ hrs)	5 Months Det	50 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Mar 43 (E M Hutchinson) Capt Adjt Perth R

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

SHEET NO 2 DESTROYED 1-10-41

No. A11605 Name GRAHAM N.L. Sqn., Battery, or Company R Corps Perth R Date of enlistment 1-10-39 G.C. Badges Service or Proficiency Pay Cpl. Cunningham Maj Pres.

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1793) H.Q. 1372-45-18

Date of last entry in Company Conduct Sheet 16-12-40 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 3 Signature O.C. Company, etc. WI Kemp Major Character Bad

Place	Date of offence 1941	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Hamilton	4 Dec	Pte		AWL from 2200 hrs 4 Dec 41 til 0935 hrs 20 Dec 41 (15days 11hrs 35 mins)	Cpl. Timms W.J.R.	28 days Detn	20 Feb 41	Major RL Tindall	Forfeits 16 days pay FRAI JET
Hamilton	18 Mar	"		AWL from 0800 hrs 18 Mar 41 til 1820 hrs 6 Apr 41(19days 10hrs 20 min.	Sgt Binnington	27 days DEtn	7 Apr 41	Lt Col GW Little	Forfeits 20 days payJET
Borden	8 Jun	"		AWL from 0200 hrs 8 Jun 41 til 2300 hrs 24 Jun 41(15days 21 hrs)	Cpl Wilson MJ May Cpl McRorie	28 days Detn	25 Jun 41	Lt Col GW Little	Forf 16 day payFRAIJET
Borden	16 Aug	"		AWL from 0100 hrs 16 Aug 41 till 2230 hrs 10 Sep 41 25 days 21½hrs (AAs 15(1)	CSM Armstrong L/Cpl JW Handy RSM Soper	5 Months Detn	18 Sep 41 DCM		Forf 26 day pay FRAI JET

RELEASED from the DETENTION BARRACKS DEC 27,41 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 50 days. COMMANDANTS Initials GM

(P.T.O.)

Place	Date of offence 1942	Rank	Cases of drunkenness	Offence	Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	22 Nov 42	Pte		AAs 15(1) AWL from 1800 hrs 22 Nov 42 until 2300 hrs 15 Dec 42 (23 days 5 hrs)	Cpl G.L. Fenwick	Forfeits 28 days pay FR&I 149(2)	17 Dec 42	LT Col JSH Lind	Forfeits 24 days pay FR&I 149(a) EMH
In the Field	19 Dec 42	"		AWL from 2245 hrs 19 Dec 42 until 2200 hrs 20 Dec 42 (23 hrs 35min)	L/Cpl Woods HE	Forfeits 2 days pay FR&I 149(2)	22 Dec 42	Lt Col JSH Lind	Forfeits 1 days pay FR&I 149 (a) EM Hutchinson

CERTIFIED TRUE COPY

(E M Hutchinson) Capt Adjt Perth R
Custodian Regtl Documents

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23 day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*~~(3. The Interpreter)~~

*~~(4. The officers under instruction)~~ CDOC

were duly sworn.

*Omit if not applicable.

Signed this 23 day of March 1943

C. D. Arnold Lt. Maj

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

CDOC

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ JHR

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of March 1943

J. Rutherford

Confirming Officer.

CONDR. C. D. HIP. BDE

Promulgated and extracts taken in the case of A11605 Pte Graham L. N.

(a) (Dated) 24 Mar 43 (Signed) [signature] Perth R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) Wt.47533/242 25,000 1/42 A.& E.W.Ltd. Gp.698
(81765) Wt.19088/1359 40,000 7/42

CC-89

PTE GRAHAM M.

CC-89

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of APRIL, 1943

Whereas it appears to me, the undersigned, an officer in Command of SECOND CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[I am unable to appoint ...]~~

~~*[1. These Officers to form the Court]~~

~~*[2. A Field Officer as President]~~

~~for the following reasons, namely ...]~~

* Omit if not applicable.

RECEIVED 25 APR 1943 Legal Branch Cdn. Corps.

119

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W.A. de C. Hepburn	4 Cdn Recce Regt (4 PLDG)

Members.

Rank.	Name.	Regiment.
Capt	E.A.N. Pritchard	4 Cdn Fd Coy RCE
Lieut	R.F. Guthrie	4 Cdn Recce Regt (4 PLDG)
(w)Lieut	W.K. Heron	1 Cdn Fd Coy RCE

*Signed [signature]

Commanding (C. Yokes) Brig Comd 2 Cdn Inf Bde

Convening Officer

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L1081 Pte. GRAHAM Matthew 1st Bn Sask L.I. (MG)	A.A. Sec 15(1) in that he, at Wainwright, on active service, on or about 17 Apr 43, when on command, absented himself without leave	Guilty	Guilty 10 months detention for a/about 6 months & To be put under stoppages of 1/- per day To the amount of $2.12.2 To cover cost of prosecution	I confirm the finding but reduce sentence to 6 mths detention and stoppages of $2.12.2.

I have satisfied myself that none of the officers detailed as members of this court have previously served on any court of inquiry respecting the matters forming the subject of the charge before this court martial

W. Ashley Hepburn Lieut
President

(C. Vokes) Brig
Comd 2 Cdn Inf Bde

17 April 43

18 Apr 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (C. Vokes) Brig
Commanding 2 Cdn Inf Bde
Convening Officer (e)

(Signed) W. de C. Hepburn Major
4 Cdn Recce Regt (4 PLDG)
President.

(a) Appointment acting rank (or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 17th day of April 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) W.de C.H.
*(4. ~~The officers under instruction~~) W.de C.H.

were duly sworn.

* Omit if not applicable.

Signed this 17th day of April 1943

W. de C. Hepburn
President of the Court Martial.

C.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. Certificate in case of death sentences.

Signed this day of 19 .

W. de C. H.
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. Confirmation.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ he

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this Eighteenth day of April 19 43.

(C. Vokes) Brig
Confirming Officer.
Comd 2 Cdn Inf Bde.

Promulgated and extracts taken in the case of L 1081 Pte Graham,M Sask. L.I.(MG).

(a) (Dated) 21 Apr 43. (Signed) Capt & Adjt.
Saskatoon Light Infantry (MG).

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

B2
W.A. Att.

The Accused, L1081 Private GRAHAM, Matthew, 1st Bn. Saskatoon Light Infantry (MG), a soldier of the Canadian Army Overseas, is charged with:-

First Charge
A.A.Sec. 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he, In the Field, at 0630 hours 29 MAR 43 absented himself without leave until apprehended at 1415 hours 6 APR 43 (absent 8 days, 7 hours, 45 minutes); thereby incurring expenses of apprehension and return to his unit amounting to £2-12-2.

E.J.S. Dudley

(E.J.S. Dudley), Lieut-Colonel,
Commanding, Sask.L.I.(MG) C.A.O.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

~~C.R.A., 1 Cdn Div.~~

C. Vokes

(C. Vokes)Brig
Comd 2 Cdn Inf Bde

14 Apr 43

MEDICAL CERTIFICATE FOR COURT MARTIAL.

This is to certify that I have today examined

No. L1081 Rank Pte Name Graham M.

of the 1st Bn. Sask.L.I.(MG) C.A.O.

and find him FIT / ~~UNFIT~~ to under go trial by Court Martial.

17 APR 43.

W. Fowler Capt.

(W. Fowler), Capt, RCAMC,
R.M.O., Sask.L.I.(MG) C.A.O.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for A Field General ~~and District~~ Courts-Martial

Proceedings of a Field Court-Martial held at in the Field
on the 17th day of April 1943 by order of Brig. C. Vokes
dated the 14th day of April 1943 Commanding 2 Cdn. Inf. Bde.

Major W. De C. Hepburn, 4 Cdn. Recce Reg't (4 P.L.D.G.) President.

Members.

Capt. E.A.N. Pritchard 4 Cdn. Field Coy R.C.E.
Lieut. R.F. Guthrie 4 Cdn. Recce Reg't (4 P.L.D.G.)

, Judge Advocate.

Trial of* L 10781 Pte Graham, Matthew

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~

~~, waiting member takes his place as a member of the Court~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut. Robinson J.E. ~~Lieut.~~ Sask. L.I. (Can. Gds)

Counsel‡ or defending officer† Lieut. Baker W.H. Sask. L.I. (Can. Gds.)

At 1015 ~~o'clock~~ hrs the Trial commences.

The order convening the Court is read, and is marked G. signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
†Here state Rank and Name, and Regiment (if any).
‡Qualification to be stated.

B

The President, members ~~and Judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

Medical certificate is presented to the court

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

guilty Sir *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N/a *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N/a *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N/a *Answer.*

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused 4 1081 Pte. Graham, Matthew is found guilty of the charge

*The summary (or abstract) of evidence is read, marked X signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes Sir by my defending officer

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Guilt of accused admitted. Accused happily married to Florence Norry of Newcastle who is employed in an Ammunition factory in that City. On or about 24th March 43 accused received a letter from his Mother-in-law stating that his wife was sick, Pte. Graham was worried and applied for 36 hours leave which was granted. On arriving at Newcastle he found his wife more serious than first thought, sickness was brought on by her work in factory. She had already been in bed for one week under a

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Doctor's care. Was it not a natural thing for accused to stay by his wife's bed until she showed signs of improving? When she began to recover he started back to Camp but was apprehended at railroad station with his ticket back to his unit in his hand while waiting for train. Unfortunately accused did not keep any documentary evidence to submit to court. He did not mention wife's sickness to Coy. Commander believing domestic worries should be kept to himself. Accused realized punishment would follow his absence but thought it more important to stay by his wife in her illness

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No sir

Answer.

Evidence as to character.

Summary of evidence in the case of L 1081 Pte Graham M.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution

L 1100 Sgt. Domingo, V. of the Saskatoon Light Infantry (M.G.) in the field having been duly sworn states:-
I am Platoon Sergeant of member in my Platoon. The accused, L 1081 Pte Graham M. whom I recognize, is in my platoon. He was granted a week-end pass from after duty on the 27 March 1943 till reveille on the 29 March 1943. When I called the roll on the first parade on the 29 March 1943 he was absent and he has been absent since the reveille on the 29 March 1943.
The accused declines to cross-examine this witness.

Sgt Domingo V.

Second Witness for the Prosecution.

A/Capt. R.W. Welsh, of the Saskatoon Light Infantry (M.G.) in the field having been duly sworn states:-
I am Adjutant of the Saskatoon L.I. (M.G.) and I recognize the accused L 1081 Pte Graham M. I present herewith Army Form B 252, certificate of apprehension as evidence that the accused was apprehended at the Stobs-on Tent on 6 April 1943 at about 1415 hours. (Marked Exhibit A and attached to the summary.

I further submit C.M.H.Q. form 1000-55 Expense Vouchers amounting to the sum of £ 2. 12. 2. covering the cost of returning the accused to his unit (Marked exhibit B and attached to the summary).

The accused declines to cross-examine this witness.

The accused was cautioned as follows:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing summary of evidence, consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

J. J. Robinson, Lieut.

In the Field
10 April 1943

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 43.

I CERTIFY that No. L-1081 . . Rank . Pte. . Name . Graham, M. . . . .

Unit . "B" Coy. S.L.I. 1st. Div. . was arrested at Stoke on Trent (Place)

at 1415 . . . (hour) on . 6-Apr-43. . (date) and that at the time of his arrest he was wearing (Military Uniform) or (xxxxxxxxxxxxxxxxxx). Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part in [illegible]).

[signature] Capt.

(W. Ford) D. A. P. M.,
London Area

A

In lieu of Army Form B.252.

Regiment M.G.REGT SASKT.L.I. Battery, Squadron, Troop or Company B.COY

CHARGE against No. L-1081 Rank PTE Name GRAHAM M.

Place Date of Offence

OFFENCE W.O.A.S. absent from until apprehended by the MILITARY POLICE at STOKE on TRENT RLY STN on 6/APRIL/43 at about 1415 hrs.

Names of Witnesses:- L/CPL C. CRIDDLE C.M.POLICE

[signature] MAJOR, R.E.
COMMANDING TRAINING ADVISORY
MILITARY COLLEGE OF SCIENCE

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

STATEMENT OF EVIDENCE IN THE CASE OF

L-1081 PTE GRAHAM M.
B.COY.1st BTN.M.G.REGT
SASK.L.I. BEXHILL KENT

SIR,

At STOKE on TRENT on 6/APRIL/43 at about 1415 hrs I was on duty on the RLY STN where I saw the a/n soldier, he was unable to produce a pass. I arrested him and conveyed him to CORRIDGE DRILL HALL where I handed him over to the N.C.O. i/c GUARD to be detained and await escort. He was sober and in uniform. Later at the GUARD ROOM he produced a pass that had expired on the 29/MAR/43 at REV.

STOKE on TRENT
6/APRIL/43

[signature] L/CPL
C.M.POLICE

A

Ref A/75/43

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 1081 Rank Pte. Name Graham, W. Unit S.P.1

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit ~~From~~ London from Stoke-on-Trent

Date	Particulars	Amount		
7/4/43	Escorts return fare from LONDON To Stoke-on-Trent	1	2	4
	Prisoners single fare to LONDON From Stoke-on-Trent		11	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		4	6
B	Total £	1	18	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-43
40/P & S/483

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. L 1081 Rank Pte. Name Graham M. Unit S.L.L.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London Lewes

Date	Particulars (£ portion)	Amount		
8 Apr 43	Escorts return fare from LONDON To Lewes		5	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	0

B

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

Lieut.

C.M.H.Q. 1000:55
40/P & S/483

VALID TO TRAVEL OVER 50 MILE ARCH
CONCESSION FARE

If a calling-out of the whole Army Reserve is ordered, every soldier on pass must return immediately to his unit without waiting for instructions.

B. COMPANY

No. ..... Regiment ..... COY SASK. L. I. (M3).

C.A. (O'S) Army Form Bank (in pads of 100)

PASS

1 Bdr. L1081 Kr. Mdl. Fla. (Name) Graham, M.

has permission to be absent from his †quarters/duty, from A.D.

27 MAR 43 to Revelle 29 MAR 43

for the purpose of proceeding to* Stone

(Station) In the Field J.R. Wells Lieut.

(Date) 26 MAR 43 Commanding P.T.O.

for O.C. B. Coy. 1 Bn. S.L.I. (M.S.C.)

† Delete whichever is not practicable.
* Instruction not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

CROWN COPYRIGHT RESERVED

EXPENSE VOUCHER

[illegible] Pte. Graham, M. Sask.L.I.([illegible])

The following expenses were incurred in apprehending the M/M soldier to his Unit from LEWES to BEXHILL

Date	Particulars	Amount
8 APR 43	Escorts return fare from BEXHILL to LEWES	£0-3-5
	Prisoners fare from LEWES to BEXHILL	£0-1-9
	TOTAL	£0-5-2

B

COST OF APPREHENSION	
To LONDON from STORE OF [illegible]	£1-18-0
From LONDON to LEWES	£0- 9-0
From LEWES to BEXHILL	£0- 5-2
TOTAL	£2-12-2

F

Sentence

The Court sentence the accused *Sentence.*

As Schedule Page 2 AFA 3.

SHORT STATEMENT AS TO PARTICULARS
OF SERVICE OF THE ACCUSED.

B
Drake

L1081 Pte. GRAHAM, M.

(a) The Accused has been in confinement awaiting trial on the present charges of NIL days in Civil custody and FOUR days in military custody making a total of FOUR days of which NIL days were spent in hospital.

(b) The present age of the accused according to his attestation papers is 25 years.

(c) The date of his attestation specified in his attestation paper is 8 SEP 39

(d) The accused is in possession of, or entitled to no military decoration or military award.

I hereby certify that the foregoing particulars are true extracts from the Regimental books in my custody.

10 APR '43.

(E.J.S. Dudley), Lieut-Colonel,
Commanding, Sask.R.I.(MG) C.A.O.

No. L 1081 Name Graham, M. Sqn., Battery, or Company "B" Corps Sask.L.I.(MG) Date of enlistment 8-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 175M—7-41 (215-20) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Rewritten 9-4-41 R.O. 319					
Tourney	7-4-40	Pte	-	A.A. Sec 40 Created disturbance on meal parade	Sgt Sellers	Admonished	9-4-40	Major D.	Walker
"	14-4-40	Pte		A.A. Sec 40. made improper reply to an N.C.O.	Cpl Wildridge	3 days C.B.	16-4-40	Major D.	Walker
In the field	11-12-40	Pte		A.A. Sec 40 Improperly dressed using obscene language	Sgt Gess	7 days C.B.	12-12-40	Capt G.F.P.	Bradbrooke
In the field	28-141	Pte		A.A. Sec 40 appeared on parade improperly dressed.	Sgt Baldwin	5 days C.B.	29-1-41	Capt G.F.P.	Bradbrooke
In the field	30-1-41	Pte		A.A. Sec 40 appeared on parade improperly dressed	Sgt Gess	3 days C.B.	30-1-41	Capt G.F.P.	Bradbrooke
In the field	18-5-41	Pte		A.A. Sec 15(1) A.W.L. 2 days 20 hours. In that he in the fd was ab ent without leave from 2359 hrs May 18 to 2000 hrs May 21/41	Sgt Matheson	10 days F.P. Auto forfs 3 days pay.	23 May 41	J.S. Dudley, Major.	

(P.T.O.)

No. L1081 Name Graham, M. Sqn., Battery, or Company "B" Corps Sask.L.I.(MG) Date of enlistment 8/9/39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 175M—7-41 (215-20) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet | No. and date of last drunk Nil. | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28 NOV 42.	Pte		A.A. Sec. 15(1) WOAS AWL from 1200 hrs 28 NOV 42 to 2130 hrs 9 DEC 42.	CSM Pyett Sgt. Freeston	28 days F.P. 28 days pay FR&I 149(1)(b)	11 DEC 42	T.deFaye, Major.	Forfeits 12 days pay FR&I 149(1)(a).
In the Field	27 FEB 43	Pte.		A.A. Sec. 40 WOAS Conduct to the prejudice of good order and military discipline in that he on 27 FEB 43 did have a dirty rifle.	Lt. Wells	7 days CB	1 MAR 43	S.R. Wells, Lt.	

CERTIFIED TRUE COPY OF CONDUCT SHEET OF L1081 Pte. GRAHAM, M.:

(R.W. Wilson), Capt & Adjt.,
Sask.L.I.(MG) C.A.O.

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Fld	13 Sep 41	Pte		A.A.Sec. 40 / WOAS conduct to the prejudice etc conducted himself in an unsoldierlike manner.	Capt. Philpott	28 days F.P.	12/9/41	C. McKerron.	
In the Fld	2/2/42	Pte		A.A. Sec. 15(1) Absent without leave from 0900 hrs Feb 2 to 2100 hrs Feb 2/42 (Absent 12 hrs)	Cpl, Kowalski	4 days C.B. 4 hrs extra parade.	3/2/42.	F.A. Clift Major.	Forfeits 1 days pay.
Wiston	Jul 24	Pte		A.A. Sec. 40 - Dirty Rifle	Sgt Tomiczek	2 days C.B. 2 hrs extra parade.	24/7/42	T.deFaye, Major.	
In the Field	29/7/42	Pte.		WOAS AWL 12 days, 11 hrs. A.A. Sec. 15(1).	Sgt. Pickles	28 days F.P. 28 days pay.	12 Aug 42.	W.J.S. Dudley, Lt-Col.	13 days pay FRMI 149(1)(a).
Wadhurst	25:9:42	Pte		A.A.Sec. 15(1) WOAS AWL from 1200 hrs 25 Sep to 1600 hrs 25 Sep 42.	Cpl. Johnson	4 days CB	26 Sep 42	G.J.Booth Lieut.	
In the Field	22/10/42	Pte.		A.A. Sec. 15(1) WOAS AWL from 1330 hrs Oct 22/42 to 1445 hrs Oct 22/42.	Sgt. Tomiczek	7 days C.B.	24 Oct 42	W.G. Winters Capt	

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

4X-137

Ala. Graham. SA

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-70378 Pte Graham S A RHLI

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

EAM

~~To present sentence sentence of the~~ beginning on (date) (1)

(1. Insert sentence being served, or delete. If not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 54 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer PENAL SERVITUDE for the term of five (5) years and to be discharged with Ignominy from His Majesty's Service.

(Sgd) Errol K McDougall Capt — Judge-Advocate, if any.
20 Feb 45 — Date awarded.
(Sgd) D J Beatty Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation.

Date 22 Feb 45 (Sgd) P E Cabeldu Brig — Commanding 4 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 11 Mar 45

(Sgd) H D G Crerar General
(H D G Crerar) General
Commanding GOC in C First Cdn Army
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-70378 Pte Graham S A RHLI	16 Mar 45	W O Avery Capt & Adjt RHLI

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

4/K-137

CPA985 (C) Dept of Army 40-7-45 5,000 Forms

4/383

Convened by Order of Brig P E Cabeldu Comd 4 Cdn Inf Bde dated 19 Feb 45

PROCEEDINGS TO BE TYPED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-70378	Pte	Stewart Alexander	GRAHAM	RHLI

CERTIFIED TRUE COPY
W. F. Foster Maj.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 20 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 20/4

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 740 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and matters on how to record addresses, evidence, etc., which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 16, 63-70, 73, 74, 94, 103, 118, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto (1). The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 2220 hours trial commences.

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (1).~~

(1. KR Con 557. 2. AA 46(8), RP 40 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

A5. President to accused: Do you object to B-36580 S/Sgt Parker, RV as interpreter? Ans No

The Interpreter is sworn.(2) Do you object to ~~B-36580 S/Sgt Parker, RV~~ as shorthand writer? Ans No

The shorthand writer is sworn.(3)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of this Court?

Ans No (2)

(1. RP 110. 2. If an objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71. (S. 2000, p 742.))

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D S Beatty	R Regt C
Member	Capt	G T Galbraith	RHLI
Member	Capt	RCA Cumberland	R Regt C
Judge-Advocate	Capt	E K McDougall	HQ 2 Cdn Inf Div
Prosecutor	Lieut	R D Dickie	RHLI
Defending Offr	Capt	W V Howarth	RHLI

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See [illegible] p 3.)

A8. The accused B-70378 Pte Graham S A before arraignment make(s) (no) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or on bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references to fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B A E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*Ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused : Do you wish to make a statement ? Ans. No Sir (4)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on [illegible] charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on [illegible] charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character (4)(5) in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ....., Are they witnesses as to character only ? Ans. .....

(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 112(1). See Notes in Part I of Schedule. 2. RP 44(G).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No Sir

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "B" and Ex. "C" respectively.(3)

(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Only my Defending Officer (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. See 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2103, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-70378 Pte Stewart Alexamder GRAHAM, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas, is charged with.

FIRST CHARGE
Section 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he,

In the field, at approx 1500 hrs on the 26 Aug 44, after having been warned to proceed to his platoon, which was in the front line in contact with the enemy, with intent to avoid so proceeding absented himself without leave from 1 Bn RHLI from 1500 hrs 26 Aug 44 until surrendering himself to the CMP in UK on 3 Sep 44.

SECOND CHARGE
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field at approx 1500 hrs on 11 Sep 44 absented himself without leave until apprehended at Orange at 2245 hrs 28 Dec 44.

Total Absence 108 days 7 hours 45 minutes.

In the Field
13 Feb 45

WD Whitaker Lt Col
Comd 1 Bn RHLI CA(Os)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
19 Feb 45

F N Cabeldu Brig
Comd 4 Cdn Inf Bde.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-70378	Pte	Stewart Alexander	GRAHAM	RHLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (B) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D S Beatty	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	A Capt to be detailed by CO R Regt C	
	A Capt to be detailed by CO RHLI	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	A Capt to be detailed by CO RHLI	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	H K MCDougall	Hq 2 Cdn Inf Div

On Active Service in the Fd

in Germany (Country.)

F N Cabeldu (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 19 Feb 45

Commanding 4 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Page 1 to Sets of 4Pgs) W/F & S/1169 (4)

MEDICAL OFFICERS CERTIFICATE

20 Feb 45

This is to certify that B-70378 Pte Graham S.A. is fit to undergo trial by Court Martial.

A B Cole Capt RCAMC
MEDICAL OFFICER

The Defending Officer makes the following plea in mitigation.

In this case, as has been indicated from the summary of evidence, it is one with which we are all familiar. A man becomes shell-shocked or bomb-wacky. You all know that there are certain rules laid down by the MGA that green troops will be given a certain time in a quiet sector of the front before going into the line to get them accustomed to conditions. This man had no time at the front before he was in action. He had no time to acclimatize himself to conditions in action. He had been all through Caen, Brettebille, Fallaise, and the rest of it. We must also remember that certain individuals are effected differently from others. Anyone who recalls those days knows what the bombing was like. Pte Graham went into action as soon as he came to the continent. Finally he was unable to stand up to it and he left after his nerves broke. His nerves were completely shot. He simple could not bring himself to face it. I am not referring to the other matters of the case. On these charges, Pte Graham has confessed that he is guilty and has given his reasons.

Summary of Evidence in the case of B-70378 Pte Stewart Alexander Graham, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that evidenc be taken on oath.

FIRST CHARGE

FIRST WITNESS FOR THE PROSECUTION

P-1698 Sgt Brown LG 1 Bn RHLI sworn states:

I was section Sgt of anti tank Pl and under command of my pl comd. Capt Heggelhieme I warned the accused at 0700 hrs on 26 Aug 44 that he would be going up to the front as a Bren Gunner in my section. There was a change made in regards to time of truck leaving for front and at approx 1315 hrs same day I again warned the accused to report to Sgt Wilkenson T my pl Sgt., and to proceed with him on a carrier to the front. Re time was then stated that the carrier would leave at 1500 hrs and for the accused to be ready at that time. At time of departure there was no trace of accused and a search was made around A Echelon area where we were at that time and I have never seen accused again until 1 Feb 45.

EXAMINED BY OFFICER TAKING SUMMARY.

Q.1. Do you know what part of country you were at that time?
A.1. In the vicinity of Orbeck, France.
Q.2. Was your pl in contact with the enemy.
A.2. Yes.
Q.3. Was situation serious enough that accused was definitely required at front?
A.3. Yes we were short a gun number at the time.
Q.4. What was attitude of accused when ordered to front?
A.4. He was not in favour of going.

CROSS EXAMINATION BY ACCUSED.

Q.1. Did I refuse to go at time of order?
A.1. No.

K G Brown.

SECOND WITNESS FOR THE PROSECUTION.

B-166676 Craftsman Bennett H RCEME attached 1 Bn RHLI sworn states.

I am a fitter for Anti Tank Pl of RHLI. On 26 Aug 44 at approx 0900 hrs Sgt Brown ordered the accused to be ready to go up to the front sometime later in the morning. When carrier was ready to go up to front accused could not be found.

EXAMINED BY OFFICER TAKING SUMMARY

Q.1. Did you make a search for accused?
A.1. I did not personally.
Q.2. Did officer in charge of carrier make a search?
A.2. Yes he did.
Q.3. Do you know what area you were in at time?
A.3. Somewhere near Orbeck, France at A Echelon of Bn.

THE ACCUSED DECLINED TO CROSS EXAMINE.

H Bennett.

THIRD WITNESS FOR THE PROSECUTION.

B-58972 Cfts Pascal R G RCEME, attached to 1 Bn RHLI sworn states.

I am a Gun Fitter for Anti Tank Pl of RHLI. On 26 Aug 44 just after dinner Sgt Brown told accused he was to go up to the front. Sometime later Sgt Brown searched the area for the accused and could not find him. I have not seen accused from that date until today.

THE ACCUSED DECLINES TO CROSS EXAMINE.

R G Pascal.

FOURTH WITNESS FOR THE PROSECUTION.

B-76252 C D Winn SIS Cdn Provost Corps C.M.H.Q.

A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in the summary (attached as exhibit "A") having regards to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured. The ACCUSED does not demand the attendance of this witness for cross examination.

B G Gaston Lieut
Officer detailed to take Summary.

The accused having been duly cautioned in accordance with RP 4(e) says "I want to make a statement.

The night before I left we had a bombing raid at A Echelon RHLI and my nerves were bad before that and were pretty well battered up after the bombing . I did not realize what I was doing at that time.

"The accused does not wish to call witnesses in his defence at this point."

I wish to have an officer appointed in my defence.

S A Graham.

Certified that RP 4 complied with.

In the Field
1 Feb 45

B G Gaston Lieut
Officer detailed to take the Summary.

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of B-70378 Pte Stewart Alexander Graham, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas.

The accused is informed of his rights and reason for supplementary summary explained.

The CO directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

K-52992 Cpl Royston R A #2 Co Can Provost corps sworn states.

On the 7th of Feb 45 I received instructions to proceed to RHLI to take a statement from Pte Graham S A which I did on 8 Feb 45 at approx 1200 hrs. Before taking the statement I gave him the following warning. You are hereby warned that you need not say astate anything unless you wish but anything you do say or state will be taken down in writing and may be read as evidence. To show that I understand the above warning I hereby affix my signature. At this Pte Graham consented and signed. I present this statement (attached as exhibit "B") as evidence.

The accused declines to cross examine.

R A Royston.

SECOND WITNESS FOR THE PROSECUTION

Capt W O Avery Adjutant 1 Bn Royal Hamilton Light Infantry sworn states.

I present (1) Certificate of apprehension purporting to be signed by Lieut C Beaudre D.A.P.M. Comd Mil Staff Parid (attached as exhibit C)

The accused declines to cross examine.

W O Avery

B G Easton Lieut
Officer detailed to take Summary.

The accused having been duly cautioned in accordance with RP 4(e) says I do not wish to say anything.

The accused does not wish to call witnesses in his defence at this point.

S A Graham.

Certified that RP 4 complied with.

In the Field
11 Feb 45

B G Easton Lieut
Officer detailed to take
the Summary.

STATEMENT OF EVIDENCE

You are hereby warned that you need not say or state anything unless you wish but anything you do say or state will be taken down in writing and may be used as evidence.

To show that I understand the above warning I hereby append my signature.

Witness LA Royston Signature S A Graham.

STATEMENT

I am B-70378 Pte Graham S A Supt Coy RHLI. About the 26th Aug 44, i was with my unit near Liseuxe, France at approx 0900 hrs 26 Aug 44 I was warned by Sgt Brown that I would be ready to proceed with my sec into the line as a bren gunner as my nerve gave out I could'nt bring myself to go so I went AWL. The night before we had been bombed, I left my unit just after dinner later in the day I reached Cain and then went on to Bayuex at approx 1800 hrs 26th Aug 44 I arrived at Arromanches I walk out onto the pier and watched the RE unload a boat I then went on board and had something to eat, after eating I stared on the boat and hid in a small hole on the back of the boat, the name of the boat was the S S Walburg. The next night 27th Aug 44 the boat pulled out of dock. When we arrived in England the boat stayed out in the mouth of the Tames River for two days and then she pulled out and sailed to Newnaven where she stayed out in the bay for approx two more days. I then went and asked the Capt for a meal which he gave me then he turned me over to the harbour CMP. The CMP took me to their guard room then they took me to Roman Way Convolescent Hosp. On the 4th Sep 44 the Cdn Provost came and took me to London. The next day I was taken to aldershor and after staying there two days I was brought back to a holding unit in France. we left there and stopped at a place called Liseux. We stayed there approx one day and a night, the nest day I think was the 11th Sep 44 in the afternoon I left with another Cdn for Paris. On the way to Paris. We met two U S Soldiers who were going on leave and the four of us hitch-hiked to Paris when we arrived we went and obtained billets at a U S barracks. I stayed there approx 7 weeks. I myself up until I met an English soldierr who was AWL. we went back to Bayuex Cain area. While in Bayuex I met Bryers another Cdn soldier who was also AWL, so Bryers and myself went back to Paris. We stayed in Paris approx two days where we met two Yanks who were also AWL. One of the Yanks said he was going to turn himself in the other U S soldier suggested going down to the south of France. We went to Marscelle and stayed one night there, as there were to many MP there. We moved on to Nimes we arrived that night the date being the 15th or 20th Dec 44. In Nimes we met a French soldier who said we could stay at the F F I barracls which we did that afternoon we met three U S soldiersin a picture show and made arrangements to meet them that mitht in a cafe. They said that they would see us at 2000 hrs. The did'nt show up that night. Just before we left the cafe a U S soldier entered and after speaking to the bar tender he came over to our table and showed us a slip of paper with the name of the hotel on other Yank friends were staying at. After talking to us for some time he told us he had a truck he had stolen from Marscelle he asked us if we would like to make some money, as he could get gas and we could sell it. we went with him and after getting some gas drums we went to a petrol point.aOn arriving at the petrol point we started filling the drums As the gas attendent got wise to what we were doing. The rest of the soldier rin down the road and I could'nt start the truck. I followed them. We walk back to Avignon wheere we saw a car parked by a building we got to the car and found a Frenchman in it. We asked him if we could stay in his car until daylight but he said no. So Kwller said we could take the The Frenchman as well as the car. This we did and drove the car across the Rhone River Bridge we stopped and let the Frenchman out after taking his watch and money. Then we drove back to Names and picked up our coats from the F F I barracks. From there we went to Montpeller Keller left us on the 22nd Dec 44. Bryer Monroe and myself stayed in Montpeller until after Christmas. We ~~xxxxxxxx~~ then started back to Paris and where we went trhough a village called Orange we were picked up by the French police who turned us over to U S Police who took us to Paris and then I was returned to my unit.

B-70378 Pte Graham S A states that he could not drive the A/M truck.

Pte Graham S A

CERTIFICATE IN ACCORDANCE WITH P C 2797 of 10 Apr 42

I certify that No B-70378 Rank Pte Name Graham S A Unit RHLI was arrested at Omange (Place) at 2245 hrs on 25 Dec 44 and that at the time of his arrest he was wearing military unifrom.

Signarure of Provost Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

D Beaudre Lieut

D A P M Paris
Cdn Mil Staff Paris

Field
17 Jan 45

S.I.S. C.M.H.Q. PROVOST

LONDON 5 SEPT 44.

RE: Reg'l B/70378 Pte Grhams S.A. R.H.L.I. (2 Div)

Deserter

1. The a/m soldier absented himself from his Unit in France, 1st Bn RHLI and remained absent until he surrendered to Lt L.G. Tippet of A Dannish merchant ship S.S. Valburg at Dovercourt, England. He was turned over to Cpl W. Osborne 155 H.Q. Provost Coy. C.M. Police at Dovercourt England on the 3 Sept 44 at 1530 hrs and later turned over to the NCO I/C Colchester, Roman Way Convalescent Hospital where he was detained.

2. On the 5 Sept 44 I interviewed Pte Graham S.A. and he made the following statement.

BEGINS COPY 5 SEPT 44

I, B/70378 Pte Grham S.A. have been cautioned by Sgt C.D.Winn S.I.S. Cdn Provost Corps that I am not obliged to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be used as evidence. To show that I understand this caution I sign my name here:

5 Sept 44. Signed : S.A. Graham B/70378

About the 26 Aug 44 I was with my unit about ten of fifteen miles, the other side of LISIEUX in FRANCE when I went absent.

My reason for going away from the unit was I couldn't stand the bombing. My nerves gave out. When I left I didn't know what I was doing. The next day I found myself going toward CAEN.

From CAEN I hitchiked to APROMANCKES which is a beach head on the channel. I walked out on the pier as there were lots of soldiers there, I had not trouble walking on board a boat, which was being unloaded by the engineers. The name of the boat was the S.S. Valburg.

That night I went to sleep in a little recess in the back of the boat where I stayed for about seven days. When I got on the boat I had about two cans of salmon. Every night I came up for water.

After being on the boat for seven days, I gave myself up to the Captain At that time the boat was at Dovercourt England where the boat lait for three days in the harbour. The Captain of the ship gave me a big meal. I was so weak I couldn't stand up.

On Sunday the 3 Sept 44 the same day I gave myself up, the Captain turned me over to the C.M.Police who took me to Roman Way Convalescent Hos. and put me in the guard room. I was there until the Cdn Provost brought me to London.

This statement has been read over to me and is true.

Signed S.A. Graham

Statement taken down, read over and signature witnessed by

Sgt. Sgt C.D.Winn.

ENDS

3. Pte Graham S.A. is being returned to No. 3. C.I.R.U. under escort on the 5 Sept 44.

CONCLUDED

London
5 Sept 44

"C D Winn" Sgt
(E/76252 C.D. Winn) S.I.S.
Cdn Provost Corps, C.M.H.Q.

SIS/D-7-327

Headquarters
C.R.U.

1. Forwarded in triplicate for your information, that of the A.M.P. and Unit concerned, please.

London
5 Sep 44

"W B Birch" Capt
for (A.D.Cameron) Colonel
D.P.M. - C.M.H.Q.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
B-70378	Pte	Stewart Alexander Graham	1 Bn RHLI CA (O)

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For AA 15(1) ..... 11 times

For AA 24(2) ..... 2 times

For .... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 54 days in military custody, making a total of 54 days of which ..... days were spent in hosp.

5. The present age of the accused is 25 yrs 9 mos

6. The date of his attestation is 9 Apr 42

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of #

CVSM and Clasp

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

* Strike out if not applicable

\# State the military decorations (if any) held by accused.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of Feb 45

WO Avery Capt & Adjt

1 Bn RHLI CA(O)

No B70378 Name Graham S A | Sqn, Battery, or Company | Corps CIC | Date of enlistment 9-4-42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet 3 Sep 42 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Chipawa Brks 2	6 Jun	42	Pte	AWL from Chippawa Barracks from 0630 hrs 26 Jun 42 until 0010 hrs 6 Jul 42 Total absence 9 days 40 mins Close Arrest AA 15(1)	Sgt Clarkson RSM James	14 days Detn AA 45	6 Jul 42	WHS Pote Lt Col J Medhurst Lt	Forf 10 days pay FRI
Chippawa Bks 29	Jul	42	Pte	AWL in that he was absent from the QY Rangers CA from 0630 hrs 29 Jul 42 until he surrendered himself at 1545 hrs 2 Aug 42 Total absence 4 days 9 hrs 15 mins	Cpl Cockrane L/Cpl Pearson (Written)	28 days detn	3 Aug 42	WHS Pote Lt Col (J Mehurst) Lt	Forf 5 days pay under FRI 1 149
Chippawa Bks 3	Sep	42	Pte	AWL from Chippawa Bks from 2359 hrs 3 Sept 42 until he surrendered himself at 2200 hrs 5 Sep 42 until Total absence 9 days 22 hrs AA 15 (1) Close arrest	SGT Lough L/Cpl Booth	28 days detn	14 Sep 42 42	WHS Pote Lt Col	Forf 10 days pay under FRI

No B-70378 Name Graham SA | Sqn, Battery, or Company | Corps CIC | Date of enlistment 9 Apr 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Chippawa Bks 12	May	43	Pte	AWL from QY Rang CA from 0130 hrs 12 May 43 until apprehended by Military Police at 0215 hrs 19 May 43 total absence 7 days 45 mins AA 15(1) close arrest	A/CSM Choppin RSM James Sgt Hobbie documentary	28 days detn Remission 2 days Pa rt 2#97/43	20 May 43	Major DC Mungovan	8 days forf pay under FRI cost of App $2.61
Chippawa Bks 20	May	43	Pte	Losing by neglect his equipment clothing and rigimental necessaries was deficient in kit to extent of $10.35 AA 24(2) Close Arrest	CQSM Cluskey PG	stoppagr of pay $7.76	20 May 43	Majro DC Mungovan	
Chippawa Bks 19	Jun	43	Pte	AWL from 2359 hrs 19 Jun 43 until 225 hrs 21 Jun 43 tot Ab 1 2 hrs 25 mins Open arrest AA 15(1)	Sgt Godfrey day Cpl Ryan(written)	7 days CB	21 Jun 43	Major DC Mungovan	Aut for 3 da pay FRI

No B-70378 Name Graham | Sqn, Battery, or Company | Corps CIC | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 May	44	Pte	AWL from 2230 hrs 7 May 45 to 0050 hrs 8 May 44 total absence 2 hrs 20 mins AA Sec 15(1)	Documentary	3 days CB	8 May 44	Capt B W S Wood	

Certified true copy of Regimental Documents held in my custody
WO Avery Capt & ADjt
1 Bn HHLI Cdn Army O/S

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Chippawa Bks	14-11-42	Pte		1 Absence Without leave in that he was absent from 0630 hrs 14-11 42 until he surrendered himself at 0500 hrs 1 Dec 42 Total Absence days 23 hrs 20 min AA 15(1) Close arrest 2 Losing by neglect his regt necessaries and eq pt to the value of 3.33	Sgt HD Bell written 15 Cpl Sim P C written Pte Apitoscia Written	28 days detn	1 Dec 42	WHS Pote Lt Col	16 days stoppage of pay stoppage 3.33.5 da ys re mission sentence 23 Dec 42 Part 2#17
Chippawa Bks	27 Feb 43	Pte		Failing to appear at the place of patade appointed by his commanding officer in that he was absent from Para de AA 15(2)open a rrest	A/Cpl Laderoute A	2 days CB	Lt A W Snider		
Chippawa Bks	9 Mar 43	Pte		AWL from the expiration of his pass 0130 hrs 8 Ma r 43 Total absence 8 Ma r 43 total absence 16 hrs 39 mins poen a rrest	16 hrsA/CPL A/Cpl Pearson written	7 days CB Laderoute	10 Mar 4	3 Maj DO Mungoven	Forf 1 day pay FR&I 149

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Niagara C	30 Jun 43	Pte		AWL from 0100 hrs 30 Jun 43 to 2015 hrs 4 J l 43 a pprehended by MP Sgt Robbie a t Hamilton Ont Tot absence 4 days (written 19 hrs 15 min close arrest AA 15(1)	L/Sgt Sim	14 days CB	6 Jul 43	Maj DO Mungova n	5 days pay FR&I 149
		Charge 2 6 Jul 43		Losing by neglect his eq uipment clothing and regimental necessaries on 6 Jul 43 was deficient in kit amiunt 2.75 close arrest AA 24(2)	CQMS Frustram AC	stoppage of pay 2.75			
Sussex C	2-11-43	Pte		AWL ron 2200 hrs 9 Oct 43 to 0930 hrs 10 Oct 43 total absence 11 hrs 30 min AA 15(1) open arrest (Written	L/Cpl March Pte Splonick	3 days CB	11-10-43	Lt Rodgerout	Forf 1 daus pay FR&I 149
Windsor NS	2-11-43	Pte		AWL from 22 00 hrs 2-11-43 until 1000 hrs 5-11-43 a bsent 2 days 12 hrs	Cpl MacGagey RD	7 days CB	8-11-43	Major CM MacNeil	Forf 3 days pay art 140 FR&I

Place	offence	Rank	drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	of order dispensing with trial	By whom awarded	Remarks

XXX-12

PTE GRAHAM T.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : K 53006 Pte Thomas Erwin GRAHAM S.H. of C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 481 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 752, and in loss of kit see RP 44 fn 6.)

"CMcD" (1)

At present under sentence for XXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing tastra as may be appropriate to result of its decision. See MML p* 744 *lastra* (2).

3. *As to responsibility of President to accused see RP* 59, 80(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 68(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 80, 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans _____.(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the _____ charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D to D8 inclusive of Record Form D on p* 3. *RP* 37(*B*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*B*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No "CMcD"(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~his~~ opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and announces that the submission is disallowed on the First charge(s), and that accordingly, the trial will proceed on the remaining charge(s). And that, accordingly, the trial will proceed on the remaining charge(s). The accused found Not Guilty on all charges. "CMcD"(4)

(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D6.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Evidence as a witness. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans No, as to fact.

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) Evidence as to character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 41, 103(e).

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95.*)

D7. The Court is closed to consider the finding(s) of the Schedule.(1) The Court is re-opened. The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) "CMcD"

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1) "CMcD"

(1. *AA* 54(*J*) (6), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans Yes, witness as to character. "CMcD"

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy(ies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, he having identified them, they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2) "CMcD"

(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, in mitigation. "CMcD"

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*E*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, consignment of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 328, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see* instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"CMoD"

CHARGE SHEET

K53006 Pte Thomas Erwin GRAHAM, The Seaforth Highlanders of Canada, a soldier in the Canadian Army (Overseas) placed on active service, is charged with, when on active service,

First Charge
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE,
OFFERING VIOLENCE TO HIS SUPERIOR OFFICER,

in that he, in the field, at approximately 2300 hours 17 July 1944 did strike K53509 CSM (WO II) Klaschuk, J., in the face.

In the field
25 July 1944

(S.W. THOMSON) "S.W. Thompson" Lt-Col.,
O.C. The Seaforth Highlanders of Canada.

To be tried by F.G.C.M.

7 Aug 44

"T.G. Gibson" Brig.
Comd 2 Cdn Inf Bde.

CFA95 (In lieu of AFA3)
40/FA5/1607 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1a, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 53006	Pte		Thomas Erwin	GRAHAM	Seaf of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Aug 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	C.M. McDougall (Must be named. RP 106.)	PPCLI (Unit.)

MEMBERS.

Capt	A.M. Johnson	L Edmn R
Lt (Rank.)	E.E. Chambers (Named or detailed. RP 106.)	PPCLI (Unit.)

WAITING MEMBER.

Lt (Rank.)	W. Rample (Named or detailed, if any. RP 106.)	L Edmn R (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

"T.G. Gibson" (Signed personally. RP 105 fn 2.) (Rank.)

(T.G. Gibson) Brig
Comd 2 Cdn Inf Bde
Commanding Convening Officer.

Date 7 Aug 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"CMeD"

11 Aug 44

This is to certify that I have today examined K53006 Pte, Graham, T.E. and find him fit to undergo trial by Field General Court Martial.

"C.G. Preece" Capt
(signature of M.O.)

"CMed"

D3 Evidence in the case of K53006 Pte Thomas Erwin GRAHAM, Seaf of C

Address by Prosecution -
First Witness For Prosecution K53509 CSM Klaschuk, J. sworn states:- I am CSM HQ Coy Seaf of C - On the evening of 17 July I was bar tender of BHQ & HQ party. There was a concert on. I left the bar and lay down on my stomach on some matting 15 feet from the bar watching the consert about 2245. I was jumped on from behind and was beaten up on the ground. As I was trying to get up I was hit in the face when I tried to rise again Pte Graham grabbed hold of the front of my shirt and hit me in the face again. I remember as I fell I rubbed against his arm. When I got up again they all scattered I kept track of the man I had recognizes as he was running towards the stage light , he ran 25 yds and stopped at the edge of the consert audience there was only one other person standing near where Pte Graham stopped. I recognize the accused in court as Pte Graham who I recognized and followed that night. I caught up to him and recognized him as the same man whom I had recognized when he hit me. I asked him why he did it, he hesitated and stuttered and then said that he wished that he had beaten me up. I was bleeding from the face and started for the RAP 10 yards away. I met Lieut Thirlwell and Maj Buchannan. They took me to the ADS next morning at 0900 the OC HQ Coy Capt Southerland call a Coy parade, he asked the men who had hit me to step out, no one stepped out after the parade I inspected Pte Grahams bed, a sh irt was laying on the bed with blood on it. I took the shirt and the accused in front of the Coy comdr and asked the accused if it was his shirt he said it was. I asked him how he got the blood on the shirt

"CMeD"

and he said he was a mechanic at C.O.s orders his statement was that he had cut his hand repairing the light on Pte Nicals vehicle, as the bulb broke coming out. After CO's orders I inspected this vehicle with the M.O. Lieut Leclaire there was no blood on the vehicle and the did not seem to have been any work done on the lights.

Q. Why did you stay at the bar?
A. Because there was stuff there which I wanted to keep people away from.

Q. Did you see any of your assaillants while you were being assaulted?
A. Yes.

Q. Did you recognize any of them or think you did?
A. I recognize one man.

Q. Who was he?
A. Pte Graham.

Q. You said that one of your assaillants left and ran towards the stage where the crowd was standing, what sort of view of him did you have?
A. I had a very good view.

Q. Did you see him all the time?
A. Yes. (Prosecution produces shirt (exhibit "A"))

Q. Do you recognize this shirt (exhibit "A")?
A. Yes sir it is Pte Graham's shirt.

Q. Where did you first see that shirt?
A. On Pte Grahams bed.

Q. Describe the assault.
A. I was grabbed with the left hand from the side and hit with the right and as I was going down I slid down his left hand. My watch chain was broken then. I was grabbed with the left hand.

Q. How many times were you struck?
A. Quite a few times.

L3 "Choo" (Page 3)

Q. Were you handled considerably?
A. Yes I was one handled, every time I tried to get up I was grabbed.

Cross examine

Q. There was no moon at 2030 hrs?
A. No sir.

Q. How did you recognize the accused?
A. By the light of the store.

Q. Was the store light in your eyes?
A. Yes.

Q. The assailants were between you and the light?
A. Yes.

Q. Why did you state in the summary that you thought you recognized the accused and today you say you definately recognized him?
A. I made it shorter today.

Q. When you found the shirt was it scrambled in any manner?
A. No sir.

Q. What sort of wine did you have at this party?
A. Stanton and Barnsley.

Q. How much wine was consumed?
A. 100 litres by over 100 men.

Q. How much wine did you have?
A. 2 Litre.

Q. There was no blood on this truck lamp?
A. No.

Q. Were your eyes open when attacked?
A. Yes Sir.

Q. Were you dazed by your beating?
A. No.

Q. Was there blood in your eyes?
A. No.

Q. How did you recognize one man out of 4?
A. This one man was the only one that grabbed me in front and came into the light of the store.

"C"oD"

Q. Why do you say in the summary that you were not sure whether you were kicked or struck and yet today you are sure in your identification?
A. I was interested at the time only in defending myself.

Q. Did the accused have any motive to attack you?
A. I dont know.

Q. When you spoke to the accused was he drunk?
A. No.

Q. Did you know there was a feeling of discontent over the handling of this party?
A. Everyone told me they were pleased with the party.

Re examine

Q. In the summary you state I could only recognize one man is that correct?
A. Yes.

Q. You later state one of the men who had jumped on and who I thought I recognized was running towards the stage, is that correct?
A. Yes.

Q. You later state this was the man who previously I thought him to be Pte Graham is that correct?
A. Yes.

Q. What did you mean by thought?
A. Being at the time when I said thought I was quite sure then that it was Graham when I went up to him then I was sure.

Q. Why did you follow the man to the crowd?
A. To make quite sure in my identification.

Cross examine

Q. Why did you not place him under close arrest immediately?
A. I just wanted to recognize him and then I had to get my injuries attended to.

R.P. 83 (3) complied with here.

D3 "C"oD" (Page V)

Second Witness for Prosecution — Lieut J. A. Leclaire, Seaforth of C sworn states:-

I am Lieut J A Leclaire T.O. of the Seaf of C. On 19 July HQ Coy had a party after refreshments had been served the Padre entertained the men with sing song and a after this part of the show an American concert party arrived. I then left the area with the Tpt Sgt and 5 or 6 Drivers we proceeded to my tent in the Tpt lines to discuss the next days duties. About an hour later Pte Graham Kirly and Nicol rode up in the latters truck which had defective lights. I understood from the conversation that they had brought the vehicle to fix the lighting system they stayed with it for about 15 mins. They left towards the Tech stores lorry and went on to the concert. When the concert was over I took the drivers who were to take the concert party home. Down to the area where the party had been held, there I met Maj Dickenson who was taking CSM Klenchuk for Med. attention. I was told the CSM had been struck. The concert party was loaded and I directed them down to rear Div came back and went to bed. I did not see them repairing lights.

The next morning HQ Coy Comdr called a parade and asked the man who hit the CSM to step out , none did. 20 mins later the CSM and Pte came to me with a shirt supposed to be the property of Graham the shirt had blood stains on the sleeves that afternoon.

I accompanied the CSM to inspect Pte M[illegible]'s vehicle there were The three arrived together as far as I can remember and left together.

(page V cont'd)

marks around the reflector but there was one blood stain above the headlight on the hood. I looked as though it was the blood of a big insect which had been squashed there

"CMcD"

(page VI)

I overheard them say they were there to repair lights. I did not see them have a drink at my tent.

Cross examined

It was a merry party nisther sober nor drunk. Pte Graham appeared to be normal.

Since 11 Jan 44 when Graham come to me, I have had him under my eyes and this behaviour attributed to him, has never happened before. He is not the curious type. The truck had no glass over the headlight and it would be possible to change the bulb without leaving marks. I am not an entymologist. I did not recognize the beetle's blood.

Re examined

I do not know of any similar incidents with which the accused has been connected. This is based only on the time he has been in my department. The lights of the truck were not working next morning. There was a whole bulb in the socket next morning.

Cross examined

At 1430 there was a bulb. I cannot say when a bulb was put in.

The Court

It was part of Pte Grahams duty to fix lights of Pte Nicols vehicle.

R.P. 83 (B) here complied with.

D.J "CMcD"

(page VII)

Third Witness for Prosecution

Lieut J L Thirlwell Seaforth of C sworn states:-

On 19 July I was asst adj of Seaf H of C, and I attended the BBQ and Hq boys party. At approx 2030 hrs I overheard a conversation in which one party was complaining bitterly that after paying for a party they had got only one or two drinks while those in charge had far more then their share. I did not know the accused at the time but recognized him later as the one who complained. Later I saw CSM Klaschuk with blood running very freely from his face. he said 4 or 5 men had jumped on him. He mentioned the accused by name as one of his assailants. He was evacuated to an FDS. The CSM was reluctant to name anyone. But we asked him if he had recognized anyone and he said, sure Graham was one of his assailants. He was bleeding from the mouth.

Cross examination

The CSM appeares to be sober whenever I saw him that evening. I did not see him between 2030 hrs and the time he was injured. It was very dark.

R.P. 83(B) here complied with.

Fourth Witness for Prosecution — Capt D Sutherland, Seaforth of C, sworn states:

I am Coy Comdr H. Coy Seaf Highl of Can. I was at the HHQ and HQ party on July 17. I was standing at the side of the gathering watching the entertainment. I heard someone stating in a loud voice that while he had paid 50 lire he had only received on glass of punch he knew of others who had had more than their share. I knew the voice and looked and saw the accused later, about 2200 hrs the accused came and asked me to come with him. I went to the outskirts of the crowd with him. A man was lying down on his back with his hands under his head and seemed asleep. I looked closely, it was CSM Elaschuk. I told Pte Graham not to do anything he would be sorry for, he said he would not but he had wanted me to see the CSM.

"CMcD" (page VIII)

later as I was going to bed about ½ hour later Maj Buchannan come and told me the CSM had been beaten up. I went to Graham's tent. He was laying on his bed, he said he knew nothing of the CSM being beaten up. The next morning I asked the coy if anyone knew anything about it, none did. The CSM told me that Graham had been one of the assailants and I placed him on charge.

I first saw the CSM after the assault early the next day. Nbone else mentioned to me who made this assault as I remember. I instructed to CSM to lay a charge, he was reluctant to do it. Graham the night before did not name anyone in particular who had had more then his share.

Q. If a man moved from the CSM's position toward the stage could you have seen him clearly?
A. Just as a silovette.

Q. Would it be easy to follow him with your eyes?
A. It would not be easy.

Q. If you kept your eyes on him would it be possible?
A. I think so.

Q. What was the position in regards to the stage lights?
A. The lights were dim and the CSM was 20 or 30 feet from the circle of light.

Cross examination

In my opinion the CSM was not drunk. I had seen him earlier in the evening.

Q. Did Graham imply that the CSM was drunk?
A. Not in words but I got that impression.

Our talking did not awaken the CSM.
The accused was niether drunk nor sober.
I had to get within 2 feet of the CSM to recognize him.
Light was not shinning from the stage onto that point.

Q. Could you have recognized the CSM at 2 feet without the aid of a match?
A. you I needed a match to see him clearly.

Re examine

The CSM position was one which would be ~~sir~~ deliberately adopted not that of a man in a drunken stupor.

The Court

I could just distinguish the features of the accused who was standing by me.

R.P. 83 (B) here complied with

Fifth Witness for Prosecution K53427 Pte Kirkly T.S. Seaforth of C.

On 19 July I left the HQ Coy party with the accused and Pte Nicols truck the truck had no lights and Nicol mentioned it. When we first set out - someone got out to try and fix the lights. (& McCuish to go Pte Atkinsons tent, we went) (on the the T.C's tent and then went back) (to the party. We were in Pte Nicol's)

Q. Who got out?
A. I dont know.

Q. No more work was done on the lights on that trip?
A. No.

Q. What time was this?
A. We got back just as the party broke up. We were

---

away about ½ hour.

Cross examine

Graham was with us all the time we were away. The party was just breaking up as we got back.
I saw the CSM while it was still day light.

Q. What was his condition?
A. He was pretty tight.

Q. How long were you with Graham?
A. About ½ hour.
I did not see Graham again that night. There was not very much to drink at the party. The accused did not seem to have anything on his mind at the time; he proposed nothing.

Q. What was Graham's attitude?
A. Normal.

Q. Did you hear anything expressed as to the drink situation?
A. Most of the Tpt fellows that I was with were dissatisfied.

D4 "CMoD" (11)

Submission Against a Prima Facie Case.

1. I submit that the case be dismissed for a lack of prima Facie evidence. All we have is one mans word, SM Elaschuk, unsupported by other direct evidence that the accused was one of his assailants. It has been ~~xxxxx~~ brought out in subsequent testimonies that the night was so dark that the SM was in not fit condition by reason of drink and beating to recognize anyone. These are further the inconsistencies in the evidence of the prosecution as to the the amount of light at the place of the attack. The SM implies there was plenty of light Capt Sutherland says it was pitch black and that at a distance of 2 feet he had to strike a match to recognize the SM. The further inconsistency between the SM testimony in the summary that he "thought he recognized the accused and his testimony today that he was definitely sure of the accused being one of his assailants is indicative of the whole frame of mind of the prosecution: at all costs the crime must be pinned on someone. The circumstancial evidence of the blood on the shirt is only circumstential and has been explained in two ways.

D 6 Opening address of Defence

2. The defence will prove that there is more then a reasonable doubt that the accused is involved in this incident. Also that the character of the accused is such that he is morally incapable of such an act.

D 6 "CMoD" (12)

The closing Address of Defence.

3. The case for the prosecution rests on only Sgt Major Elaschuk's word, unsupported. It has come out in evidence that the night was so dark and the the SM was so befuddled by alcohol and his beating, that accurate recognition was impossible. The inconsistiney in the SM's evidence, that is his use of the word "thought" indicates to me that there was an uncertainty in his mind as to the identity of the accused. This uncertainty has today been jettisonned in order to strengthen the prosecutions case. We have plenty of evidence that the accused was sober. Is it the action of a sober, rational human to point out the befuddled SM to his company commander and then institute a murderous attack on a man half his size five minutes later? Is it the action of a thinking being, knowing his guilt, not to hide the bloody shirt? His leaving this shirt atop his bed indicated to me that the bloodstains ~~xx~~ on it were come by innocently. As to motive it has come out in evidence that there was none - the accused and the SM were on good terms.

To my mind there is only one explanation. The SM was viciously attacked by persons unknown. Due to the circumstantial evidence of blood on his shirt the accused was implicated and the prosecution is determined to pin the crime on someone. Graham, whom I have known a long time, is not the sort to do such a dastardly thing. His record is good. There is not strong supported evidence as to his participation. On the contrary the prosecution is weak and unconvincing.

D 6

First Witness K53006 Pte Graham T.E. Seaforth of C, sworn states:-
r Defence

On the evening of 17 July 1944. I was at the BHQ & HQ Coy party. After supper I went to the Padre's sing song. I stowd there 15 or 20 mins and Pte Sneedley asked me drive the Provost Sgt to BHQ. Went half way up and come back. I then went to the bar for a drink. I got ½ cup of vino bianco and went away and drank it. I went back to the Bar but was told there was no more. I went to the concert untill the intermission and then Ptes Kirkley, McNishxxxx and Nicol went to Nichols truck on the way I pointed out the CSM who was laying on the ground mumbleing to himself and not in the position of a sober man. I had been grumbling with other men about the conditions of the party. We drove to tack stores on the way the truck lights went out, Nicol got out to fix them but couldn't we went on to tech stores, we walked to Lieut Leclare's tent, we had a drink and went back to the truck. I went ahead of the other 3 and took a look at the headlight and removed the bulb, cutting my hand, The others arrived and we drove back to the party arriving at about 2245. When I got back I showed the Coy Commdrs the CSM striking a match to do so, it was being very dark. I went back into the audience. The band were playing their final when the CSM came up bleeding at the mouth he was very dared and I had to steady him, he asked me why I had hit him I said I had not he made several threats and walked away. I went home to bed. When the CSM approached me. I was near Pte McCaish I had only left the Coy Commdr 5 minutes when the CSM came up. I had always got along with the CSM very well previous to this, I was wearing that shirt (exhibit A) that night.

Cross examination

I was told there was no more liquor approx 2115. The CSM was the one that told me and he was pretty high. Pte He had been drinking in the afternoon. I thought it was a pretty poor and bow for a man in his position. I did not resent the fact that he was tight while there was no more for me because I thought I was ill and did not want any more. I would have taken another drink if there had been any but it did not worry much.

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the CSM was not saying any thing just babbing. He was on the ground relaxed, we passed within 4 or 5 feet. We were away between ½ and ¾ hour. The party broke up about 2300 hrs. We left at about 2215 or 2230 to go to the Tpt lines. I am not sure of the times. I did not notice what the CSM was saying. The blood on the shirt came from my hand or some may have come when the CSM brushed against me, xxxxx I often cut my hands. When I showed the CSM to the Coy Comdre he had moved and was in a different posture hands behind the head. I was not present when the CSM was beaten up. Shortly after I had gone back to the concert leaving the Coy Comdre the CSM came up. Nicol or Kirkly reasioned to the R.C. that their light were broken. I am not positive where the blood came from.

Question by the Court.

The concert was on the next terrace up the the audience.

(RP 83 B complied with)

Defending officer decides not to call any further witness for the defence as to the facts.

D 6 "McD"

First Witness for Defence as to Character

Hon/Maj. R.C.H. Durnford CCC, sworn states.

I am Chaplain of the Seaforth of C. I have known the accused since. [illegible] I have not known him to get into trouble - serious trouble. I know him intimately - he is sincere - loyal to me his battalion and his home these are the things that make up character. He is an average good man.

Cross examination

He has personal initiative and by no means meek.

(RP 83 B complied with)

E 1
Witness for Defence as to Character after finding H/maj. R.C.H. Durnford - ccc, having been recalled by the Defence.

The accused is the total support of his widowed father who is no longer able to operate his farm which is his future. She is ill. A sentence which affects his pay will therefore be hard on someone totally unconnected with the crime. Also [illegible] sentence will [illegible] his entire future. I have [illegible] giving the full facts, and know the man well.

R.P. 83(B) complied with.

E 2
Address in Mitigation

Enlisted Jan 1940. Has served well. He has an excellent conduct sheet for his lenght of service. He has been shell shocked and refused a soft job at that time and insisted on returning to the Bn. He is an excellent mechanic and a willing worker.

D 6 "CMcD" CLOSING ADDRESS OF PROSECUTOR (16)

The Accused: Statement does not stand up - is inconsistent.

(a)He says he didn't care if he got another drink or not. and so didn't resent CSM's alleged drunkenness. But he was leader of those complaining; He went to Tpt lines for Marsala, and he is at pains to point out how drunk the CSM' was. He obviously did resent it.- for he showed the CSM to Coy Comd. as being drunk.

(b)Drunkenness of CSM - two reliable witnesses say he was not, and no Coy Comd. would have a man drunk as the CSM in charge of his bar at Coy. party. Yet the defence and accused, have been at pains to point the picture - a malicious picture - of a CSM in a "drunken stupor".

(c)The light at the time of passing the CSM was sufficient to pick out exact posture at 4 or 5 ft. and to recognize him as CSM. Yet ½ hr later, they had to strike a match to recognize.him at 2 ft. This is not consistent, but is consistent with the determination to paint the CSM as a ration stealing drunkard, too drunk to recognize anybody.

(d)Accused says he left first, worked on truck and cut his finger. Kirkby and the T.O. say that they left together. Kirkby that there was no work done on the truck.

(e)The time at which accused and Capt Sutherland went to see CSM.

(f)Accused says bulb was short circuited and this was the trouble, and he took it out, cutting finger. But there was a bulb in next day & the lights still didn't work.

(g)Presence of blood on shirt. Either from cut or supporting CSM. But the cut was only a small one unnoticed by anyone else, and could hardly have got blood up to his shoulders. And a man resenting the conduct of the CSM as he did would hardly hold him in his arms - and his description of the method of support is not consistent with blood on the upper arms.

The accused's story is therefore no rebuttal of prosecutions' evidence and initself gives Evidence of being a fabrication hatched after the event to explain away the facts, one inconsistency therefore leading to the other.

(17)

"CMcD"

The accused therefore stands convicted by the light of Evidence.

(a) Direct Evidence of C S M -

(i) He recognized GRAHAM at the time -

The question of light is not clear, but Capt. Sutherland's Evidence as to dark can only be taken as to a man lying on the ground. Half-up on his feet, CSM could recognize him by light on his features and by his presence.

(ii)He undeniably saw and followed and identified one assailent as Graham.

(b) Motive -

He was heard by two anyway to complain bitterlyas to the conduct of the bar. There were others,admitedly - but so were there other assailents.

(c) Circumstantial Evidence -

The blood on the shirt - which was found after the CSM had identified the accused - is in a position entirely consistant with the assault described by CSM, and is not explained accused in any other way. As such circumstantial evidence of this nature is the strongest possible support for the direct evidence.

3. These facts-

(a) The accused's story does not hold water.

(b) The direct evidence, supported by the motive and circumstantial evidence constitute proof beyond reasonable doubt of the accused's guilt of this charge.

"E D Fulton"

"B" "CMcD"

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
K53006	Pte.	GRAHAM, T.E.	Seaforth of C

1. The following is a fair and true summary of the entries in the regimental ~~or equivalent, battery or company~~ conduct sheet† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be supplied from the field conduct sheet.

The conduct sheet to be produced in court with this statement for use as provided in the proceedings.

† See para. 277, K.R. Inst.

* The number before the word "times" is to be entered in the case of each offence for which the accused has been awarded a different sentence from that awarded for any other offence of which he has been convicted, and not in the case of offences for which he has been awarded the same sentence.

Instruction.—If the sheet is not divided into the entries for the previous year in separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 40	1 times	2 times.
For AA Sec 15(1)	times	1 times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished service.~~

~~XX~~

~~Other particulars in conduct sheet of the accused~~

2. ~~The accused has no previously convicted~~ The accused has not be previously convicted ~~awards under section 47 of the Army Act.~~

3. The accused is not under sentence at the present time, ~~other than as stated in the proceedings.~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 8 78"EDF" days in military custody, making a total of 8 78"EDF" days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 yrs 8 mos 15 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 15 Jan 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 8 mos 15 days

8. ~~The accused's conduct has been satisfactory in respect of~~

9. ~~The accused is entitled to reckon~~

10. ~~The accused is in possession of~~

11. ~~The accused is a candidate for~~ The accused before he was made a prisoner of war had not

12. ~~The accused is an officer~~ The accused took to the army the rank of

~~and has served as an officer in the ranks of~~

(P.46290) Wt.33662/144 125,000 4/42 A.A.F.W.3.110. Gp.488

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. Rank Name of Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
N/A	N/A	N/A	N/A	N/A

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of July 1944

(R.L. McDougall) "Robert L. McDougall" Capt
Adjt. The Seaforth Highlanders of Canada.

Ammended this 11th day of Aug. [illegible] "E D Fulton" Maj. Prosecutor Offr.

mmm-7
PTE GRAHAM W

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K42527 Pte William Graham Calg Highrs CAO

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (*)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of one day, of which no days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for six months.

(Sgd) ..... Judge Advocate, if any. 20 May 44 Date awarded. (Sgd) A.F. Stevenson President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 34, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attained before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 3.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not required to undergo detention hereafter, until further order.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) W.J. Megill Brig.

Date MAY 23 1944 Commanding COMD. 5 CDN. INF. BDE. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K42527 Pte William Graham	25 May 44	A.F. Stevenson Capt Calg Highrs

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 2 JUN 1944 5th CDN INF BDE

RECORDED AT CMHQ IN AB 160A ... MMM 7

CPAam (In lieu of AF B2)
K.C.'s P.R.'s 1608 (Amdt)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig W.J. Megill Comd 5th Can Inf Bde dated 19 May 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K42527	Pte	William	Graham	Calg Highrs.

PROCEEDINGS REVIEWED 2 June 44
W.C. Sinclair Lieut
REVIEWING OFFICER, JAG BRANCH

Date 31 Aug 44
Calgary Army Gp. CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) U.K. on (date(s)) 20 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Casenotes do NOT include all relevant fmn SOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereto. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is subject and amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 48, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc.:

President	Major	A.F. Stevenson	1RHC
Member	Capt	J.G. Clarson MBE	R de Mais
Member	Lt.	J.J. Neill	1RHC
~~Judge Advocate~~			
Prosecutor	Lt.	D.R.K. Harrison	Calg Highrs.
Defending Offr	Capt	G.B. Wood	Calg Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused K42527 Pte William Graham Calg Highrs before arraignment make(s) (not) the following plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by use of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is not arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is advised of) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without nolle from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3. *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate: comply with RP* 67(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive on Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*b*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114. KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 172 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans ..... Do you intend to call witnesses on your behalf?

Ans ..... Are they witnesses as to character only? Ans .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf RP* 95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, 117. *This alternative announcement is not applicable where charges are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)

(1. *MFB* 355 *or AFB* 296. 2. *MFW s.* 3. *RP* 46. *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans My defending officer will address the Court for me. (2)

(1. *RP* 37(*C*), 46(*2*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to qualify on oath anything there or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *Where several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 1202, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(*D*), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(18), 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to custody and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

~~Ex Cy~~ CHARGE SHEET

Charge against K42527 Pte. Graham, W, of The Calgary Highlanders CA(O), a soldier of the Canadian Army, Overseas.

FIRST CHARGE
A.A.
Sec 15(1)

W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE, in that he, in the Field, on the 22nd Feb 44 did absent himself without leave from 2300 hrs 22 Feb 44 until apprehended by the Provost Corps at 1320 hrs 17th May 44.
Absent 84 days 14 hrs 20 mins.

To be tried by F.G.C.M. 16 May 44
D.G. MacLauchlan
Lieut Col.

[illegible signature]
Comd & Cdn Inf Bde
1
24 44

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAS)
40/Pam/1607 (1955)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-42527	Pte		William	GRAHAM	Calg Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~xxx~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 May 44 endorsed by me, (~~xxxxxxxxxxxxxxxx~~). "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~xxx xxxxxxxxxxxxxxx

Plea in Mitigation of Sentence in the case of K42527 Pte. GRAHAM, W.

This man is 22 years of age. He enlisted in Vancouver in the 1st Bn Rocky MountainRangers 27 June 1940. After serving with this unit and having been promoted to the rank of L/Cpl, he was chosen as a reinforcement for overseas duty. During the periodn of three years his crimes were rather small ones. He joined the Calgary Highlanders in July 1943 as a Pte as he reverted on coming overseas. His subsequent charges of absence without leave were caused by returning late from leave in both cases, through missing his trains. He had asked for a transfer to any other unit as he felt his chances of advancement would be better. However the transfer was turned down. Through a chain of unfortunate circumstances and being placed under open arrest for a minor offence just before Christmas Day, his desire to break out of barracks was so strong that he took matters into his own hands not realizing the seriousness of his actions. On his return he was awarded 28 days field punishment. After serving his time he was not happy about coming back to this particular unit, he felt that the N.C.O'S were against him, he thought that if he could get to another unit his chances would be much better , however he was turned down once before, he became depressed and again not realizing or thinkig about what he was doing went absent.

He realizes now the seriousness of taking matters into his own hands knows that he will be punished for his actions but is willing to soldier if given the opportunity as he wants to fight for his country.

In summing up I ask the court to be as lienient as possible in awarding punishment for his first serious offence.

Exhibit "A"

CERTIFICATE TO ACCOMPANY [illegible] ARMY ACT. SECT. 163 (1) (a).

I CERTIFY that No [illegible] Rank [illegible] Name [illegible]

Unit [illegible] was arrested at Doncaster

at [illegible] on 17th Mar. 44 and at the time of his

arrest was wearing Military uniform.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken on arrest.

A/C Blane.

Capt. RAVC.,
O.C. Troops, Doncaster.

DONCASTER.
17th/Mar/1944
WDF.

Medical Officer's Report

18 May 44

I hereby certify that I have this day examined K42507 Pte. Graham, W. and in my opinion he is fit to undergo trial by court martial.

.....RCAMC.
A.R. Turnbull Capt.
Medical Officer
The Calgary Highlanders C.A.(O).

CHARGE. 151/B/530 COPY In lieu. Army Form. B.252. (See. K.Rs.)

1st. BN. CALGARY HIGHLANDERS Regiment.

A) Battery, Squadron,) Troop or Company.

CHARGE against No. K 42527 Rank PTE

Name GRAHAM W.

Place ? Date of Offence ?

OFFENCE. W.O.A.S. ABSENT FROM ? UNTIL APPREHENDED BY THE MILITARY POLICE ON DONCASTER R. STATION ON THE 17TH. MAY ABOUT 1320 HRS.

Names of Witnesses:-

CPL. SMITH C.M. POLICE

PTE. OTLEY REGT. POLICE RAVC

Signature of O.C. Battery, Squadron, Troop or Company.

Punishment Awarded.

By whom Awarded.

Ex C

SUMMARY OF EVIDENCE

IN THE CASE OF K42527 Pte. Graham, William, of The Calgary Highlanders CA(O) a soldier of the Canadian Army, Overseas.

The accused is informed of his rights.

FIRST CHARGE A.A. Sec 15(1)	W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE? in that he, in the Field, on the 22nd Feb 44, did absent himself without leave from 2300 hrs 22 Feb 44 until apprehended by the Provost Corps, at 1320 hrs 17 May 44. Absent 84 days 14 hrs 20 mins.
SECOND CHARGE A.A. Sec 24(2)	W.O.A.S. LOSING BY NEGLECT HIS REGIMENTAL NECESSARIES, in that he, in the Field, on 16 May 44 was found to be deficient of kit to the amount of £3-10-10.

The C.O. directs that the evidence be taken on Oath.

FIRST WITNESS M12144 Sgt. McMechan, G.A. of The Calgary Highlanders, CA(O) having been duly sworn states -

"At 2300 hrs 22 Feb 44 I took the tattoo roll call and found the accused absent from his quarters. The accused did not return from pass which expired 2300 hrs 22 Feb 44".

(M12144 Sgt. McMechan, G.A.)

The accused declines to cross-examine.

SECOND WITNESS M10622 CSM N.S. Lawson of The Calgary Highlanders CA(O) having been duly sworn states, -

" I checked the tattoo report for the 22 Feb 44 which showed the accused absent. The absentee and tattoo reports for the subsequent days, until the accused was S.O.S., showed him as an absentee. I did not see the accused again until approx 0900 hrs 18 May 44."

(M10622 CSM N.S. Lawson)

The accused declines to cross-examine.

THIRD WITNESS Capt. S.O. Robinson, of the Calgary Highlanders CA(O) having been duly sworn states -

"I am Adjt of The Calgary Highlanders CA(O). I submit the Certificate of Apprehension in accordance with A.A. Sec 163(1)(JJ) in the case of K42527 Pte. Graham, W. purported to be signed by W.C. Blane, Capt. RAVC, O/C Troops, Doncaster. (Attached as Exhibit "B". I also submitt the statement of evidence with respect to the time of apprehension of K42527 Pte. Graham, W. purported to be signed by 1033505 Cpl. Smith, T., 15lst HC Provost Coy., Doncaster. (Attached as exhibit "C").

(S.O. Robinson) Capt.

The accused declines to cross-examine.

FOURTH WITNESS M10682 Sgt. Hudson, R.D. of The Calgary Highlanders CA(O) having been duly sworn states -

"While acting CSMS I checked the kit of the accused. I found his deficiencies in kit to be as list submitted. (Attached as exhibit "A").

(M10682 Sgt. Hudson, RD)

The accused declines to cross-examine.

The Accused is cautioned in accordance with R.P. 4(E).

The accused declines to make a statement.

Certified that R.P.4 Complied with.

(D.R. Harrison) Lieut.
Officer detailed to take summary.

d/18 May 44.

Ex D

K42527 Pte. Graham, W. The Calg Highrs CA(O)

21 Married. One

29 Jun 40

Appt L/Cpl. w.e.f. 16 Jan 43. (Rocky Mountain Rangers).

Reverted to Pte. on being T.O.S. 1 C.I.R.U. w.e.f. 19 Jun 43.

In the field

18th day of May 1944

Capt. Adjt

Ex E

No. K42527 Name GRAHAM, W. Sqn. Battery or Company | Corps C.I.C. | Date of enlistment 29 JUNE 1940 | GC Badges N/A | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in 5 SEPT 40 | No and date of last drunk N/A. | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc J CAMPBELL MAJOR. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET	#1	DESTROYED		29 DEC 40 ON COMPLETION OF	SIX MONTHS	CONSECUTIVE	SERVICE - LAST ENTRY 5 SEPT. 40		J. CAMPBELL MAJ.
FIELD	12 JULY 42	PTE		AA. SEC. 15(1) AWL. FROM 2400 HRS. 12 JULY 42 TO 1615 HRS. 14 JULY 42 (1 DAY 16 HRS. 15 MINS)	SGT. OSBORNE CPL. EISLETT.	48 HRS. DETN.	15 JULY 42	MAJ. D.B. HOLMAN.	FORFEITS 3 DAYS PAY F.R. + I.
FIELD	16 SEPT 42	PTE		AA SEC 15(1) AWL FROM 0630 HRS. 15 SEP. 42 TO 1640 HRS. 25 SEPT 42. (10 DAYS, 10 HRS, 10 MIN)	SGT. ARCHIBALD CPL. HALLER.	168 HRS. DETN	26 SEPT 42	MAJ. D.B. HOLMAN	FORFEITS 11 DAYS PAY F.R. + I.
FIELD.	4 JAN 43	PTE		AA. SEC 15(1) AWL. FROM 2400 HRS. 4 JAN 43 TO 2125 HRS. 6 JAN 43. (1 DAY, 21 HRS. 25 MINS)	L/C KITZ	2 DAYS PAY	7 JAN 43	LIEUT-COL D.B. HOLMAN.	FORFEITS 2 DAYS PAY. F.R. + I
FIELD.	3 FEB. 43	PTE		AA SEC 15(1) AWL. FROM 0900 HRS. 5 FEB. 43 TO 0145 HRS. 8 FEB. 43. (4 DAYS, 16 HRS, 45 MINS)	PTE MEEK	SEVERE REPRIMAND	4 FEB. 43	MAJ. N.C. DAVIDSON.	FORFEITS 5 DAYS PAY. F.R. + I
FIELD	6 AUG 43	PTE.		AA. SEC 15(1) AWL FROM 2300 HRS. 6 AUG 43 TO 0600 HRS. 7 AUG 43 (7 HRS)	L/CPL. HEATH.	3 DAYS PAY	7 AUG 43	MAJ. V. STOTT.	FORFEITS. 1 DAYS PAY. FR + I.
FIELD	14 SEPT. 43	PTE.		AA. SEC 40 CONDUCT TO THE PREJUDICE ON PARADE WITH DIRTY RIFLE.	SGT. LARSON, H.O.	3 DAYS C.D.	14 SEPT. 43	MAJ. J CAMPBELL	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD 17	NOV 43	PTE		AA SEC 15(1) AWL. FROM 1800 HRS 17 NOV 43 TO. 1400 HRS. 17 NOV 43. (1 HR)	LIEUT. D FERGUSON PTE. SULLIVAN.	10 DAYS PAY	20 NOV 43	LIEUT. - COL D.C. MACLAUCHLAN	RMD
FIELD 21	DEC 43	PTE		① AA SEC 40 CONDUCT TO THE PREJUDICE DID NOT CARRY HIS FIELD DRESSING. ② AA SEC 40 CONDUCT TO THE PREJUDICE STILL IN BED AT. 0655 HRS.	L/CPL BELL F W SGT. LOW L.H. CSM. LAWSON	14 DAYS C.B.	22 DEC 43	LIEUT. - COL D.C. MACLAUCHLAN	RMD
FIELD 25	DEC 43	PTE		① AA. SEC 10(4) BREAKING OUT OF BARRACKS WHILE A DEFAULTER. ② AA. SEC 15(1) AWL FROM 2000 HRS 25 DEC 43 TO 2125 HRS 25 DEC 43. (1 HR 25 MIN) ③ AA. SEC 10(4) BREAKING OUT OF BARRACKS WHILE A DEFAULTER. ④ AA SEC 15(1) AWL FROM 1300 HRS 26 DEC 43. TO. 0600 HRS. 27 DEC 43 (17 HRS)	CSM. LAWSON. N SGT. LOW L.H.	28 DAYS F.P.	27 DEC 43	LIEUT. COL MACLAUCHLAN	FORFEITS 1 DAY PAY. F.R. & I RMD

CERTIFIED TRUE COPY from Regtl Records in my possession

THE CALGARY HIGHLANDERS CA(O)

[signature] Capt & Adjt

CHARGE. 151/B/530 COPY

In liud. Army Form. B.252.
(See. K.Rs.)

1st BN. CALGARY HIGHLANDERS Regiment.

A) ~~Battery, Squadron,~~
) ~~Troop or~~ Company.

CHARGE against No. K 4-252-7 Rank: PTE

Name GRAHAM W.

Place ? Date of Offence ?

OFFENCE. W.O.A.S. ABSENT FROM ? UNTIL APPREHENDED BY THE MILITARY POLICE ON DONCASTER R. STATION ON THE 17TH MAY ABOUT 1320 HRS.

Names of Witnesses:-

CPL. SMITH C.M. POLICE

PTE. OTLEY REGT. POLICE RAVC

Signature of O.C. Battery, Squadron, Troop or Company.

Punishment Awarded.

By whom Awarded.

Ex hibit "B"

STATEMENT OF EVIDENCE IN CASE OF

K 42527 PTE GRAHAM W.
'A' COY 1ST BN. CALGARY HIGHLANDERS
CANADIAN FORCES
ENGLAND

Sir

AT DONCASTER on the 17th MAY 44 about 1320 HRS I was on duty on the L.N.E.R STATION when I saw the above named soldier.
I asked him for his pass, he failed to produce one. I questioned him and he admitted being absent from his unit.
I arrested and conducted him to the MAIN GUARD ROOM R.A.V.C THE RACECOURSE where I handed him over to the REGT. POLICE to be detained pending arrival of escort.

DONCASTER
17TH MAY 44

1083505 T. Smith Cpl
151 H.Q. PROVOST COY.

4R-79

Pte. Graham. W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : M.36488 Private William Graham of LER

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)	(a)Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 482 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

At present under sentence for Nil "DGD" beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1) "DGD"

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Two (2) years imprisonment with hard labour.

(Sgd) "DGD" Judge-Advocate, if any. 11 Jan 45 Date awarded. (Sgd) "D.G. Duncan A/Maj". President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 572. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the Court.

~~I direct that the accused be discharged from custody until further orders.~~(1) "MPB"

(1. AA 57A. Delete if not used.)

(Sgd) "M P Bogert Lt Col"

Date 17 Jan 45 A/ Commanding 2 Cdn Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M.36488 Pte William Graham	20 Jan 45	"F.H. McDougall Major" L E R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

(D.M.Owen) Capt

Cdn Sec 2nd Ech

4R-79

CFAAse (In lieu of AFA3) 40 P de S. (808 12664)

FIELD GENERAL COURT-MARTIAL

Convened by Order of AFHQ 8 Jan 45 Lt-Col M.P. Bogert A/ Comd 2 Cdn Inf Bde dated 8 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-36488	Private		William	GRAHAM	LER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 11 Jan 1945 "DGD"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~& A, if any; and Offrs under instr, if any~~, assemble, and the Court is closed. "DGD"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p. 4. Citations do NOT include all relevant fmn ROs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1340 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) "DGD"
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) "DGD"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to~~ as interpreter] ~~Ans~~ "DGD"
~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer] ~~Ans~~ "DGD"
~~The shorthand writer is sworn.(1)~~ "DGD"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2) "DGD"

(1. RP 110. 2. If no objection, waiting member returns. RP 68(B). If objection, see procedure AA 51, RP 25, 71. See MML p 742.)

A7. The President, Members, ~~& A, if any; and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	A/ Major	D.G. Duncan	Seaf of C	"DGD"
Member	A/Capt	WDC Tuck	Seaf of C	"DGD"
Member	Lieut	J R Gay	PPCLI	"DGD"
Judge-Advocate	N/A			
Prosecutor	Lieut	T.W. Adamson	L.E.R.	"DGD"
Defending Offr	Lieut	F.T. Middleton	L.E.R.	"DGD"

Questions by President : Is the Prosecutor a lawyer ? Ans No ; Is the Defending Offr a lawyer ? Ans No (2) "DGD"

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 86 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused M.36488 Pte William Graham LER before arraignment makes(1) no(2) plea. "DGD" (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule. "DGD"

(1. RP 31, 112. See para 1 of Instrs p 3. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D "DGD"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Index (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(D), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*I. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans _____.(5)
(*I. RP 35(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(*I. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)
(*I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*I. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No "DGD" (1)
(*I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. ~~The Prosecutor makes (an) (no) opening address.~~ The Prosecutor addresses the Court on charges and outlines the case "DGD"
(*I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s).~~(2) The Court is re-opened, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4) "DGD"
(*I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Useless part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans WILL GIVE evidence myself. Do you intend to call witnesses on your behalf? Ans no. Are they witnesses as to character only? Ans "DGD"
(*I. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*I. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*I. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces: The finding(s), if any, of Not Guilty, and matters to be assumed that the finding(s) of the Court on the "DGD" charge(s), being subject to confirmation, will be promulgated later. Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith. Or, That the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1) "DGD"
(*I. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3) (6), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No "DGD"
(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*I. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I do in mitigation of punishment. "DGD"
(*I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*I. AA 54(5), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence(s) in Part I of the Schedule, which is dated and signed by him and the J A, if any.(2) "DGD"
(*I. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powstap, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 42. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 43(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(15), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED M36488 Private William GRAHAM of The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, On Active Service, is charged with:

1st Charge
Sec.12 (1)(a)
Army Act

WHEN ON ACTIVE SERVICE

DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, at approximately 0230 hrs on the 20th December 1944, when serving with his section in a forward area, with intent to avoid so serving, absented himself from his said section until surrendering himself at 1000 hrs, 21st December 44.

TOTAL ABSENCE - 1 DAY 7 HOURS 30 MINUTES

In the Field
31 Dec 44

"J. R. Stone"
.....
(J.R. Stone) Lt-Col
Commanding L Edmn R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
8 Jan ~~44~~ 45

"M.P. Bogert"
.....
(M.P. Bogert) Lt-Col
A/Comd 2 Cdn Inf Bde

"DGP"

"LJB"
2 Jan 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF A3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M.36488	Private		William	GRAHAM	LER.

CONVENING ORDER.

"MPB"

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ "MPB"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~ "MPB"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "MPB"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D. G. Duncan (Must be named. RP 106.)	Seaf of C (Unit.)

MEMBERS.

Capt	W D C Tuck	Seaf of C
Lt (Rank.)	J R Gay (Named or detailed. RP 106.)	PPCLI (Unit.)

WAITING MEMBER.

Lt (Rank.)	G. F. Chapin (Named or detailed, if any. RP 106.)	PPCLI (Unit.)

~~JUDGE-ADVOCATE~~ "MPB"

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)	"M P Bogert" (Signed personally. RP 105 fn 2.)	Lt Col (Rank.)

(M P Bogert)

Date 8 Jan 45 A/ Commanding 2 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"DGD".

MEDICAL CERTIFICATE
(K R (CAN) 577)

This is to certify that M36488 Pte. Graham, W. L.E.R. was
Examined "WSW"
~~Inspected~~ by me this date and in my opinion is FIT ~~UNFIT~~ to undergo trial by Field General Court Martial.

In the Field
11 Jan 45

W. S. Woolner Capt. R.A.M.C.
4th Cdn. Lt. Fd. Ambulance.
R.C.A.M.C.

"DXD"

OPENING ADDRESS - PROSECUTOR

In the case of: M.36488 Pte Graham W.

I propose to call the two undermentioned witnesses in this case to prove that the accused absented himself from his section in a forward area, with intent to avoid such service, or, in other words, deserted;

M.103458 A/Cpl Jarvis, A.W.
M.103290 Pte Fricke, R.L.

"DGD"

-1-

M.36488 Pte W. Graham (L.E.R.) "DGD"

First witness (Prosecution) M.103458 A/Cpl Jarvis having been duly sworn States:-

Prosecutor to first witness: Identify yourself to court.

Ans. I am M.103458 A/Cpl Jarvis A.W. A/T Pl Support Coy (LER)

Pros. Do you recognise Pte Graham? Ans. Yes Sir.
Pros. Would you tell the court in your own words what you know of the alleged desertion of Pte Graham.
Witness:- On the night of 19-20 Dec the section of the tank-hunters was attached to C Coy for the attack and on the way in they came under heavy shell-fire, took the ditch for cover for a few minutes and then the Coy was ordered back by a house to do a right-flanking, so as to miss theshell-fire on the road. Sgt Burns who was in charge of the tank-hunting section took the section back with the Coy and as he came up to the house Lieut McGregor who was acting "DGD" Coy Cmdr of C Coy gave him orders to follow behindthe platoon, which was moving off across the field. He passed the order back to me and I ordered my Pl Gp that were going across the field with the Pl. and we followed on in behind. When we got to the first objective we were to set up positions around a house. Pte Graham was missing when I went to set-up the pl, which time was approximately 0230 hrs. I did not see Pte Graham again until the

In case of M.36488 Pte W. Graham (L E R) -2-

morning of 21 Dec 44 at 1000 hrs, when Capt Donaldson and I returned to check on casualties from the day before. Pte Graham was by the House when we got there. He was placed under open arrest.

Question by Pros:- What was Pte Grahams job?

Ans:- He was No. 1 on the PIAT.

Question by Pros:- You say on the way in you came under heavy shell fire. I would like you to tell the court what you mean by the "way in".

Ans:- As the Coy were moving in to their objective when we came under shell-fire.

Question by Pros:- During Pte Grahams absence what was the tactical situation?

Ans:- We were under stiff fighting and counter-attacked during that time. We suffered casualties during that time.

Cross examination by Defending Officer

Question:- Cpl Jarvis you have stated in your evidence that owing to the heavy shell-fire on the road your tank hunting section was ordered back to a house. How long were you at that house before you moved off across the field?

Ans. We were by the house approximately 5 minutes.
Question:- Could you tell the court approx what time that was?
Ans :- About 0210 or 0215 hrs.
Question:- What were the light conditions at that time?
Ans :- It ws not very dark, the moon was shining at times.
Question:- What was the distance from that house to your objective, where you first missed Pte Graham?
Ans: About 600 yds.
Question: Was any attempt made between the time you missed him and ~~XXXX~~ the following morning to check back along the route to see if you could find the missing man.

Ans: - No, there was not, we were only there about ten minutes until we moved off to another group of houses.
Question: In your evidence you state that when the orders came to you from Sgt Burns to move off across the fields, you say you passed on that information to your Pl Gp Group.
Ans : Yes Sir.

Question: Did you attempt to make any check at that time?
Ans. Yes, I had six men with me then.
Question: Was Pte Graham present at that time?
Ans. Yes Sir.
Question: On the 21st when you & Capt Donaldson met the accused where were you in relation to the first house where you had received orders to move across the field?
"DCD"
Ans. Approximately 600 yards.
Question: That house then was forward of the original house you had left?
Ans. Yes Sir.

Re Examination by Prosecutor.

Question:- When you & Capt. Donaldson found the accused, how far forward had the enemy been driven from that point?
Ans. They had been driven about a mile.
Question: What was the tactical situation, then?
Ans. Things had quietened down and another outfit had just gone through us.

Re-Examination by Defending Offr.

Question: At the time that you & Capt Donaldson met the accused was he carrying his weapons & equipment?
Ans. Yes, he was.

R. P. 83 (a) & (b) have been complied with. "D.G. Duncan Major"

Second Witness M.103250 Pte Fricke R.L. having been duly sworn states:.

I am M.103250 Pte Fricke R.L. (L.E.R.)

Question by Prosecution: Do you recognise Pte Graham?
Ans. Yes Sir.
Question. Would you state your job in relation to Pte Graham's job on the night of the 19th/20th Dec 44?
Ans. Pte Graham was No. 1 on the PIAT, I was His No. II.
Question: Would you tell the court in your own words what you know of Pte Grahams alleged desertion.
Ans. We crossed the canal and passed through B Coy and were going up the road behind a Pl of C Coy, when there was an explosion forward and we were given orders to withdraw back to a house, which we did. Then we were given orders to go forward to.

In case of Pte W. Graham (LER)

the right through a field. When we were given orders to go back to the house through the field, Pte Graham was missing when we left the house. I reported it to Cpl Jarvis at my first opportunity, that was when we got to the objective of C Coy, the next house.

Cross-Examination by Defending Off.

Question:- When you received orders to leave this house and proceed across the field, do you remember seeing Pte Graham at that time?
Ans: No not at the house.

Questions by President.

Question: You say you are No. II on Piat and that Pte Graham was No. 1.
Ans : Yes Sir.
Question: Who was carrying the Piat?
Ans : Pte Graham was.
Question: When you came to C Coy objective did you have the Piat with you?
Ans : No Sir.
Question: You state that you did not see Pte Graham at the house before moving off across the field.
Ans : That is right Sir.

R.P. 83 (A) & (B) have been complied with "DG Duncan" A/Major

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7

In case of M.36488 Pte W. Graham (L.E.R.)

Examination of the accused by Defending Offr.

M.36488 Pte Graham W. A/Tk Pl. Support Coy (LER) having been duly sworn states in reply to the Defending Officer.

Question: Could you tell the court in your own words what happened on the night of the 19th/20th Dec 1944?
Ans : We were going up the road with C Coy and we came under shell-fire and took to the ditches. C Coy started coming back down towards the house. After some of them had got down past us we were ordered back to the house also. When we got back to the house there was a lot of C Coy standing around and I walked through a bunch of them. I put my piot up against the wall of the house and I sat down beside it and fell asleep. I woke up when they started shelling quite close to the house, and took coverbehind the house until the shelling stopped. I picked up the Piat and started off up the road They started shelling that area gain so I came back down again. Then I started up through a field to the right of the house; I got a little way up this field and I head small arms fire. I didn't know what was going on so I got into a dug-out on

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8

In case of M.36488 Pte W. Graham (LER)

the edge of the field and I stayed there until the afternoon. There was a smoke screen laid down around there then; I didn't know who was laying down the screen so I decided to stay in the dug-out for the night. The next morning, it was pretty quiet around there, I started off up the field again, till I came to a house. I could see some small packs and equipment around the house, so I figured from that it was our own troops in the area. I started off up the road to the next house which wasn't far away. Up there I met some C Coy men who said they were lost also. I thought I would find my section with C Coy. So we were all going to start up the road together to see if we could find them. Just then Capt Donaldson & Cpl Jarvis came along the road & up to the house, and I went back up with Capt Donaldson & Cpl Jarvis to where my section was.

Contid Page 8

Question: Will you tell the court what time it was when you awoke?
Ans. : It was daylight Sir.
Question: How was the shelling in that area during the day?
Ans : They were shelling most of the days . It was fairly heavy.

No cross examin. "DGD".

9

In case of M.36486 Pte W. Graham (LER)

Questions by the President to the accused.

Question: Were any of C Coy left at the house that you moved off from?
Ans : Not that Iknow of.
Question: Did you know where your group was supposed to go during the attack.
And : No Sir.
Question: You knew you were in Support of C Coy but you did not know what "DGD" your objective was?
Ans. : No Sir.
Question: When you returned to the house do you recall Cpl Jarvis checking his section?
Ans. : No Sir, I don't

"D.C. Duncan A/Major"

"DGD"

CLOSING ADDRESS BY PROSECUTING OFFR. -10-

1. The accused states that they came under heavy shell-fire on the road and almost immediately pulled back to a house. Evidence of witnesses proves that C Coy and attached personnel were at the house in question for a very short time. According to witness 9 minutes. Accused states that in this short period of time he sat down and fell into such a deep sleep that he slept from 0230 hrs. until dawn. This immediately after having been subjected to heavy shell-fire. I suggest to the court that this would have been extremely difficult to do, in such a moment of stress.

2. During the day of 20 Dec 44 the accused did not discover himself to some person in authority. In fact he did not discover himself at all. but was found the next day by Cpl Jarvis. Had there been no intent to avoid service the accused would have discovered himself in that period consisting of one full day, a full night and better part of the daylight of the next morning.

"DGD"

11

CLOSING ADDRESS - PROSECUTOR

3. I submit to the Court that the evidence of the two witnesses for the prosecution has proved beyond shadow of a doubt that the accused, with intent and whilst in action, absented himself from his section to avoid service; that he did, in fact, avoid such service; and that a prima facie case of desertion has thus been established.

"DGD"

"DGD".

Cont'd Page 14

the accused slept. This man was No. 1 PIAT he was carrying a heavy weapons. It was a long approach march from the assembly area to the start line. The approach march commenced at 1200 hrs 19 Dec 44. It is quite logical to assume that the accused was tired, and quite easily could fall asleep at 0230 hrs.

6. I would ask the court to consider all these points very carefully and to return a verdict of not guilty in favour of the accused.

"DCD"

15

E 3

Plea of Mitigation in the case of H.36488 Pte Williams Graham L Edm Regt.

The accused has had a long period of good service without any previous charges against him. He had a very important job in his section as No 1 on a PIAT and up to the time of this incident had discharged his duties satisfactorily. I do not believe that the offense with which he has been charged was done with any realization of the seriousness of the offense. And I do feel that this man will perform his duty in a satisfactory manner if returned to his unit in the shortest possible time. I would therefore ask the court to consider these factors in their decision.

"DCD"

"DCD"

"DDD" 12

Closing address: Defence.

In case of: M. 36486 Pte W. Graham. L.R.R.

The accused in this case has 2½ years service to his credit, of which 2 ½ years has been spend overseas. He has had no previous charges or A.C.I. against him during that time. He has had very little active battle experience with his regiment and therefore his documentary record must speak for itself. In this case the accused has stated that he sat down against the wall of the house when his section was ordered back. He immediately fell asleep and because of this did not hear the order to move on. This is corraborated by Pte Fich who stated that Pte Graham was not present when orders were given. When he awoke it was daylight. There was fairly heavy shelling in the area all during this period. When he realized that his platoon was not there he picked up his weapon and started over the field, in an effort to find his pals. There was heavy fighting all during the 20 Dec. The continued heavy shelling and the uncertainty of the tactical ~~xxxxxx~~ situation at this time led him to take refuge during the afternoon in a dugout - which was forward - of the original house where he laid down. He remained there that night; because he ~~xxx~~ to wonder around in the fairly small bridgehead area. He did not know the tactical situation at the time - there was considerable artillery and small arms fire all during the day and night - and he quite justifiably decided to wait until the situation was more quiet.

"DDD".

13

before making another attempt to find his section.

The next morning the situation was more quiet (21Dec) he started out again with his Piat and his equipment in an effort to find his section. In the early morning at a house he met some C Coy men who also were lost who could give him no help. While he was going forward from this house he ~~x~~ was met by Lieut D.A. Donaldson D.S.O. the A/Tk pl. and W.10458 A/Cpl Jarvis ... - and reported to them.

In Conclusion: I would ask the court to bear in mind the following in consideration of their verdict.

1. The accused remained constantly in the forward area under considerable artillery fire.
2. When the accused reported to his Pl Comdr he still had his weapon and equipment and at the time was forward of the original house where C Coy the A anti-tunking section had stopped at 0230 hrs on the morning of the 20th.
2a. At all times he was pushing forward of his original position where he was missed.
3. The tactical situation at the time was unknown to the accused the enemy shelling in the small Moriglio

"DDD"

14

Canal bridgehead area was considerable, and these considerations forced him to take cover until things were more stable.

4. At all times the actions of the accused were not those of a deserter but those of a man who had negligently fallen asleep at 0230 hrs - and who made legitimate attempts to locate his section as soon as possible. 4a. There is no doubt in my mind that the accused would have soon reached his section had he not met his Pl Comdr at the time stated in the evidence.
5. The prosecution has raised apoint concerning the time during which

Exhibit "A" "DGD"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
M36438	Pte	GRAHAM, William	The Loyal Edmonton Regiment

Field "EDG"

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The correct sheet(s) mentioned should be produced in court with this statement duly and accurately filled in and annexed to the pay voucher.

† See para. 577, K.R., 1940.

* The numbers herein stated should correspond exactly (as regards any lapse) to the entries in the conduct sheets, and wherever there is more than one offence in each entry, and in any recognized special acts of gallantry or distinguished conduct.

Instruction.—It the charge-sheet mentions the entries for drunkenness omitting stated leave and dates.

	* Within last 12 months.	*Since Enlistment.
For	nil times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Particulars of entries of offences in the conduct sheets~~

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and cases in which trial has been dispensed with.~~

3. The accused is not under sentence at the present time, ~~except as follows:~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 12 days in military custody, making a total of 12 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service is 25

6. The date of his ~~attestation~~ specified in his ~~record of service~~ is 5 Oct 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years

8. The accused is entitled to deferred pay or gratuity in respect of 3 years service.

9. The accused is entitled to reckon 3 years service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is entitled to the following military decoration or decorations~~) nil

11. ~~The accused is entitled to wear the following war service badges:~~ nil

12. ~~The accused is not entitled to wear any war service badges.~~ nil

(P.C.O.) 20-12-40 1977 10,000 38-42 A.F.W. 3121 6a and
(P.C.O.) 8-4-41 1397 15,000 41-43

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years, _____

In the rank of N/A years _____

In the rank of _____ years, _____

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M36488 Rank Pte Name Graham, R. of The L. Edmn Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 [illegible] day of January 1945

E.L. Boyd

(E.L. Boyd) Capt & Adjt
The Loyal Edmonton Regt

"DGD"

12

Closing address: Defence.

In case of: M. 36488 Pte W. Graham. L.E.R.

The accused in this case has 3¼ years service to his credit, of which 2 ¾ years has been spend overseas. He has had no previous charges of A.W.L. against him during that time. He has had very little active battle experience with his regiment and therefore his documentary record must speak for itself. In this case the accused has stated that he sat down against the wall of the house when his section was ordered back. He immediately fell asleep and because of this did not hear the order to move on. This is corraborated by Pte Fich who stated that Pte Graham was not present when orders were given. When he awoke it was daylight. There was fairly heavy shelling in the area all during this period. When he realized that his platoon was not there he picked up his weapon and started over the field, in an effort to find his pals. There was heavy fighting all during the 20 Dec. The continued heavy shelling and the uncertainty of the tactical xxxxxxxx situation at this time led him to take refuge during the afternoon in a dugout - which was forward - of the original house where he lost down. He remained there that night; because he [illegible] to wonder around in the fairly small bridgehead area. He did not know the tactical situation at the time - there was considerable artillery and small arms fire all during the day and night - and he quite justifiably decided to wait until the situation was more quiet.

"DGD".

13

before making another attempt to find his section.

The next morning the situation was morequiet (21Dec) he started out again with his Piat and his equipment in an effort to find his section. In the early morning at a house he met some C Coy men who also were lost who could give him no help. While he was going forward from this house he was met by Capt G.A. Donaldson O.C. the A/Tk pl. and H.103458 A/Cpl Jarvis A.W. - and reported to them.

In Conclusion: I would ask the court to bear in mind the following in consideration of their verdict.

1. The accused remained constantly in the forward area under considerable artillery fire.
2. When the accused reported to his Pl Comdr he still had his weapon and equipment and at the time was forward of the original house where C Coy & the T anti-hunting section had stopped at 0230 hrs on the morning of the 20th.
2a. At all times he was pushing forward of his original position where he was missed.
3. The tactical situation at the time was unknown to the accused the enemy shelling in the small Noriglio

"DGD"

14

Canal bridgehead area was considerable, and these considerations forced him to take cover until things were more stable.

4. At all times the actions of the accused were not those of a deserter but those of a man who had negligently fallen asleep at 0230 hrs - and who made legitimate attempts to locate his section as soon as possible.
4a. There is no doubt in my mind that the accused would have soon reached his section had he not met his Pl Comdr at the time stated in the evidence.
5. The prosecution has raised apoint concerning the time during which

SUMMARY OF EVIDENCE in the case of M36488 Private William GRAHAM, of the Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, C.M.F.

By order of the Commanding Officer, evidence is taken on Oath.

1st Witness Prosecution

H103458 A/Cpl. Jarvis, A.W. of the Loyal Edmonton Regiment, having been duly sworn, states:-

I am H103458 A/Cpl. Jarvis, A.W., of the Tank Hunting Platoon, Support Coy., The Loyal Edmonton Regiment. On the night of the 19/20 December 1944, a section of the Tank Hunting Platoon commanded by Sgt Burns was attached to "C" Coy. I was in command of the PIAT Group, and M36488 Pte Graham, W., whom I now recognize, was No. 1 on one of the PIATs. On the night in question "C" Coy crossed the Canale Naviglio and passed through "B" Coy about 1,000 metres passed the Canal. We then came under heavy shell fire, and took refuge in a ditch at the side of the road. "C" Coy with the attached Tank Hunters then drew back slightly to a house, with a view to making a right flanking movement through the fields and thus avoid the shell fire landing on the road. Sgt Burns passed the word back that he had been ordered by Lieut MacGregor, who was commanding "C" Coy, to follow on with the Tank Hunters behind the Platoon that was moving off through the fields on the right flanking movement. I passed this order on to my PIAT Group. We moved off, and about 15 minutes later took up position around a house that had been cleared by the leading infantry. I then checked my PIAT Group, and found that Pte Graham was missing. The time was then approximately 0230 hours 20 December 1944.

That night the Battalion advanced approximately 1,500 metres and the situation quieted down. The next morning I returned to the area we had been in on the 19/20 Dec., in order to get a check on casualties. Capt Donaldson, O.C. of the Tank Hunting Platoon, was with me. We found Pte Graham outside one of the houses, and Capt Donaldson placed him in open arrest. The time was then 1000 hours, 21 Dec 1944.

The accused declines to cross-examine this witness.

(signed) A.W. Jarvis

2nd Witness Prosecution

M103250 Private Fricke, R.L., of the Loyal Edmonton Regiment, having been duly sworn, states:-

I am M103250 Private Fricke, R.L., of the Tank Hunting Platoon, Support Coy., the Loyal Edmonton Regiment. Very early in the morning of 20 Dec 1944, I was acting as No.2 on a PIAT. M36488 Pte Graham, W., whom I now recognize, was acting as No. 1. Cpl Jarvis was in charge of our PIAT Group, and Sgt Burns was in command of our section of Tank Hunters, which was then attached to "C" Coy. We had crossed the Canale Naviglio, gone about half a mile, passed through "B" Coy, and were proceeding along a road, when there was a loud explosion ahead of us, and we took cover in a ditch. We were then immediately ordered to draw back slightly to a house, and were then ordered to advance across open fields to the right behind a platoon of "C" Coy. It was then that

2nd Witness
Prosecution
Cont'd

I missed Pte Graham, and I called his name, but did not have time to look for him. It was then approximately 0230 hours, 20 December 1944. A few minutes later we took up positions around another house, and this was the first opportunity I had to report to Cpl Jarvis that Pte Graham was missing.

The accused declines to cross-examine this witness.

(signed) R.L. Fricke

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declines to make a statement.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused on 31st December 1944, and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field
31 December 1944 (signed) T.W. Adamson Lieut
Officer Taking Summary

MFM 6
(AFB 122)
40/P&S/136 (34380)

No M36488 Name GRAHAM William Sqn, Battery, or Company Corps Cdn Inf Corps Date of enlistment 5th Oct 41 GC Badges D0134 5 Oct Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No Signature GC Company, etc 43 Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"DGD"	Exhibit "B"				CERTIFIED TRUE COPY (E.L. BOYD) CAPT & ADJT THE LOYAL EDMONTON REGT.			"B"	"DGD.

(FTO)

FLASH NUMBER THREE

FLASH NUMBER THREE

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FLASH NUMBER THREE

VE-1

Pte. Graham, W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.32791 Pte Walter Graham 48th Highrs.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	S.12(1)(a)	NotGuilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

"DBD"

AS ~~from confinement to duty~~ beginning ~~XXX~~ (date) (1)

(1. Insert sentence being served, or delete. If not applicable (eg on trial) information should be found in evidence under EE.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B335 or AF B296 admitted in evidence under EE.)

Sentence Awarded by the Court:

Two (2) years imprisonment with hard labour.

~~Signature of~~ "DBD" 11 Feb 45 (Sgd) "D.B. Deeks Major"
Judge-Advocate or Member. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be released from custody and that all proceedings thereto be quashed.~~ "JDBS"
(1. AA 57A. Delete if not used.)

(Sgd) "JDB Smith"
Date 12 Feb 45 (J.D.B. Smith) Brigadier
Commanding Comd 1 Cdn Inf Bde
Confirming Offr.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F.32791 Pte Walter Graham	15 Mar 45	"D.I. Bourgogne" Major O.C. No 2 Con Pl

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true copy
(J.D.B. Smith) Brigadier
Comd Sec 2 Con Pl

5E-1

FIELD GENERAL COURT-MARTIAL

GP388 (In lieu of AFA31) 40/P 30 6/1888 4/38B

Convened by Order of Brigadier JDB Smith Comd 1 Cdn Inf Bde dated 8 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F.32791	Private	Walter	GRAHAM	48 Highrs.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 11 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDS. For guidance on procedure when a variation on this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereinafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-12, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elects to be tried by one of his fellow soldiers sitting with him.~~ "DBD"
~~(signed) by the XXXX~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you ~~XXX~~ object to ~~XXX~~ interpreter? Ans "DBD"
The Interpreter is sworn.(1) Do you object to ~~XXX~~ as shorthand writer? Ans "DBD"
The shorthand writer ~~is XXXX~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 31, RP 33, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.B. Deeks	48th Highrs.
Member	Captain	C.V. Clark	R.C.R.
Member	Lt	D.D. Beaumont	HPER
Judge-Advocate	N/A.		
Prosecutor	Lt	A. W. Webb	48th Highrs.
Defending Offr	Lt	I. M. Gray	48th Highrs.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment make(s) (no) ~~XX~~ plea. "DBD" (1)

(1. If a special plea is made (for separate trial on one or more charges (RP 42(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) "DBD" not object to any charge.(2) ~~There is no variation as to be made to the Charge Sheet.~~(3) The President records the pleas in Part I of the Schedule. ~~The charge sheet is amended by inserting the Christian~~
(1. RP 31, 112. See para 12 Notes. 2. ~~The accused records his arraign~~ 3. If variation or accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~proceeds~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-86; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings are RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5, para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D5 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1) "DBD"

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

"DBD" D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not disclose a case to answer (as to the ..... charge(s).(2) The Court withdraws, the accused, the ..... is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 752 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes, I wish to give evidence as a witness. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans NO "DBD"

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is recorded in Part I of the Schedule.(2) The Court is re-opened. "DBD"

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

"DBD" D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), is (are) subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on the ..... charge(s), and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed forthwith.

(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans I NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport so to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex ..... respectively.(3) "DBD"

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment ?(1) Ans YES (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as with anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see inserts on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

48th HIGHLANDERS OF CANADA

CHARGE SHEET

The accused, F32791 Pte Walter GRAHAM, 48th Highlanders of Canada, a soldier of the Canadian Army Overseas, CMF, is charged with:

1st CHARGE
A.A. Sec 12(1)(a) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

In the Field, ITALY, at approximately 2300 hours on 26th December 1944, when the platoon with which he was then serving was proceeding forward into an attack against the enemy, with intent to avoid so proceeding, absented himself from his platoon and entered a building where he remained until placed under arrest about 30 minutes later.

In the Field, ITALY,
6 February 1945.

"D.A. MacKenzie"
(D.A. MacKenzie) Lt-Col.
Commanding Officer,
48 Highrs.

To be tried by Field General Court Martial.

In the Field
6 Feb 45

"J.D.B. Smith"
(J.D.B. Smith) Brigadier
Comd 1 Cdn Inf Bde.

"LJB"
6 Feb 45.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/Facts/1697 (2808)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.32791	Private		Walter	GRAHAM	48 Highrs.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Feb 45 endorsed by me, (or by authority of my staff officer) "JDBS" THAT To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; "JDBS"
and that it is not practicable to delay the trial for reasons to a superior authority; and
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint any three Offrs to form the Court; (b) accordingly as President, (for the reasons I have recorded thereon)~~ "JDBS"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appointed as alternate thereto the Offr mentioned hereunder.~~ "JDBS"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	D.B. Deeks		48 Highrs
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Captain	C.V. Clark		R. C. R.
Lt.	D.D. Beaumont		HPER
(Rank.)	(Named or detailed. RP 106.)		(Unit.)

WAITING MEMBER.

Lt.	C.J. Seagram	48 Highrs
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

"J.D.B. Smith" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(JDB Smith) Brigadier
Commanding Comd 1 Cdn Inf Bde
Convening Officer.

Date 8 Feb 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.) "DSD"

Are you pleading guilty or not guilty of the charge ?
Not Guilty.

First Witness D.72298 Sgt Peitrinero, J.A. 46 Highrs, sworn States.

Question by the Prosecution

Will you tell the court just what happened on the night of the 26th of December; 1944.

Ans. On the night of the 26th/ of December 1944 at approximately 2300 hrs 12 Platoon was going into the attack: I was leading Pl: H.Q. and the accused was No. 2 on the mortar. When I turned around to check my group the accused was gone.

Question by the Prosecution.

Did the accused know you were going into the attack?

Ans. Yes sir.

Ques. You saw the accused before you started forward?
Ans. Yes Sir.

Question by the Defence

Were you being Heavily shelled while advancing?
Ans. No Sir:

Ques: Where you being shelled at all.
Ans. Not when we started the attack sir:

Ques: When you turned around and found the accused missing were you being sheeld?
Ans : No sir.

Ques: How many men did you start out with in Pl: H.Q. ?
Ans: Just five and myself.

Ques: How many did come back with?
Ans : Three with myself sir?

Ques: When you turned around were there others missing besides the accused?
Ans: Yes Sir.

Ques: Have you known the accused for quite some time?
Ans: On and Off I have known him for a year sir.

Ques: Have you been in action before with him prior to this action?
Ans: No sir.

Ques: Would you be able to state that the accused's temperment was that of a nervous man.
Ans : I couldn't say sir?

Court Asks: When did you see the accused Next?

Ans I didn't see him until the next day.

"DBD"

"R.P. 83 (b) complied with.

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 537)

I certify that I have this morning examined F32791 Pte GRAHAM Walter of the 48 Highrs and in my opinion he is fit/~~[illegible]~~ to undergo trial by Court Martial.

Date 11 Feb 45.....

[signature] Capt [illegible]
MO.

(J.[illegible]) Capt-RCANC
R M O - 48 Highrs

"DBD"

Second Witness: B.74059 Cpl Cass, CHL. 48 Highrs, sworn, states

Questions by the Prosecution:

Will you tell the court what happened on the night of the 26th of December 1944, in connection with the accused.

Ans. On the night of the 26th of December 1944 12 platoon were putting in an attack at on a position. The platoon occupied 12 platoons house during the attack. My platoon officer observing from the top storey window saw 3 men run back from 12 platoon. He asked me to find out who they were and what was wrong. I went to the side of the house and the barn and found three men one of which was the accused. I asked them the trouble and why they came back. The answer I got from all three was that it was too hot. The accused said that he had previously been hit and that his nerves were gone. I told them all they they had better go back. Failing to comply an order they were brought in the house and placed under arrest.

Ques: In your estimation was the shelling in the area that 12 platoon was advancing over very bad.

Ans: We were quite some distance from 12 platoon area and I couldn't say but I hadn't heard a great deal of shelling.

Question by the Defence:

How far back from 12 platoons house that you took over did 12 platoon have to advance?

Ans: There objective was in my estimation between four and five hundred yards from the building we were in.

Ques: Therefore you could hear any shelling in the area 12 platoon had to pass over.

Ans: There was a considerable amount of noise in our house and I didn't hear any much shelling.

Ques: If there was no shelling at the time what type of fire was going up at 12 platoon?

Ans: I have no idea sir I wasn't with 12 platoon.

The court asks:

When you saw the prisoners did you order them back or suggest that they should go back?

Ans: I suggested that they go back.

Ques: Did anyone order themback?

Ans: Not to my knowledge Sir.

Ques: Who placed them under arrest?

Ans: Myself sir.

Ques: Did anyone order you to place them under arrest?

Ans: No sir but my platoon officer asked me later if I had.

Ques: For what reason did you place them under arrest?

Ans: For returning from their platoon

R.F. 83 (b) complied with. "DBD"

First witness for Defence:- F.32791 Pte Graham, W. 48 Highrs. sworn, states:

Question by the Defence.

Ques: When did you come up to your Company?
Ans: On the 17th of January 1944.

Ques: Did you remain with them through till the 26th of December 1944.
Ans: No sir I went out on the 4th of April sir.

Ques: Through wound or sickness.
Ans : Sickness sir.

Ques: When did you return to your company again.
Ans: 13th of September sir.

Ques: Did you remain with them then until the 26th of December?
Ans: Yes sir:

Ques: When in action prior to 26th of December was there any time that your nerves went bad?
Ans: Yes sir.

Ques: Were you ever sent out on account of your nerves prior to 26th of Dec?
Ans: Yes sir.

Ques: By Whom?
Ans: Sgt Swan sir.

Ques: How long were you out then?
Ans I didn't go right out sir. I went back as far as "C" Coy then I got into a big dug out and stayed there all night and in the morning I went out in a tank to Bde H.Q. From there I went back up to my Coy. H.Q. I met the C.S.M. there and he told me to have something to eat and I would be all right then. He asked me to try and go back.

Ques: Did you go back to your own platoon.
Ans: Yes that night I rejoined my platoon.

Ques: From the night you went back to your platoon until the 26th of Dec. did you go into any battles?
Ans: No sir.

Ques: You were No. 2 on the mortar in your platoon H.Q. on the night that your platoon moved off to a forward position.
Ans: Yes sir.

Ques: What happened then?
Ans: My nerves broke.

Ques: Did you return by yourself?
Ans: There were 3 of us that went back

"DSD"

Ques: What happened when you got back to the house your platoon started from.

Ans : We stopped in the barn and Cpl Case asked us what we were doing so I told him Jerry was shelling pretty bad so he told us that we should go back. I told him it was pretty hot up there so he then told us to come on into the house. We went in and he took our numbers, then Mr Scott told us to go to Coy H.Q. So we went over.

Ques: When were you placed under arrest?
Ans. On the morning of the 29th.

Ques: By Whom?
Ans : By the C.S.M.

Ques: Did you stay with the Company after being placed under arrest.
Ans : I stayed with the Coy that day and the next day was sent to Hospital.

Ques: Why did you go to the hospital?
Ans. To see a psychiatrist.

Questions by the Prosecution

How long have you actualy been in battle?
Ans. About three months.

Ques How long have you known Sgt. Pietrinero
Ans. Not very long sir.

Ques: When did you first notice your nerve condition after joining the unit.
Ans: Just after I joined the unit.

Ques: The time you were sent out by Sgt. Swan with a nervous condition did you go to the R A P
Ans: No sir.

Ques: How close were the shells landing?
Ans: Not very far.

Ques: How far did you go with the attack?
Ans: about half way.

Question by Defence:

Graham did you realize when you retired to your own platoon position that you were doing wrong?
Ans. No sir.

Ques: Why did you retire back to that posn.
Ans. Nerves

Question by the Court.

Did No. 12 platoon put in the attack?
Ans: Yes sir but they didn't make the objective.

"DBD"

RP 83(b) complied with.

The court recalls Sgt. Pietrinero under RP 86(d) "DBD"

Sgt. Pietrinero questioned by the Court.

Ques: How far had you advanced when you noticed Graham wasn't with you?
Ans : About 200 yards.

Ques: How far was the objective,
Ans : about four or five hundred yards.

Ques: Did the platoon take the objective?
Ans : No sir.

Ques: Did you attack the objective?
Ans : Yes sir.

Ques: Was the accused with you when you put in the attack.
Ans : No sir.

Ques: How long was it before you attacked the objective did you notice that the accused was not there?
Ans: Fifteen or twenty minutes at the most.

Question by the Defence:

Ques: You say the distance from the start point to the objective was about 500 yards?
Ans : Yes sir.

Ques: How long was it from the time you left the house till you put in the attack?

Ans : May be a half or three quarters of an hour.

Ques: How much time elapsed from when you left till you missed Graham?
Ans : I can't say sir.

Questions by the Court.

Ques: Did 12 platoon return to the position they started from.
Ans : Yes sir.

Ques: The accused was not in the house when you returned there?
Ans : No Sir.

R P. 83 (B) complied with.

Prosecuting Closing Statement.

In this closing statement for the Prosecution the main facts to prove intent to evade some important action and what I wish to bring before the court 1st witness for the prosecution Sgt Pietrinero states that the accused Pte Graham W. was with Pl H. Q. which the Sgt was in charge when the pl started forward to the objective later he glanced around to see if everything was OK and he saw the the accused and 2 others were missing, that was before the attack went in. Cpl Cass 2nd witness for the prosecution stated that as they were in their position in a house the pl officer in the house observing saw 3 men coming back and sent him to investigate. He found the 3 men one of whom was the accused Cpl Cass suggested that they go back to the platoon the accused refused saying "It is too hot up there" Cpl Cass then sent them back to Coy H. Q.

"DBD"

-2-

Finally the accused own statement in that he went just over half way forward into the attack then turned with two others and went back to the safety of the house occupied by 10 pl. These main points which I present to the Court to prove intent to evade some important action.

1st Accused seen by Sgt Pietroniro as the pl moved forward to the attack.
2nd Accused dissapeared before final attack went in.
3rd Accused seen returning & questioned by Cpl Cass and refused to go back to his pl.
4th Accused statement that he went forward ½ way then because it was too hot for him left the Pl & returned to safety.

"DBD"

Closing statement for the Defence.

Although the accused has done three months front line duty, & as brought out in the evidence, he has shown great nervous reaction to enemy shell fire. On the evening of the 26th Dec 1944. Graham as #2 on the mortar proceeded forward in his section, into the attack against the enemy. After going approximately half-way during which time his platoon was being shelled, his nerves gave out on him. the accused returned to the building, from which the attack was started. He was still in the company's area in fact, still in the forward platoon area, until he was told to proceed back to his company headquarters. From the evidence given, there is considerable

"DBD"

-2-

doubt, at just what time, he retired to his platoons old position. before the remainder of the platoon returned, having been unsuccessful in reaching the objective. In view of the accused mental reaction, to gunfire and also the fact that his platoon returned to the same area, that the accused had returned to the defence maintains that there is no adequate proof of desertion. under any circumstances, that no single witness, for the prosecution has substantiated, the charge of desertion. Therefore considering all phases of this accusation and charge, the accused is not guilty of desertion

"DBD"

E 3

Plea: For Mitigation of Sentence.

The accused Pte Graham has been in the army two years and one month & has been in this theatre of operations for thirteen months. Graham has been in the front line, in two separate phases of the Italian campaign, the later one being from the 13th Sept 44 to the 26th December 1944. As pointed out in the defence, this man's mental make-up is such that he has been boarded by the medical authorities, to a special employment Company, as he is definitely not suitable for combat duties. In sentencing this man, I ask the court to consider this point & that leniency may be shown to him on account of his unfortunate condition.

Def Offr produces neuropsychiatric report. Accepted by the Court in Evidence and marked Exhibit A (Attached).

"Ian M. Gray"
"DRD"

No. 2 Cdn. Exhaustion Unit

Neuropsychiatric Report

F.32791 Pte Graham W. 48 Highrs of Canada Age 20
Enlisted Jan/43 U.K. Sept/43 C.M.F. Jan/44

Admitted 30 December, 1944:-

School and civilian work record:-

Did not complete grade 5 at age of 13. Drove truck for 2 yrs, miner until enlistment.

Army history:- Enlisted as general rft, to U.K. posted to 48 Highrs rft, came to C.M.F. and t.o.s. unit on arrival. Static action in Ortona, in Hospital and Con Depot from April to August with diptheria. Rejoined unit, in action at Rimini. In present battle. Never wounded, or promoted. Rifleman. Drove jeep for about a month. 7 and 28 days F.P. for drunkenness and A.W.L. charges, and present episode.

31 December, 1944:- Evacuate from the forward area 30 Dec 44

Note by Coy. C.O. states: "This man was with the regt; last winter and again with B Coy since approx. 15 Sep 44. On previous occasions when the Coy. has gone into action he has shown reluctance to fulfil his duties as in this present case."
Signed: O.C. B Coy. 48 Highrs of Can.

Note by M.O. States:-
"Complaints:- Running left ear, sore left leg.

Personal History:- Grade 5 urban, left school, age 13. Drove a milk truck, worked in a coal mine. Went active 5 Jan 43. Moderate drinker, no civilian crimes. Good mixer, normal reaction to other sex. Left coal mines as he couldn't stand noise after having worked there for 9 mos. Family:- Father Alive and well, lung trouble - 65. Mother 50 varicose veins. Brothers 3-1. Infantile paralysis. 2-bronchitis and sinus. 3. pidgeon brest. None of them in the Army. No. 2 discharged from the army. No. 4 died from T.B. Sisters - 3. 1 - T.B. 2 and 3 alive and well. No. 1 died with T.B. His youngest brother is suffering from night nerves. screaming at night.

Army History:- 5 Jan 43 Active. O/S Sept 43. C.M.F. Jan/44. Through Ortona hospital, Diphteria, from April till Sept. End of Gothic show, runner in Coy. H.Q. jeep dvr during Cesena show. Present action - was scared and nervous through heavy shelling. Was sent out by his Sgt., lost his way, finnally he came out in a tank, was persuaded to go back by Sgt. Major. went back, got caught in shelling and left his platoon while they were advancing.

Cont'd Neuropsychiatric Report.

Opinion:- 1 Mild anxiety neurosis.
2 Chronic otitis media, left ear.

Signed M.O. 48 Highrs of Can.

Opinion:- A mentally retarded individual of a hysteriod constitution His home environment has not been conductive to a healthy mental development. He is emotionally immature lacking in drive and in the power of endurance and perseverance. He is definitely not suitable for combat duties.

(please turn over) Exhibit A "DRD"

(continued)

Diagnosis:- Mental retardation.

Psychopathic personality, inadequate type.

Disposal:- Evacuate to 1c Special Employment Coy. Grade B.

"A. E. Moll Maj"
(A. E. Moll) Major R.C.A.M.C.

AEM/CH
In the field
31 December, 1944.
Dist: A- 2

C.O. No. 2. Cdn. Exhaustion Unit.

Complaints of running left ear. To be evacuated to General Hospital prior to his posting to 1c S.E.C.

(A. E. Moll) Major, R.C.A.M.C.,
O.C. No. 2 Cdn. Exhaustion Unit.

AEM/CH
In the field,
31 Dec. 1944.
Dist: A-1

Certified true copy "W.G. Burks-Robertson" Capt.
Adjutant, 48 Highrs of Can.

No. Name Sqn., Battery, or Company Corps Date of enlistment G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc.

M.F.M. 5
A.F.B. 122
11(M.-7-41 (2213-20)
H.Q. 1772-39-1672

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with trial	By whom awarded	Remarks

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F32791 Rank Pte Name GRAHAM Walter of 48 Highrs Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of February 1945

(W.G.BURKE-ROBERTSON) Capt
Officer A/c Regtl Records

Date of Promotion.

Signed [illegible]

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available in the paragraphs concerned amended accordingly.

ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
F32791	Pte	GRAHAM Walter	48th Highlanders of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.A.Sec 15(1)	nil	times	1	times.
For A.A.Sec 19	1	times	1	times.
For A.A.Sec 11	1	time	1	times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct. NIL

or

2. The accused has not been previously convicted, *or*

3. The accused is not under sentence at the present time, *or*

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 12 days in military custody, making a total of 12 days of which [illegible] days were spent in hospital.

5. The present age of the accused according to his record of service is 20 yrs, 10 mths, 5 days

6. The date of his attestation specified in his record of service is 5 January 1943

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs, 0 mth, 1 day service.

8. The accused is entitled to deferred pay or gratuity in respect 2 yrs, 0 mth, 1 day service.

9. The accused is entitled to reckon 2yrs, 0 mth, 1 day service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to C.V.S.M. & C.

11.

12.

Exhibit "S" "DBD"

TTT 7

C&MS - GRAHAM W H

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused B.33091 CQMS William Herbert GRAHAM, First Cdn Army Signals

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding.
1st	AA.40	Not Guilty	Guilty with the exception that he was in improper possessio of only the following articles:
2nd			
3rd			
4th			
5th			
6th			

4 blankets
7½ lbs biscuits
2 tins tea rations
1 tin margarine
1 haversack
2 tunics
2 battle dress trousers
1 set tools screw cutting BA 162
1 vice, hand, 4½ in
2 screwdrivers
1 keyhole saw
21 batteries (various voltages)
1 valve 6V6G
2 motorcycle batteries

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 8.)

At present under sentence ~~of~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under s52.)

Sentence Awarded by the Court :

to be reduced to the rank of sergeant and to forfeit 21 days pay.

(Sgd) W.A. Dean Capt. 13/June/44 (Sgd) C. Trembley Lt-Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the findings(s) and sentence set forth in Part I is :

Confirmed

W.H.H.

~~I direct that the accused be further detained in prison or detention barracks until (date) pending a retrial.~~ N/A

(1. AA 57A. Delete if not used.)

14 JUN 1944 (Sgd) W.H. Graham Capt

Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature & Offr.
B 33091 CQMS WH Graham	15 July 44	Maj Asst Judge Advocate

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT C.M.H.Q. IN AB 160 TTT-7

CF A96 (To Issue of AFMS 40 IF 8-5/1/1866 (1) (A))

FIELD GENERAL COURT-MARTIAL

No. 4388

Convened By Order of Brig. W.H.H. Roach Comd HQ, 1st Cdn Army No 10 Dated 10 June 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.33091	CQMS	CQMS	William Herbert	GRAHAM	First Cdn Army Sigs.

PROCEEDINGS REVIEWED Aug 8th 1944

JAG Rep 10

REVIEWING OFFICER JAG

PROCEEDINGS REVIEWED JAN 2 1945 Date J.A. G.H.Q. 2 Cdn Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England at C.M.H.Q. on (date(s)) 12 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. (9/107)

A1. The President, Members, waiting Member(s) JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p. 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is not amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to no interpreter ? Ans~~
~~The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans~~
~~(The shorthand writer is sworn.)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt. Col.	C. Trembley	6 C4H.
Member	Capt	C.E. Evans	6 R.C.S.
Member	Capt	H.E. Jordel	2 Cdn Inf Bde Workshop
Judge-Advocate	Capt.	W.A. Dean	HQ 1st Cdn Army Area
Prosecutor	Capt	F.E. Heberington	1st Cdn Army Signals
Defending Offr	Lt	W.A.W. Wilson	1st Cdn Army Signals

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See RQ.)

A8. The accused B33091 CQMS Graham WH before arraignment make(s) (no) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP stand. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (severally) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form No 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol I

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto,* or, (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 90.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 36(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded *GUILTY* are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence saving on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans .....Do you intend to call witnesses on your behalf ? Ans .....Are they witnesses as to character only ? Ans .....
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CS A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*
2. *RP 40(A), see 80(D).* 3. *RP 40 fn 1/2.* 4. *RP 40 fns 2, 3.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CS A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s) of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s) is (are) subject to confirmation, will be promulgated later.(1) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that proceedings are accordingly terminated. Part 3 of this Schedule is dated and signed.(2)
(1. *AA 54(3) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (copies) of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 2067.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court may hear evidence on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A5), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 4(3)), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A.

This is to certify that I have this date examined B-33091 CQMS GRAHAM William H of First Cdn Army Signals and have found him medically fit to undergo trial by Court Martial.

12 Jun 44

C.R. Clark Major
Medical Offr

CHARGE SHEET

The accused, B.33091 CQMS WH GRAHAM, First Cdn Army Signals, a soldier of the Canadian Army Overseas, is charged with:

First Charge AA Sec 40 — WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field about 29 May 44 was improperly in possession of the following public property:

1	Greatcoat	1	Whistles, infantry
3	Tunics	1	Guards, whistle
5	Battledress Trousers	1	Lanyard
1	Shirt, angola	1	Set tools, Screwcutting, BA 162
2	pr Drawers, woollen	1	Tins Mess
6	Vests - (5 cotton gym; 1 winter top)	1	pr Goggles, unsplinterable
		1	Cases Goggles
5	pr Drawers, cotton	1	Housewife
1	pr Shorts, gym	1	Dressing, first field
2	pr Socks, worsted	5	pr Leather heels
4	Towels, hand	2	pr " soles
1	pr Gloves, knitted, drab	21	Batteries, (Various voltages)
2	Caps, field service	2	Bulbs, electric
1	Respirator, A/gas	1	Valve, 6V6G
1	Respirator, A/gas, light	2	Motorcycle batteries
1	Helmets, steel	1	pr Boots, knee, rubber
1	Haversack	1	Case, spectacles, tinted, No.3
1	Sheets, ground	1	Empty tin steak & kidney pudding
4	Blankets	2	Tins tea rations
1	pr Boots, ankle	1	Tin jam
4	pr Anklets, web	1	Tin blackberry jam
10	Patches, dist, R.C.C.S.	1	Tin margarine
10	Chevrons, 1 bar	1	Coil copper wire
4	" 2 bar	1	Pump bicycle
3	" 3 bar	1	Wood plane
8	Crowns	1	Keyhole saw
8	Badges, Canada	2	Screwdrivers
1	Slings, rifle	1	pr tweezers
1	Straps, shoulder	3	pr pliers
7½	lbs biscuits	1	Padlock
1	Cases, Map, No.2	1	Coil 5-strand wire
1	Bags, despatch rider	2	Rolls tape insulating
1	Batteries, dry lamp	2	Brushes, cloth
1	Torches, hand		
1	Vices, hand, 4½-in.		

(W.G. McCullagh) Lt.Col.
Officer Commanding,
First Cdn Army Signals

In the field
10 Jun 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(WGH Roaf) Brig
Comd A Tps Area, First Cdn Army

In the field
11 June 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA87) 40/FAA/1027 (2nd/45)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.33091	CQMS	CQMS	William Herbert	GRAHAM	First Cdn Army Signals

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jun 44 endorsed by me, ~~for by any(s) of my subordinate Cmds etc~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reasons under 4 superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a F.G.C.M. as I consider the reasons I have attached hereto.~~
(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt.Col.	P. Tremblay		6 Cdn Gen Hospital

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt.	C.C. Evans		6 CCS
Capt.	H.C. Jockel		2 Cdn Inf Tps Wksp

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	R.W. Kennedy		4 Cdn Armd Tps Wksp

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt.	D.G. Dean, ADJA		HQ A Tps Area, First Cdn Army

On Active Service in the Fd

in England
(Country.)

Date 11 Jun 44

W. H. Roaf
Brigadier
(Rank.)
(Signed personally. RP 105 fn 2.)
(W.G.H. Roaf)
Commanding A Tps Area, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

13 June 47.

This is to certify that I have today examined L/A/M/S. Graham W.H. B 33091 and find that he is medically fit to undergo trial by court martial.

J. W. Armstrong Capt
R.C.A.M.C.

First Prosecution witness

C49972, CSM Allen A.R. No 1 S.I.S. duly sworn -

On 29 May 44, I and P.C. Gibbs, & L/Cpl Cochrane of S.I.S. went to Mrs Silk's home in Ashstead 38 Craddox Ave. The door was opened by Mrs. Silk who invited us into the house, where we saw W.D. property. With her consent we searched the home & found considerable W.D. property. This property was moved to Ashstead Police Station were a list was made by Cpl Cochrane and I. All these articles were found in Mrs. Silk's house.

(The witness reads and hands in as Ex A. the list referred to.)

In addition to those articles there was a uniform & a greatcoat & some washing which we left at Mrs. Silk's house.

I identified all the articles in the list Ex A as W.D. property.

On 30 May Cpl. Cochrane & I saw the accused. I gave him the usual caution (which the witness recites) I made no promises or threats. (The defending officer does not object to the admissability of the statement) A statement was then given by the accused. (Statement read by the witness & produced as Ex B.)

Cross-examined by Defending Officer.

I was certain all articles on list Ex A were W.D. property. I am not certain that the handkerchiefs are W.D. ~~[illegible]~~ property.

RP 83(B) is complied with

2nd Prosecution Witness

K67135 S/Cpl. Cochrane E.K. 1 S.I.S. duly sworn

Sailor -

On 29 May 44 I went to Mrs Silk's house, Ashstead with CSM Allen & P.C. Gibbs. ~~[illegible]~~ Mrs. Silk consented to us searching ~~her~~ home & we found considerable W.D. property & took all of it to the police station except a uniform

a battledress & some laundry the rest of the articles were removed, are listed on Ex A.

On 30 May the accused gave a statement to CSM Allen & me after being duly cautioned. The statement he gave his ~~statement~~ Ex. B signed by the accused.

R.P. 83(B) is complied with

~~X examined by defending officer~~

Third witness for Prosecution Kathleen Grace Sill 38 Craddox Ave, Ashstead sworn states.

On 29 May 2 M.P. & a civilian place came to the door & asked to come in. I let them in & permitted them to ~~look~~ search through the house. They removed considerable property.

I have known the accused since 1940. He has left various articles there at different time. The articles removed by the police were articles that had been brought there by the accused. When my husband was home we entertained a couple of Canadian soldiers. I washed their clothes for them but they left nothing there permanently.

X examined by defending officer

The police made a very thorough search. Some of the places where they looked had not been used for sometime. Any husband was in the home guard. It is possible some of his equipment was left in the house. I have had troops billeted with me & it is possible some of their articles were left in the house. Some of Graham's friends have dropped in occasionally & brought food from

home

~~Examined by Jd~~

Reexamined by Prosecutor.

The soldiers who were billeted with us lived with us as one of the family. There are five rooms in the house. Two of the rooms are occupied by a Mr & Mrs Wilson. I occupy the other three. There has just been 1 soldier a serg. billeted with me, and that was at the end of 1940. He slept in one of the rooms upstairs. He sometimes left equipment & clothing in my living quarters. When he left I think he left some things. He left a mess tin. I don't know whether or not he left a uniform. He may have left a blanket. This sergeant was a Canadian, something to do with security.

Examined by Jd.

The sergeant did not leave a uniform at my house.

The witness looks at Ex A. Accused brought all these articles to my house with the exception of.

~~[illegible]~~ Sgts. Cheerons
~~[illegible]~~ Respirator,
Goggles in tin.
Canada flashes
Khaki straps.
1 steel helmet.
2 light Bulbs
Leather heels & soles.

and some other articles whose names I don't recognize. These articles may have been brought there by Graham but I don't know

Examined by Court.
Mr Wilson who lives above is a curtain.
RP 83(B) is complied with

Fourth witness for prosecution.
No 23 P.C. Gibbs A.J. Ashstead, Surrey Police duly sworn -
I visited 38 Craddox Ave on 29 May 44 with 2 member of the SIS. We found in that house certain articles believed to be WD. property which I now produce as Ex C. (All the articles listed in Ex A produced).

Cross examined by Defending Officer
We made a thorough search of the downstairs part of these premises.
RP 83(B) is complied with

Fifth witness for prosecution
D 21003 R.Q.M.S. Purkers Eq. 1st Cdn Army
Signals sworn states -
On 4 June 1930 hours I checked the kit of the accused. I produce as Ex D the list of articles in his possession at that time (Statement read)
I produce as Ex E. list of kit which should normally be in accused's possession. In this list N.A. means the article would not normally be in accused's possession

Cross-examined by Defending Officer
Part III of MBM1 lists the kit issued a soldier. I identify the MB.M1 part III which appears to be the accused's & which is produced to me. I have compared the list in Part II MBM1 with the List Exhibit D & find there are deficiencies in the accused's kit as listed in this list (Read and handed in as Ex F). A soldier gets new kit by use of 513. A soldier can buy new equipment if he wants it. We wouldn't normally sell a soldier a battledress unless he turned one in. We keep 513's for 3 months back.
RP 83(B) is complied with

8 5

Sixth witness
M 55254 CQMS Gave JC No 2 Co 1st Cdn Army
Signals sworn states.

On 8th June 1944 I examined the articles in Ex C. I identified certain articles as definitely WD property, ~~marked as such~~, other articles similar to WD property but not marked as definitely identifiable such and one article definitely not WD property. I produce the list I made from my examination as Ex F.9.

Defending Officer declines to x examine
RP 83 (B) is complied with.

Prosecution is closed.

Defending Officer on no prima facie case.

Possession of some articles found in Mrs Sills' home has not been proved to be Grahams. Some of it could have been the property of some of the other soldiers mentioned.

It has been shown that a soldier can properly have additional equipment. the list on Ex F certainly shouldn't be in the charge. Some of these articles are not normally charged in a pay book although he would use them, eg. rubber boots.

Most of the articles were in Mrs Sills possession not his —

Prosecuting Officer.

The accused has been using this house as his domicile. this is obvious from the statement of the accused.

The list in Ex F. does permit the accused to be in possession of certain other items, but leave the greater part of the charge. Foods tools for example are undoubtedly improperly in his possession.

A Sum up.

Prima Facie case is established when the court feels that they would be reasonably justified in convicting without further evidence.

Question of whether possession is improper and prejudicial to good order etc is for the court to decide in the light of their military experience.

Defines constructive possession from Archbold p. 725

Defines & explains onus of proof & reasonable doubt & circumstantial evidence.

D. 7

Defence

B33091 CQMS. Graham W H, sworn
states -
I have been in the army 17½ years. Before
the war in the R.C.S. In this war 5 Sept. 1939.
I have been in stores work about 2 years.
All the articles in the charge sheet are
mine with the exception of the following

Coil of copper wire
Pumps bicycle
Leather soles sheets
Wood plane
Pr. tweezers
Coil 5 strand wire
1 Respirator A/Gas
Tins mess
Pr. goggles unsplinterable
Goggle case.
W.D. light bulbs.
Slings rifle
Straps shoulder
1 Case spectacle tinted.
2 Brushes cloth

I was in no way responsible for the
above articles.
~~The following articles were in~~
Whilst carrying out my duties as a CQMS.
it has been necessary to make long trips to
RCOC depots. I needed a map case & maps
for these trips.
The torches hand, while not part of my kit,
are legitimately in my possession for driving
together with the batteries.
Boots gum rubber were used by me
when moving in wet weather.
Whistles infantry & guards whistle, were
carried by me in the present set up in the field.
My pistol was stolen about 6 months
ago. The C. of I. absolved me of all blame

the lanyard is from this pistol.

~~The~~

T.M. turned their batteries into a torus & drew new ones. Some of these batteries had not enough life to operate W.D. equipment. I felt they might be strong enough to work a small amateur set, so I took them from salvage.

1 Valve 6469 was also taken from salvage

~~According to MDM II Part III I have more underwe.~~

I have more underwear & towels than I have been issued with according to MDM Part III. the extra I have purchased thru an MFM 513.

the W.D. tools in the charge were borrowed to help me build a radio in my spare time. Owing to the sudden emergency they could not be returned to the unit, when I was finished with them, about 6 weeks ago

X examination by prosecutor

I did not bring the light bulbs to the house. In my statement I said I may have. I didn't have time to recollect exactly before I made the ~~statement~~ to the S.I.S. ~~[illegible]~~ I was [illegible] and hung out the time. I know goods turned in as salvage were returned for a purpose & should not be taken. up until we moved from Ashstead salvage was sometimes not collected for 2 weeks. that wouldn't render a battery worthless for salvage.

Each article in E.C. of personal clothing ~~was [illegible]~~ and necessaries was either

issued to me or paid for by me.

Two of the battle dresses were gastreated at one time that is the only kind we received. We then got some ~~ordinary ones~~ others and the Q.M. said we should grab off an untreated suit. So I did it, the two gastreated uniforms should have been turned in but weren't.

1 Respirators & gas light - the only explanation I have of it is that it must have been left by one of my ~~men~~ friends

Haversack was used by me to take laundry to Mrs Sillis. It was not issued to me and I didn't pay for it.

The food was not properly in my possession.

The tin, blackberry jam is not government property.

2 Tins tea ration - these came out of a compot pack. They were improperly in my possession.

The tools were only borrowed. As company C.Q. I didn't have to get permission to borrow them - they were surplus to 1098. Sticking to the letter of the law I shouldn't have had them out.

By the Court

The last time I bought anything in the way of personal clothing was about Jan or Feb. 1944 I think I then bought a couple of towells ~~and~~ and a set of drawers. The blankets I took to Mrs Sillis house

RP 83(B) is complied with

Major A. M. Clark, 1 Cdn. Army Signals
sworn, states:

I am OC 1 Co, 1st C.A. Signals.
Accused is my Co. C.Q.M.S. He has been my CQ since April 43. He has been a very good C.Q.M.S. Ours is a technical co. of about 400 men. The accused has done his work to my entire satisfaction. His honesty has never been questioned. My E1098 has always been complete. I would not liked to be deprived of his services at the present time. He is a key man to any organization

Prosecutor declines to X examine.
RP. 83 (B) is complied with

Capt. A. Turner, 1 Cdn. Army Signals,
sworn states.

I am L.M. 1st Cdn. A. Signals. I have know the accused since Dec. 1939 at which time I was a sergeant. In all that time I have found Graham to be an efficient workman and prior to this charge I have never had any cause to doubt his trustworthiness.

Prosecutor declines to X examine.
RP. 83 (B) is complied with.

Defence is closed.
At 1800 hrs 12 June the Court adjourns until 1000 hrs, 13 June.
On 13 June at 1000 hrs the Court reassemble, pursuant to adjournment, present the same members as before adjournment.

Prosecutors Summing up.-

We have proved beyond reasonable doubt that the articles Ex C. are those found in Mrs Silk's house and that they are W.D. property except the tweezers. Mrs. Silk said certain items may not have been brought to her house by the accused. Her credibility is shown by the fact that both respirators which were left at her house were manufactured after 1941, yet she says one of them was left at her house in 1940.

The following articles in the charge sheet were according to his MBM1 issued to him, so we admit ~~they~~ he cannot be found guilty of their improper possession.

(1) Greatcoat
(2) 2 pr. woolen drawers
1 woolen vest
1 pr shorts gym.
2 prs. sox.
4 hand towels
1 pr. gloves
housewife
1 clothes brush.

Graham said that ~~the following~~ ~~arti~~ certain articles were legitimately in his possession for the performance of his duties, the prosecution accepts this. they are. whistle infantry
whistle guard
rubber boot
lanyard
mapcase
torch batteries hand

17.

Graham has said personal clothing other than uniform were obtained by him on repayment. This cannot be proven or disproven.

shirts engla
vest cotton gym 3
drawers cotton 4
towells - 2
sheets ground - 1
boots leather pr 1.

The court will see that all the articles are in reasonably good shape. Do you think that he would buy all these articles. The same applies to caps, field service.

Graham says he did not obtain some did not know they were there.

1 respirator A/G
1 " " light

Rifle sling
shoulder strap
Marston.
Goggles case.
leather soles & heels
spectacle case.
copper wire
bicycle pump
wood chisel
trowel
2 W Drills
1 cloth brush
coil of 5 strand wire

2 screwdrivers
3 pro pliers
1 padlock
2 rolls insulating tape.

Prosecution ~~has~~ does not seek to impeach Grahams evidence that he intends to return the tools, and certain other articles.
Grahams character evidence is not questioned.
The charge is proven beyond all reasonable doubt.

Defending Officer sums up
I submit to the court a list I have prepared of the articles in the charge sheet under certain headings (E, H)
Section 1 is the same as submitted by pros
Section 2 is the same except for caps & anklets ~~[illegible]~~ of which many of us purchase extras.
Section 4 is the same except for helmets, steel as the prosecution has suggested.
Accused admits improper possession of Section 5, but it wasn't brought there with the intention of depriving the govt of it.
Tools in Sect 6. he intended to return. I can easily see how he might forget them. It is not improper to have articles for his own use.
Articles from salvage he admits shouldn't have been taken, but weren't of much value.
Mrs. Silk said that the previous sergent had left a respirator & a blanket but she didn't say this respirator & blanket.

14

Despite Rahanis evidence, Mrs Sills mentions only 2 other men who might have left these things. The respirators, of course, could not have been left by these men because of their date. Casual visitors would be unlikely to have left them.

The WD bulbs are still in usable condition so it is unlikely they were left in HED. They are both new & untouched.

Outside of all these items, there are still a considerable remainder. These have either been admitted by the accused to be improperly in his possession or have not been explained by him.

2 tunics
2 prs trousers battle dress
He admits he neglected to turn them in
1 haversack admitted to be improperly in his possession
1 ground sheet - no explanation
4 blankets - admitted by accused
4 prs anklets - no sufficient explanation
10 patches distinguishing
10 chevron 1 bar
4 " 2 bar
8 crowns
7½ pds biscuits - admitted
1 bag D.R. ~~not~~ admitted used as a laundry bag
1 handvice
1 set ~~[illegible]~~ treading tools
21 dry batteries - admitted
1 Harley battery - good condition
1 Norton battery
2 tins tea ration
1 tin margarine
1 keyhole saw

I submit that his possession of the loots was not improper.

I ask for a special finding, excepting the bulk of these articles from the charge.

The goods that were found in Mrs. Sillis house was an accumulation of about 5 years of war.

I ask for a finding of guilty only for those articles he admits bringing these ~~but~~ & its impropriety

The Judge Advocate sums up:

Defines duties of Court & J.A.

Explains constructive possession, improper possession conduct to the prejudice &c, onus of proof, reasonable doubt & circumstantial evidence, as on the motion for no prima facie case.

Explains power to bring in special finding under A.P. 44(D)

Defending Officer in mitigation 16.
Reads & rands in

Serious ~~part~~ side of this charge are its implications against a [illegible]. There has been no suggestion of more, these serious implications.

I submit that the charge has been simmered down to a technical charge which has been forced upon the unit by this unhappy search.

The CQ has nothing to hide – he has made a clean breast of everything he could, and has faced the thing squarely, and not attempted to ~~[illegible]~~ bring forth obscure reasons.

What was found at Mrs Silk's house was the accumulation of 5 years of war. Graham himself had been coming to the house since 1940. These articles were brought to Mrs Silk's house thoughtlessly – over a long period of time – not realizing the implications for himself or Mrs Silk.

CQ Mrs Graham has a long record of Military Service both in the Imperial Army and the Canadian Army and has a perfectly clean record.

CQ has been carrying on his regular duties while awaiting the outcome of this action, and whatever the outcome, his record is still clear in the eyes of his Company Commander.

(11) Major Clark, the CQ's Company Commander, has stated that this man is a key pin in his organization and the loss of his service as a CQ at this time would be serious. The Unit clearly want to keep him at his job.

I cannot overemphasize that a CQ in Signals is a specialized job - one that requires knowledge of numerous items of technical equipment, as well as the ability to keep his men fed and clothed.

I would ask the court to deal with this charge in such a way as to allow him to continue his important work.

DW.

At 1030 hours the Court adjourns until 1430 hours, 12th June.

On 12 June at 1430 hours, the Court reassembled, pursuant to adjournment, present the same members as before adjournment.

Exhibit A.
Annabley Dal.

List of W.P. property found at 38, Craddocks Avenue, Ashtead.
on 29th May, 1944.
Residence of Mrs. Kathleen Grace SILK.

One Khaki greatcoat.
Three khaki tunics.
Two pairs khaki trousers.
One khaki shirt.
Two pairs pants.
Six vests.
Five pairs white shorts.
One pair khaki shorts.
Two pairs socks.
Four white towels.
One pair khaki gloves.
Two service caps.
Two General service respirators, one old and one new type.
One steel helmet.
One service haversack.
One waterproof sheet.
Four blankets.
Four khaki handkerchiefs.
One pair service boots.
Four pairs service gaiters.
One coil copper wire.
Ten R.C.C.S. flashes.
Ten L/Cpl., four Corporal, and three Sergeants, chevrons.
Six large and two small crowns.
Eight Canada flashes.
Two khaki straps.
One 7lb tin service biscuits.
Map holder with two maps.
One zip fastener haversack.
One long service torch.
One cycle pump.
One smoothing plane.
One keyhole saw.
Two screwdrivers.
One pair tweezers.
Four pairs pliers.
One hand vice.
One padlock.
One whistle.
One coil five strand wire.
One lanyard.
One set of stocks and dies in case.
Roll of white twine.
Service dixie.
Pair goggles in tin.
Housewife.
Two coils adhesive tape.
One First Aid bandage.
Five pairs leather heels, and two soles.
Empty service spectacle case.
~~One tin of steak and kidney pudding.~~ E.E. Hoyt.
One empty tin of steak and kidney pudding.
Two tins of tea ration.
One tin of blackberry jam.
One tin of margarine.
One tin of vegetable soup.
One tin of jam, flavour unknown.
Eighteen dry batteries, voltage various.
Two electric light bulbs.
One wireless valve.
Two accumulators.
One Pair gumboots.
One empty cardboard box which had contained sugar.

E. K. Cochrane Cpl.
No 1 S.I.S.
First Can Army

Produced as Exhibit "B"
by Cpl Cochrane in proof of the [illegible]
[illegible] May 1944
[illegible]

Exhibit B.
Remarks Def.

Reg.No. B 33091 Date 30 May 1944

CQMS. GRAHAM W.H. - No.1 Coy. FCAS.

I have been cautioned that I am not obliged to say anything unless I wish, but whatever I do say may be taken down in writing and used in evidence.
I understand the meaning of this caution, and to show that I do I sign my name here.

W.H.Graham C.Q.M.S

Witness:
E.K. Cochrane Cpl.
No1. S.I.S. Cdn Pro Corps.

I enlisted in the Canadian Army on 5 Sept. 39 and arrived in England 10 Feb. 40 and have been with the RCCS ever since.
I am married and my wife is living in Canada.

From 15 Feb. 43 to date I have been i/c of No.1 Coy. stores.

During 1940 I met a Mrs SILK of 38 Graddocks Ave, Ashstead and have been friendly with her ever since. I am the father of a child born to Mrs. Silk in March 1944.

During the time I have been going to Mrs. Silks house, I have brought various articles of Military property to her house. The underware,socks,uniforms, shirts, towels,respirator kit bag, ground sheet and other clothing, are part of my kit.

The blankets that you found at the house were brought there by myself about 6 months ago,and were used by members of our unit who wished to remain overnight.

With reference to the radio batteries, the dry ones, are partly dead, and of no use for WD. sets but have enough enorgy to run a private(small) set for a short time.
The Harley(wet battery and the Norton(wet) battery, are from the unit,I,having borrowed the Harley battery,and the Norton one was taken off the salvage.
The radio valves, were also from salvage.
The WD tools you have were also borrowed from the Unit to do my radio repairs and building, radio sets.

The WD leather, soles and heels,I know nothing about.
The WD rubber boots are mine and I have lefts them at the house,about 3 months ago.
The WD electric light bulbs, I may have taken them there,but I am not sure.
The box of WD biscuits(7 lb) were brought by me to the house just after Sparton.
Any of the tins of food that are WD were brought by me to the house after sparton.
The zipper DR bag, I used to take my laundry to the house.

I have read over the above statement and it is true.

W.H.Graham C.Q.M.S
30 May 44.

Witness
E.K. Cochrane, Cpl.

Received from Cpl Cochrane 5 June 44 in the presence of the accused
Established as Exhibit A.
[illegible]

APPENDIX C

Field
5 June 44

Exhibit II
Plumbing Ind.

APPENDIX C

KIT INSPECTION -
B-33091, CQMS Graham, W.H.

Certified that at approx. 1730 hours 5 June 44 at H.Q. 1 Coy in the field, I checked the kit of the m/n and found present the b/n items.

Belts, Waist W.E. Patt '37	- 1
Bottles Water Mk VII	- 1
Braces, W.E. Patt '37 R	- 1
L	- 1
Carriers Water Bottle WE 37	- 1
Haversacks W.E. '37	- 1
Helmets Steel	- 1
Covers Cam.	- 1
Pouches Basic Mk 111	- 2
Slings Mach.Gun Sten	- 1
Straps Web.Supporting	- 2
Straps Should. Hav. right	- 1
Left	- 1
Tins Mess Rectangular	- 1
Respirators A.G. Haversacks	- 1
Slings	- 1
Facepieces	- 1
Containers	- 1
Eyeshields A. G. (Pkts of 6)	- 1
Outfits Anti Dim	- 1
Ointment A.G. No.5 Tins	- 2
Bags Kit Large	- 1
Braces Prs.	- 1
Brushes Hair	- 1
Shaving	- 1
Boot Blacking	- 1
Polishing	- 1
Tooth	- 1
Combs Hair	- 1
Discs Identity Sets	- 1
Drawers Cotton Prs	- 1
Dressings First Field	- 1
Holdalls	- 1
Knives Clasp	- 1
Razors Safety	- 1
Patches Distinguishing Prs	- 1
Shirts Angola	- 2
Socks Worsted Prs	- 2
Boots Ankle Prs	- 2
Shoes Canvas Prs.	- 1
Caps Field Service	- 1
Anklets Web Prs.	- 1
Blouses Battle Dress	- 1
Trousers " "	- 1
Badges Cap	- 1
Patches Canada Prs	- 1
Stens Mach. Gun (R30482)	- 1
Sheets Ground	- 1
Mugs Drinking Enamel	- 1
Blankets G.S.	- 4
Mags. Sten Mach. Gun	- 6

G.G. Purkess .....R.Q.M.S
First Cdn. Army Signals

Facsimile Copy
Produced by RQMS Purkess, 7 June 44 in the presence of the accused and included as Appendix C
[illegible] Capt.

List of W.D. Property found at 38 Craddocks Avenue, Ashtead, on 29 May 1944.

Residence of Mrs Kathleen Grace Silk.

APPENDIX "B"

One Khaki Greatcoat
Three Khaki Tunics - all with RCCS flashes. DD
Two pairs khaki trousers
One Khaki shirt
Two pairs of pants
Six vests
Five pairs of white shorts
One pair of khaki shorts
Two pairs of socks
Four White towels
One pair of khaki gloves
Two service caps
Two general service respirators, one old and one new type (1943 type) DD. — marked "1942" DD
One steel helmet
One service Haversack
One waterproof sheet
Four Blankets
Four Khaki handkerchiefs
One pair of service boots
Four pairs of service gaiters
One coil of copper wire
Ten R.C.C.S. Flashes
Ten L/Cpl., four Corporal, and Three Sergeants, cheverons.
Six large and two small crowns.
Eight Canada Flashes
Two khaki straps
one 7 lb tin service biscuits
Map holder with two maps
One zip fastener haversack
One long service torch
One cycle pump
One smoothing plane
One keyhole saw
Two screwdrivers
One pair of tweezers
Four Pairs of pliers
One hand vice
One padlock
One whistle
One coil of five strand wire
One lanyard
One set of stocks and dies in case
Roll of white twine
Service dixie
Pair of goggles in tin
Housewife
Two coils adhesive tape
One first aid bandage
Five pairs leather heels, and two soles.
Empty tin of steak and kidney pudding
Two tins of tea ration
One tin of blackberry jam
One tin of margarine
One tin of vegetable soup
One tin of jam flavour unknown
Eighteen dry batteries, voltage various
Two electric light bulbs
One wireless valve
Two accumulators
One pair of gumboots
One empty cardboard box which had contained sugar.
~~One tin of steak and kidney pudding~~ PR Capt.
Empty service spectacle case

Receipt for Exhibits.

Receipt of the articles herein produced as Ex. C. is acknowledged.

(Sgd) E.K. Cochrane, Cpl.
No. 1 S.I.S., First Cdn Army.

Certified to be a true copy from the original in my possession.

R.E. Harlaung Jun Capt
8 June 44

B 33091 6 A.M.C. Graham W.H. 5 Jan 1937

APPENDIX D.

KIT LIST FOR UNIT PERSONNEL

CAT.NO.	DESIGNATION	ISSUE	REMARKS
	Attachments Bruce W.E.'37	2 N/A	For Pistol Web only
AA.0119	Bags Ration Lk.IV	1	
0107	Belts,waist,web ,large (or)	1	
0227	" " " small	1	
0228	Bottles,water,Lk.VII	1	
0342	Braces,W.E.'37L w/loop long (or)	1	
5016	Braces,W.E.'37 L w/loop Normal	1	
0354	Braces,W.E.'37 r w/loop Long (or	1	
5017	Braces,W.E.'37 R w/loop Normal	1 N/A	D.R.'s & Lingum Pistol Web Only
0355	Carriers,water,bottle W.E.'37	1	
0576	Cases,pistol,W.E.'37	1	
0658	Stoppers,cork,waterbottle	1	
1666	Haversack,W.E.'37	1	
1010	Helmets,Steel	1	
	Helmets,steel,cover camouflage	1 N/A	Pistol Web Only
5118	Hooks,W.E.'37	2	
1370	Pouches,amm.,pistol,W.E.'37	1	Trades armed with rifl
1483	Pouches,ammk.,Lk.VII	1	
5370	Slings,rifle,web Sling W	1	
1657	Straps,shoulder,s/sack,R.,W.E.'37	1	
1711	" " " L,W.E.'37	2	
1712	Straps,web,suspending,W.,'37	1 N/A	
1731	Tabs,securing,cover,pack,No.4 Lk.I	1	
1019	Tins,mess,rectangular	1	
5031	Respirator,...G.H.Haversack	1	
AB MIV 0066	Sling	1	
0020	Faceplece	1	
	Container	1	
0001	Eyeshields,A.F. (PKG of 6)	2	
AB 0066	Outfit,anti-dim tins	1	
0325		2 X	Turned in
MIV AB 0013	Ointment...G.#5	1	
AB 0126	Clothe,Chemical,Decon,	1	
0321	Detectors,one above,Lk.I prs.	1	
MIV C. 0052	Outfit,anti-dim	1	
C00010	Brushes, prs.	1	
0020	Brushes,cleaning	1 X	
0041	Brushes,button,Bruss	1 X	
0042	Brushes,cloth	1	
0043	Brushes,hair	1	
0045	Brushes,sewing	1	
	Brushes,boot,Blacking	1	
0047	Brushes,boot,polishing	1	Transferred
0052	Brushes,tooth	1	
0060	Cups,comforter	1	X Low Category
0062	Cloths,hair	2	
0071	Discs,identity,No.1,Green	1	
0072	" " No.2,red	1	
0073	" " Cord	2 X	N/C
	Drawers,cotton prs.	1	
	Drawers,woollen	1	N/C
	Dressing,Field	1 X	
0170	Forks,table prs.	1	
0177	Gloves,woollen	1 X	
	Holdalls	1	
0385	Housewife	1	
0480	Knives,clasp	1	
0532	Knives,table	1	
0534	Razor,safety	1 X	
0556	Patches,distinguishing, sets	2	
	Jersey or cardigan	1	
	Shirts,unsolin,drab prs	1	
MIV	Spoons,worsted,	1	
00 0011	Spoons,dessert	2 X	N/C
0731	Towels,hand	2	
0901	Vests,woollen prs.	1 N/A	D.R.'s Only
	Boots,ankle prs.	1	
	Boots,n/c prs.		
	Shoes,canvas,		

Remarks by RQMS Graham 7 Jan 37

G. Graham RQMS

CAT.NO.	DESIGNATION		ISSUE	RE MKS
	Greatcoat		1X	
	Cape,field,service		1✓	
	Anklets,web	prs.	1✓	
	Blouses,B.D.		01	
	Trousers,B.D.	prs.	01	
	Shorts,Gym	Prs.	2X	n/a
	Singlets,Gym		2X	n/a
CV 0011 1.IV	Capes, A.G. Camouflaged		1X	— x change
MI-6005	Cleaners,W.B. Khaki,	Tins	1X	
MA-5607	Dubbin,protective. (2-oz.tins)		1X	
	Badges,cap		1✓	
	Patches,Canada	(sets)	3✓	
	Cotton,waste	Oz.	2X	1 in resp. 1 in cape
	Bottle,oil		1X	
	Pullthrough		1X	
	Rifle,No.4 (or)		1	
	Sten,L.G. MK II R JOHNS		1✓	
	Sheet,ground		1✓	
	Tube,drinkin		1✓	
	Blankets,G.S.		2X	
	Lugs Sten		6✓	
	Loaders L.G Sten		1X	
	Coveralls		2X	

Exhibit F

Items on charge sheet of CQMS Graham which are charged to him in his Pt.III, and were found deficient when his kit was checked:

Greatcoat	1
Tunic	1
Trousers,B.D.	1
Drawers,woollen,prs	2
Vests,woollen,prs	1
Vests,cotton,gym	2
Drawers,cellular,short	2
Shorts,gym	2
Socks,worsted,prs	2
Gloves,knitted,drab,prs	1
Towels	2
Housewife	1
Brushes,cloth	1

Exhibit 6

Exhibit B
Thurlow
Lt Col.

I hereby certify that I examined the undermentioned articles at Ashtead Police Station at about 1430 hrs, 8 June 44, in the presence of No. 23 P.C. Gibbs and Captain F.E. Hetherington and found them to be issued as shown:-

APPENDIX "E"

W.D. Issue and so marked

1	Greatcoat
3	Tunics
3	Battledress Trousers
1	Shirt, angola
2	pr Drawers, woollen
6	Vests - (5 cotton gym; 1 winter top)
5	pr Drawers, cotton
1	pr Shorts, gym
2	pr Socks, worsted
4	Towels, hand
1	pr Gloves, knitted, drab
2	Caps, field service
1	Respirator, A/gas
1	Respirator, A/gas, light
1	Helmets, steel
1	Haversack
1	Sheets, ground
4	Blankets
1	pr Boots, ankle
4	pr Anklets, web
10	Patches, dist, R.C.C.S.
10	Chevrons, 1 bar
4	" 2 bar
3	" 3 bar
8	Crowns
8	Badges, Canada
1	Slings, rifle
1	Straps, shoulder
7½	lbs biscuits
1	Cases, Map, No. 2
1	Bags, despatch rider
1	Batteries, dry lamp
1	Torches, hand
1	Vices, hand, 4½-in.
1	Whistles, infantry
1	Guards, whistle
1	Lanyard
1	Set Tools, Screwcutting, BA 162
1	Tins Mess
1	pr Goggles, unsplinterable
1	Cases Goggles
1	Housewife
1	Dressing, first field
5	pr Leather heels
2	pr " soles
21	Batteries, (various voltages)
2	Bulbs, electric
1	Valve, 6V6G
2	Motorcycle batteries
1	pr Boots, knee, rubber
1	Case, spectacles, tinted, No. 3
1	Empty tin steak & kidney pudding
2	Tins tea rations
1	Tin jam
1	Tin blackberry jam
1	Tin margarine

Articles not marked as W.D. Property but identical with unmarked articles normally issued through W.D. channels.

1 Coil copper wire
1 Pump bicycle
1 Wood plane
1 Keyhole saw
2 Screwdrivers
1 pr tweezers
3 pr pliers
1 Padlock
1 Coil 5-strand wire
2 Rolls tape insulating
2 Brushes, cloth

Articles not W.D. Issue

1 pr pliers (nail-cutter)

J.C. Gare
(M-55254 C.Q.M.S. Gare, J.C.)

Witness -

F.E. Hetherington
(F.E. Hetherington) Capt.

6 June 44.

APPENDIX "E"

Exhibit H

1. Items found deficient in kit of C/SM Graham, and found at 38 Craddocks Ave.

Greatcoat	1	Gloves, knitted prs	1
Trousers, BD	1	Towels	2
Tunic, BD	1	Housewife	1
Drawers, woollen	2	Brushes, cloth	1
Vest Woollen	1		
Vest, cotton, Gym	2		
Drawers, cell. short	1		
Shorts, Gym	1		
Socks, worsted, prs	2		

2. Items surplus to kit, and stated by C/SM Graham to have been acquired through the proper channels:

Shirt, angola	1	Caps, F.S.	2
Vests, cotton, Gym	3	Sheet, ground	1
Drawers, cotton	4	Boots, ankle	1
Towels	2	Anklets, prs	4

3. Items C/SM Graham would normally have in the course of his work:

Torch, hand	1	Guards, whistle	1
Battery, lamp, dry	2	Cases, map, no. 2	1
Bags, D.R.	1	Lanyard	1
Whistles, inf.	1	Boots, knee, rubber, prs	1

4. Items C/SM Graham denies having any knowledge of:

Helmets, steel	1	coil of Copper Wire	1
Respirator, antigas (old)	1	Pump, bicycle	1
Slings, rifle	1	Plane, wood	1
Straps, shoulder	3	Tweezers	1
Leather heels	2	Coil of 5-strand wire	1
Leather soles	2	Tins, mess	1
Bulbs, electric	2	Goggles w/ case	
Case, spectacles	1		

5. Articles which C/SM Graham admits bringing to the house:

Blankets, C.S.	4	Margarine, tins	1
Biscuits, tins	1	Haversack	1
Ten Ration, tins	2	Battledress, AV	2

6. Tools which C/SM had borrowed:

Tools, screwcutting, set	1	Battery, M/C	1
Vises, hand	1	Keyhole saw	1
Screwdrivers,	2		

7. Articles taken from salvage:

Batteries, dry, of sorts	21	Valve, 6V6G	1
Battery, wet	1		

8. Articles not accounted for:

Tape, insulating, rolls	2	Crowns, cloth	8
Padlock	1	Dressing, first field	1
Tins, Jam	2	Respirators, antigas, light	1
Badges, Canada	8	Empty tin	3
Patches, SCGS	10	Pliers, prs	1
Chevrons, 1 Bar	10		
" 2 Bar	4		
" 3 Bar	3		

Exhibit 9

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 33091	C.Q.M.S.	Graham William Herbert	

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers under which should correspond with the number of entries in the conduct sheets, permission being given to the word "nil" where appropriate.

INSTRUCTIONS.—If the charge is for Absence the entries for Drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.

[redacted]

or

There are no entries in the conduct sheets of the accused.

2. [redacted]

N.A.

3. The accused was [redacted] beginning on the N.A. day of N.A.

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 42

6. The date of his attestation specified in his attestation paper is 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Nil

8. The accused is entitled to deferred pay or gratuity in respect of Nil service.

9. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N.A.

11. [redacted] the accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of Nil dated and in his regiment (*or* corps *or* department) the rank of Nil dated Nil

(*[illegible]) [illegible] 75,000 [illegible] A.& E.W.Ltd. Gp.999
(17870) W.L.44491/1940 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 day of June 44

E G Aunon Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of C.Q.M.S. , years, 16 Aug 43

In the rank of , years

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of R 33091 C.Q.M.S. Graham William Herbert, a soldier of No.1 Company, First Cdn Army Signals, Canadian Army, Overseas.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution

C 41972 C.S.M. Allen A.R., No.1 S.I.S. First Cdn Army having been duly sworn states:

I am C 41972 C.S.M. Allen A.R. No.1 S.I.S., First Cdn Army. On 29 May 44 information was received from the civil police of Ashtead regarding an alleged offence pending in the Ashtead Area. In company with Cpl Cochrane and P.C. Gibbs, Ashtead Police, enquiries were carried out without result. From information received in the Ashtead Area we then proceeded to 38 Craddocks Avenue to the home of a Mrs Silk where, on entering the home certain articles of W.D. property were seen in the hall. Mrs Silk then gave her permission for us to search the house. A considerable quantity of W.D. property was found. As a result of information received from Mrs Silk we patrolled to No.1 Coy R.C.C.S. in the field. C.Q.M.S. Graham, whom we wished to interview was away on a trip. We were informed that he would return at approximately 1900 hrs. In view of the information we had, instructions were left to have C.Q.M.S. Graham placed under close arrest. On 30th May at No.1 S.I.S. I was present and assisted Cpl Cochrane at the taking of a statement from the accused.

A. R. Allen.
(C 41792 CSM Allen A.R.)

The accused declined to cross-examine the witness.

Second Witness for the Prosecution

K 67135 Cpl Cochrane E.K. No.1 S.I.S., First Cdn Army having been duly sworn states:-

I am K 67135, Cpl Cochrane E.K., No.1 S.I.S. First Cdn Army I have heard the evidence given by C.S.M. Allen, I was present during the whole Inquiry, and corroborate his statement. On the 30th May 1944, C.Q.M.S. Graham having been cautioned made this statement. (Herewith included as Exhibit "A"). I now produce the list of property found at the residence of Mrs Kathleen Grace Silk, 38 Craddocks Ave., Ashtead. (Attached as Exhibit "B") This property is now at the Ashtead Police Station.

E K Cochrane
(K 67135 Cpl Cochrane E.K.)

The accused declined to cross-examine the witness.

Third Witness for the Prosecution

Mrs Kathleen Grace Silk, 38 Craddocks Avenue, having been duly sworn states:--

I am Mrs Kathleen Grace Silk of 38 Craddocks Ave. I have known C.Q.M.S. Graham since 1940. The W.D. property which was found in my house was brought here by C.Q.M.S. Graham and to the best of my knowledge it was part of his kit and articles of which he was entitled to be in possession.

K. Silk
(Mrs Kathleen Grace Silk)

The accused declined to cross-examine the witness.

Fourth Witness for the Prosecution

No.23 P.C. Gibbs A.J, Ashtead, Surrey Police having been duly sworn states:--

I am No.23, P.C. Gibbs A.J., Ashtead, Surrey ~~Askak~~ Police. At 11 a.m. 29 May 44 in consequence of information received I visited No 38 Craddocks Ave Ashtead, in company with 2 members of the S.I.S. I saw Mrs Silk, the tenant, and told her I was a police officer and had every reason to believe that she was in possession of government property. I asked her if I could examine the three rooms which she occupied and after some hesitation she said yes.
In each of the 3 rooms and in the hall government property was found which in my opinion she had no right to have in the house. Blankets were in use on the bed and there were some under the bed. Electric lamp bulbs which were in use were stamped "Government Property". In a cupboard under the stairs there were W.D. tools and leather soles and heels. In one room was a seven pounds of army ration biscuits. This property with numerous other articles was taken in possession of. I have seen thelist marked Exhibit "B" to this evidence and recognize it as a facsimile copy of the list of articles found, made by a member of the S.I.S.

Alexander J. Gibbs P.C. No.23
(Alexander J. Gibbs P.C. No.23)

The accused declined to cross-examine the witness.

Fifth Witness for the
Prosecution

D-21003 R.Q.M.S. Purkess, G.G., RQMS First Cdn Army Signals having been duly sworn states:-

I am D-21003 RQMS Purkess, G.G., RQMS, First Cdn Army Signals. At approx 1730 hrs 4 June I checked the kit of C.Q.M.S. Graham in the field. Herewith is the list of kit which he was in possession of at that time. (Included as Appx "C"). Herewith also a standard kit list for unit personnel showing equipment and kit (except that crossed off) of which he should normally be in possession. (Included as Appx "D").

G.G.Purkess
(D-21003 RQMS Purkess, G.G.)

The Accused declined to cross-examine the witness.

Sixth Witness for the
Prosecution

M-55254 C.Q.M.S. Gare, J.C., Company Quartermaster Sergeant of 2 Company, First Cdn Army Signals, having been duly sworn, states:-

I am M-55254 C.Q.M.S. Gare, J.C., Company Quartermaster Sergeant of 2 Company, First Cdn Army Signals. At about 1430 hrs 8 June 44, I went to Ashtead police station and inspected certain articles which I understood had been found at 38 Craddocks Ave., Ashtead. I have made a list of these articles showing ~~showing~~ which are marked W.D. or are undoubtedly Army issue, which are of the type issued by the Cdn Army without W.D. markings, and which are not Army issue (Included as Appx "E"). No. 23 P.C. Gibbs, Ashtead Police and Capt. F.E. Hetherington, Army Signals, were present during my inspection.

J.C.Gare
(M-55254 CQMS Gare, J.C.)

The Accused declined to cross-examine the witness.

The Accused declined to call any witness in his own defence.

The Accused having been asked, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence," declines to make any statement or to give evidence upon oath.

The above three pages of evidence were taken on oath in the presence of the Accused and I certify that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

8 June 44

F.E.Hetherington Capt.
(F.E. Hetherington) Capt.

No. B 33091 Name Graham W.H. Sqn., Battery, or Company HQ 1 Coy Corps R.C.C.S. Date of enlistment 5-9-39 C.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 15 Jul 42 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. E.G. Vernon Capt. Paymaster

M.F.M. 6

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field		Sgt		Old Sheet destroyed on confirmation of rank of Sgt 8 August 1943 A.G. Brenneman Major					
				Certified to be a true copy from the records in my possession					
				Date 7 June 44					
				Capt., Adjt, First Can Army Signals					

No. B 33091 Name Graham W.H. Sqn., Battery, or Company HQ 1 Cdn Corps R.C.C.S. Date of enlistment 5-9-39 C.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.B. 179.

Date of last entry in Company Conduct Sheet 15 Jul 42 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. E.G. Vernon Capt.

Examined

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Sgt		Old Sheet destroyed on confirmation of rank of Sgt 8 August 1943 A.G. Brenneman Major Certified to be a true copy from the records in my possession Date 7 June 44 Capt., Adjt, First Cdn Army Signals					

(P.T.O.)

JJJ 133

CAMS - GRAHAM . WH.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B33691 CGMS William Herbert Graham

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not Guilty	Not Guilty	
2nd		Not Guilty	Not Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of h/c see RP 44 fn b.)

~~To commit under sentence for~~ ~~CB to run~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF D296.)

~~Time in confinement awaiting present trial is total of ~~ ~~days, of which ~~ ~~days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF D296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... Judge-Advocate, if any. 19 Apr 44 Date awarded. (Sgd) Ed Maud Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 1944 JJJ-133

CPA66 (In lieu of AFA37) 45/P & R/1598 (C) (P)

FIELD GENERAL COURT-MARTIAL 4388

Convened by Order of Brig W.D.H. Scaife Comd A Tps 1st Cdn Inf Div dated 7 Apr 44 Army.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B33691	CGMS.	William Herbert	Graham	1st Cdn Div Army Signals

PROCEEDINGS REVIEWED 10 May 44

W.D.H. Scaife Brig

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q. Ottawa

Held in the Fd in (country) England on (date(s)) 19 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 6/70

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which entries are hereafter called "notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ~~ as interpreter? Ans ~~No~~

~~The Interpreter is sworn.(1) Do you object to ~~ as shorthand writer? Ans ~~No~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 10, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	Ed Maud	4th Cdn Army Tps
Member	Capt	Ed Brown	First Cdn Army Signals
Member	Lieut	JP Mitchell	First Cdn Army Signals
Judge-Advocate			
Prosecutor	Lieut	H Murdock	First Cdn Army Signals
Defending Offr	Lieut	RL Van Wyck	First Cdn Army Signals

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 26, 27, 109, 110. Use of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 61 (E) and fn 2 were not followed. See Di p 23.)

A8. The accused B33691 CGMS Graham, W.H. before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the outcome, evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet use RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. ' After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 90(*A*) (*E*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty.[4] In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans .....[5]

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement, if desired, whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No .....[1]

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 90(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans Yes give evidence. Do you intend to call witnesses on your behalf ?

Ans Yes. Are they witnesses as to character only ? Ans Yes.

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court ✓ (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(*1. AA 54(7) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.[3]

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans .....[2]

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.[2]

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 328, 330, 563-566. Oversea RO 509, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 46(B), 68(1), KR Can 564. 2. RP 32. As to release from arrest for Confirming Offr see KR Can 567. As to assembly and disposal of record after arrest see insets on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

B2

First Charge

CHARGE SHEET

Army Act Section 40

The accused, B 33091 C.S.M.S. Graham W.H. First Cdn Army Signals, a soldier of the Cdn Army Overseas, placed on active service,

is charged with,-

Conduct to the prejudice of good order and military discipline

in that he

in the Woodman Public House, Ashtead at about 2000 hrs 9 April 1944, did improperly make statements to a civilian, Alexander John Gibbs, Police Constable, 23 Station Ashtead, concerning the future movements and operations of His Majesties forces, to the effect that Canadian Army personnel were to leave Ashtead on 17 Apr 1944 and that the invasion would commence on 23 April 44.

Second Charge

Army Act Section 40

The accused, B 33091 C.S.M.S. Graham W.H. First Cdn Army Signals, a soldier of the Cdn Army Overseas, placed on active service,

is charged with,-

Conduct to the prejudice of good order and military discipline

in that he

in the Woodman Public House, Ashtead at about 2030 hrs 10 April 1944, did improperly make statements to a civilian, Alexander John Gibbs, Police Constable, 23 Station Ashtead, concerning the future movements and operations of His Majesties forces, to the effect that Canadian Army personnel were to leave Ashtead on 17 April 1944 and that the invasion would commence on 23 April 44.

Signed in the Field
26 April 1944

(R.G. McCullagh) Lt.Col.,
Officer Commanding,
First Cdn Army Signals.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field
27 April 44

(W.G.H. Roef) Brig
Comd A Tps
First Cdn Army

X

CFA95 (In lieu of AFA2)
40/P&S/1057 (2002)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.33091	CQMS		William Herbert	GRAHAM	First Cdn Army Signals

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 April 44 endorsed by me, (~~or by an offr~~ [illegible]), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for referring to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	CA Mair	47 Cdn Army Tpt Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	EAQ Bown	First Cdn Army Sigs
Capt	DB Fenny	86 Cdn Br Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	JP Mitchell	First Cdn Army Sigs

~~JUDGE-ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 27 April 44

W. G. H. Roaf
(Signed personally. RP 105 fn 2.)
(W.G.H. Roaf)

Brigadier (Rank.)

Commanding HQ A Tps, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Cdm

F.C.A.S.
29 April 44

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B33091, C.Q.M.S. Graham, W., First Cdn Army Signals, Canadian Army Overseas, is ~~fit/unfit~~ fit to undergo trial by Court-Martial.

Capt.,
Medical Officer, F.C.A.S.

The Court satisfy themselves that Capt D B Fenny, 86 Cdn Br Coy RCASC, is not available to serve owing to the exigencies of the service and Lieut J P Mitchell, First Cdn A Signals takes his place as a member of the Court.

C A Mair Maj
Pres.

1st Witness for the Prosecution – Alexander John Gibbs, P.C. 23 Station, Ashtead having duly sworn is examined by the Prosecuting Officer.

Pros: P.C. Gibbs will tell what took place at Woodman Hotel in Ashtead on 9th and 10th of April.

Witness: At 2000 hrs on 9 April I was in saloon bar of Woodman Hotel Ashtead. I saw CQMS Graham there, who had been celebrating Uxbridge Anniversary. During conversation he said "All Cdns will be leaving Ashtead for their concentration Area on 17th and the Big Show starts on the 23rd." At 2000 hrs on 10 Apr 44 bearing this previous conversation in mind I again visited the saloon bar of Woodman Hotel, thinking that the conversation of previous night might have been made under the influence of whisky. The accused was in the saloon bar. He told me that there had been a conference that morning at which Generals had been present and he repeated that all Cdns leave Ashtead for the C.A. on the 17th and the Big Show starts on the 23rd That is my evidence

Pros: That is the case for the Prosecution. I have no further witnesses

Cross. Examined By the Defending Officer:
"The Prosecution has no further witnesses"
The Prosecution is closed.

Q8 - How long have you known the accused?

A8 - about nine months

Q9 - I understand you go into the Woodman's Hotel fairly often in the evenings?

A9 - Yes

Q10 - You say that you went back to the Woodman's Hotel on night of 10th of Apr to see if CQMS Graham might repeat the statement he had made the night before?

A10 Yes

Q11 - That was your only reason? I mean you didn't go back for a drink

A11 - No sir I went there for a purpose I did have a drink, but to see if he would repeat it.

Q12 - When did you report this conversation to your station

A12 - That nite the 10th

Q13 - The CQ didn't tell you where he got this information?

A13 - No

~~Q14~~ - Did you believe that these dates he gave you were authentic?

COURT - The question is irrelevant

Q14 - Was there anyone with the accused on the 10 Apr?

A14 - Not first of all but later there were four officers who were there for about two minutes and went out

Q15 - Did anyone else hear these statements?

A15 - There were quite a number of people about

Q16 - Did you caution the accused about these statements on the 10th

A16 - No

~~Court Q17 - Does Prosecution wish to examine the witness~~ Cam

~~Defence A17 - No~~ Cam

Cam

Court Q17 . Does Prosecution wish to re-examine the witness C7

Pros A17 No

Court Q18 Were you in uniform on the 9th or 10th?

A18 No sir both times in civilian clothes

Court Q19 Would you say that the accused was under the influence of liquor on 9th?

A19 Yes

Court Q20 On the 10th?

A20 No

Court Q21 You have known the accused for some time?

A21 Yes sir 9 mos.

"Rule of Procedure 83(B) has been complied with"

"The Witness Withdraws"

~~"The Accused declines to cross-examine this witness"~~

1st Witness for Accused B 33091 CQMS Graham, William Herbert, First Can Army Signals having been duly sworn is examined by Defending Officer

Defending Offr - Will you tell the Court CQ in your own words what happened on night of 9th April.

A1st Witness - On night of 9 Apr a number of my NCO friends including a number of officers started a little celebration which finally wound up at the Woodmans Hotel. Amongst other things we were celebrating Vimy Ridge day and the fact that some fellows who had been in the ranks with me had returned to the unit with their commissions. I believe that to the best of my knowledge the P.C was in the saloon on the Sunday (9 Apr) but I have no recollection of speaking to him whatsoever because most of the time I was with the party I originally went in with. I definitely deny making the alleged statements.

Q2nd - Tell the Court about the 10th

A2nd - Well sir I'm not going to commit myself about the 10th because I'm not sure I was there or not.

Q2nd - Were you at the hotel on the first of that week Mon Tues or Wed?

A2nd - I use the hotel quite frequently but I wouldn't swear what day I was in

Q2nd Do you recall seeing the constable there any time during the first of the week?

A2nd - Only on the 9 Apr

Q2nd - Do you deny making the statement as alleged in the second charge

A2nd - Yes sir definitely

Q27 When did you first know that someone was preferring a charge against you on these grounds?

Q27- On the 24 Apr, fourteen days after the alleged statement was made

Q28- Did you at the 9th or 10th have any knowledge of future movements of troops in Ashtead?

Q28. No

Q29- Did you know that Constable Gibbs was a policeman when you had seen him in the tavern on the evening?

Q29. Yes sir

"The prosecution declined to cross-examine this witness"

Rule of Procedure 83(B) has been complied with"

Colm

C.J.

Closing Address by Pros:

I have no closing address - I believe the evidence substantiates the charge

Closing Address by Defence

The first point is that the accused has pleaded not guilty to the charges. The P.C. said that the statements were made in a crowded bar yet he made absolutely no attempt to produce witnesses to corroborate his statement nor did he caution the accused afterwards by saying to him that such statements as these should not be made. Before the court can find an accused person guilty it must be satisfied beyond all reasonable doubt that the man is guilty. All reasonable doubt. If there is any doubt the man must be acquitted. I think there must be reasonable doubt for several reasons. First of all we have a genuine reason defying the charge, secondly the P.C. made no attempt right at the moment to find out whether the people around him had heard the statements. That was his job for purpose of corroborating his own evidence. Thirdly no notice of any kind was received by the accused until fully two weeks after these statements were allegedly made. With those points in mind I don't see how you can feel positive that the man is guilty.

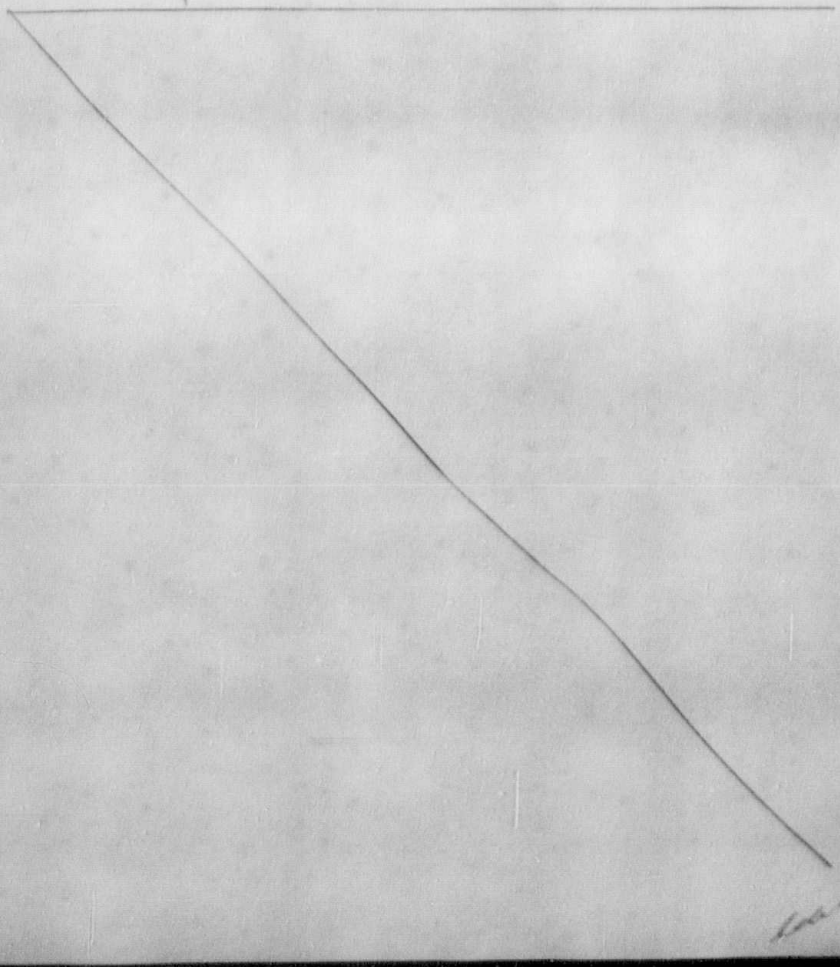
If on the other hand you decide that he has made these statements you must decide whether a false statement

~~C to C~~

about the movement of troops is conduct to the prejudice. Since the statements were not true I do not believe that it is conduct to the prejudice

"At 1200 hrs on 27 Apr 44 The Court adjourned until 1330 hrs on the 27 Apr 44

On the 27 Apr at 1330 hrs the Court reassemble pursuant to adjournment present the same members as when adjourned"



Summary of Evidence in the Case of B.33091 C.Q.M.S. Graham, W.H.
H.Q. 1 Coy., First Canadian Army Signals.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution — Alexander John Gibbs, P.C. 23 Station, Ashtead, Surrey having been duly sworne states:-

" I am Alexander John Gibbs, P.C. 23 Station, Ashtead Surrey, Sir, at 2000 hrs 9 Apr.44 I was in the Saloon bar of the Woodman Hotel, Ashtead, when the accused C.Q.M.S. Graham, W.H. came into the Saloon Bar. He had been drinking. He had been celebrating Vimy Ridge Anniversary. Amongst other things he told me was the messes will be drank dry on the 16th (fifteenth) and all Canadians leave Ashtead on the 17th (seventeenth) for their concentration area. The big show starts on the 23rd (twenty-third). Keeping this conversation in mind I again visited the Woodman Hotel at 2030 hrs 10 Apr.44. The accused came into the Saloon bar, he told me there had been a conference that morning and several generals were present. He also repeated his intimation of the previous evening that all Canadians were leaving on the seventeenth (17th) for their concentration area and the big show starts on the 23rd (twenty-third).

That is my evidence sir.

Alexander J. Gibbs PC 1023.
(A.J. Gibbs) P.C. 23 Station, Ashtead.

The accused declines to cross examine the witness.

Question tothe accused:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you gove will be taken down in writing and may be given in evidence."

The Accused declines to make a statement.

I certify that the Rule of Procedure 4(C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused in the field this 24 day of April 1944.

Hall Murdoch
(H. Murdoch) Lieut.
First Cdn Army Signals.

TT-96 (Case #3)

PTE GRAHAM W.H.

See D.37 for 1st Case
" R-96 " 2nd "

TT 96

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this NINETEENTH day of OCTOBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

~~I am unable to appoint:~~

~~*1. Three Officers to form the Court.~~

~~*2. A Field Officer as President.~~

~~*3. Three Officers having more than one year's service.~~

~~for the following reasons, namely:~~

Capt W.M.W. Shaw RCA HQ 2 Cdn Div
is appointed Judge Advocate

President.

Rank.	Name.	Regiment.
Major	W.E. Osler	Camerons of C

Members.

Rank.	Name.	Regiment.
Capt	C.J.R. Langlois	Fus M R
Lieut	G.E. Colgate	S Sask R
Waiting Member Lieut	J.A. Cardin	Fus M R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G.S.N. Costling) Brigadier,
Commanding 6 Cdn Inf Bde.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-12062 Pte WILLIAM HOWARD GRAHAM S Sask R	First Charge Sec 15(1) See charge sheet attached.	guilty	guilty To undergo 1 HL for 15 months and to be placed under stoppages of pay in the sum of £0.13.11 to make good costs of return 19 Oct 43	I confirm but commute the sentence to detention [signature] 6 Cdn. Inf. Bde. Brig. 19 Oct 43

[signature] major

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] (Signed) [signature] major
(G.S.N. Gostling) Brigadier,
Commanding 6 Cdn Inf Bde.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of Oct 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~(3. The interpreter)~~
~~(4. The officers under instruction)~~ WMW
were duly sworn.

* Omit if not applicable.

Signed this 19 day of Oct 1943.

WMW Shaw Capt Judge Advocate

[signature] major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 of M.M.L. 1918.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ WMW

~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~ [signature]

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 19th day of October 1943.

[signature] Brig.
6 Cdn. Inf. Bde.
Confirming Officer.

Promulgated and extracts taken in the case of L 12062 Pte William Howard Graham
(a) (Dated) 20 Oct 43 (Signed) [signature] Adjutant S. Sask. R. C.A. (O)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No L-12062 Pte. William Howard Graham, South Saskatchewan Regiment, being a member of the Canadian Army Overseas, is charged with W.O.A.S. :-

harge
(1)
Act

Absenting himself without leave -

in that he

in the Field, absented himself without leave from 0600 hrs 13 Sep 43 until surrendering himself to the Civil Police at Stratham Police Station, London at 0800 hrs, 11 Oct 43, incurring costs of return to the amount of £ 0-13-11. (Absent 28 days, 2 hrs)

In the Field
15 Oct 43

(F.A. Cliff) Lt-Col.
O.C. S.Sask.R. C.A.(o).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
19 Oct 43

(G.S.N. Gostling) Brigadier,
Commander 6 Can Inf Bde.

B2

MEDICAL OFFICERS CERTIFICATE

19 Oct 43

I certify that No L-12062 Pte. Graham, W.H. South Saskatchewan Regiment is fit to undergo trial by Court Martial.

Witness

Signature of Medical Officer

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a F. G. Court-Martial held at In the field on the 19 day of Oct 1943 by order of Brig GSN Goodling Commanding 6 Cdn Inf Bde dated the 19 day of Oct 1943

President.

Major W E Osler, Cams of C

Members.

Capt C J R Langlois Fus M R
Lt G. E. Colgate S Sask R

Capt W M W Shaw, H Q 2 Cdn Div, Judge Advocate.

Trial of* L12062 Pte William Howard Graham, S. Sask R.

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

WMWS

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt J W Paul, Reg Rifles.

~~Counsel or~~ defending officer† Capt W S Edminson, S. S. R.

At 1050 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused.

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 40 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been withdrawn.

*~~The Court having been re-opened, the accused is again brought before him, and the charge to which he has pleaded "Guilty" read to him again.~~

The accused L/12062 Pte William Howard Graham S S R.
is found guilty of the charge

*The summary (~~or abstract~~) of evidence is read, marked "C", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, Sir

*~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

No, sir *Answer.*

Evidence as to character.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty." WMWS

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before~~ it.

Prosecutor presents under o/s RO 3131 MFB 355 + MFM 6 (marked D + E) ~~is duly sworn.~~

Evidence of character, &c.

Question by the President.

~~Have you any evidence to produce as to the character and particulars~~ of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* WMWS

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

~~Cross-examined by the accused.~~

Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? ~~Answer.~~ Yes, thus def. offr (see "G")

The Court is closed for the consideration of the sentence.

WMWS Shaw capt
Judge Advocate

W. Wilson major
President

19-Oct-43

A plea for mitigation of sentence

To Mr President & Members of the Court.

I plead the case of L-12062 Pte. Graham, W.H. He has pleaded guilty. He does not wish to escape punishment but probably one should consider the case from the motive and not soley as guilty or not guilty angle.

First let us touch briefly on his civil life. His age - 31 yrs. Married, with one child -- a daughter aged 10 yrs. Education-- Grade XII and in civil life he was employed as a clerk in the municipal office at Swift Current.

At Home his married life was happy and normal but since his arrival in England things do not appear to have gone so well. His wife moved to Toronto, leaving the child in her mothers care at Swift Current. The child we think is being well taken care of but has had no letters from his wife since May.

This may seem no excuse for absence from his unit but some men cannot confide their troubles easily. Again it may be motivated by selfish desires or self pity, which, if part of a mans mental makeup requires a great deal of self control.

Where the man is intelligent, of good appearances and one who knows his own weaknesses, knows right from wrong, such as Graham here, but lacks self control, cannot something be done to help correct this fault, which if eliminated would produce a most excellent soldier and leader.

In his domestic relations he did fail to instigate proper investigation but that is now being done. In the past he has asked for changes of employment but owing to circumstances it could not be arranged.

Let us now review his military history. He joined the S. Sask. R on 7-Sep- 1939. He was at one time Pioneer Sgt and served at Dieppe as such where he did a most valuable job. If you have read Wallace Rayburns 'Rehearsal for Invasion' you will probably remember his mention of Graham and his work.

For some time after Dieppe he was confined to hospital suffering from shock. Even yet you may notice he is high strung and seemingly in a somewhat nervous condition.

Is not prevention better than cure? Could something be done to help this man who needs so much help? I thank you gentlemen for listening to my plea for the accused.

"G"

Summary of Evidence in the Case of No L-12062 Pte. William Howard Graham, S.Sask.R., a soldier of the Canadian Army Overseas.
The accused is informed of his rights.
The CO directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION Capt. J.W. Paul, 3 Bn Regina Rifles, , attached S.Sask.R., having been duly sworn, states :-

I present :-

Certified true copy of Record of Declaration of a Court of Inquiry assembled in the Field on 7 Oct 43 for the purpose of investigating and recording the absence without leave of L-12062 Pte. William Howard Graham. (Attached as Exhibit "A").

Certificate of apprehension purporting to be signed by D.A.P.M., C.M.H.Q., (Attached as Exhibit "B")

Certificate of costs of return, purporting to be signed by OC No 6 Provost Coy Canadian Provost Corps (Attached as Exhibit "C").

All of which relate to the accused, whom I recognize.

The accused declines to cross - examine

J.W. Paul
(J.W. Paul) Capt.

The accused, having been duly cautioned in accordance with R.P. 4(E) says : -

"I have nothing to say at all".

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 complied with.
In the Field
16 Oct 43.

J.W. Paul
(J.W. Paul) Capt.

"C"
W.M.W. Shaw Capt.

D. Wales
Major

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 7 th day of October 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-12062 Pte. Graham, W.H.

DECLARATION

The Court declare that No. L-12062 Pte. Graham, William Howard illegally absented himself without leave In The Field at 1200 hrs on the 13 th day of Sep 1943 and that on the 15 th Sep 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
1 Blouses, Battle Dress Serge	4	63			
1 Trousers, Battle Dress, Serge	4	63			
1 Boots, Ankle	3	60			
1 caps Field Service		61			
1 Dressing Field		16			
2 Shirts, Cotton		51			
	14	14			

(J.W. Paul) Capt 3 Bn Regina Rifles — President

(H.M. Pegg) Lieut., S.Sask.R. — Member

Member

Signed at Field

this 7th day of Oct 1943

Signature of Commanding Officer (F.A. Clift) Lt-Col., O.C. S.Sask.R. C.A.(O).

Certified true copy A.A. Black Lieut. A/Adjutant

Signature of Officer having custody of original record

M.F.D. 373
6M—8-40 (6830-1)
H.Q. 1772—39-282

Exhibit "A"
J.W. Paul Capt.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j).

I, ... (L.S. Grayson,) Capt., D.A.P.M., C.M.H.Q. . . certify that

Reg. No L.12062 . Rank . Pte. . . . Name . . Graham, W.H. . . . . .

Regiment . . . . South Sask. Regt. . . . . .

Unit . . . . . .

Stationed at . . . . . .

Surrendered himself to No 332 . . Rank . P.C. Name . Rudd, R. . . . . .

of the . . . . . Stratham Civil Police. . . . . .

on the 11 . . day of . Oct. . . . . 19 43 , at 0800 . . . . . hours

. . . . . AS AN ABSENTEE WITHOUT LEAVE . . . . . .

At the time of his surrender he was wearing (military uniform) or
~~(xxxxxxxxxxxxxxxxxx)~~'
Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.
(Strike out part inapplicable)'

L.S. Grayson
Capt.,
~~(my Name)~~ D.A.P.M., C. M. H. Q.

London
11 Oct. 43.

Exhibit "B"
[illegible] Capt.

Ref: K.R. & O. (Can) 330

Expense Voucher Re—:

Reg. No. 12062 Rank Lb. Name Graham, H.H. Unit S. Sask. Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
11 Oct. 43.	Escorts return fare from LONDON To Worthing		9	3
	Prisoners single fare to LONDON From Worthing		4	8
	Prisoners fare from London To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	✓	13	11.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000[illegible]
40(P & S)(ASSESSMENT)

Exhibit "C"
[signature] Capt.

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

No. L-12062 Name Graham, W.H. Sqn., Battery, or Company Corps Inf Date of enlistment 7 Sep 39 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 25/8/43 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Weyburn	7 Nov	39 Pte.		A.W.L.		2 dys forf of pay			
Weyburn	16 Feb	40 Pte.		A.W.L.		Forfs one dys pay			
Weyburn	19 Apr	40 Pte.		A.W.L.		Forfs 10 Dys pay			
Shilo Camp	28 May	40 Pte.		A.W.L.		Forfs 5 dys pay			
Shilo Camp	4 Jul	40 Pte.		A.W.L.		18 Days Detn, Forfs 16 dys pay			
Shilo Camp	26 Aug	40 Pte.		A.W.L.		25 dys detn forf 8 dys pay			
Shilo Camp	19 Sep	40 Pte.		Stoppage of pay - Transportation		$17.26 , $ 5.00			
Shilo Camp	30 Sep	40 Pte.		A.W.L. Drunkenness		Forfs 1 days pay, fined $ 5.00			
Shilo Camp	7 Oct	40 Pte.		A.W.L.		Forf one days pay			
Toronto	1 Nov	40 Pte.		A.W.L. from 0900 hrs - 1830 hrs		14 days detn, 7 days pay			
Toronto	21 Nov	40 Pte.		Given a remission of sentence of one days pay for good behaviour					
Toronto	21 Nov	40 Pte.		Given a remission of sentence if recredited - one days pay					
Serial E	17 Dec	40 Pte.		A.W.L. from 0630 hrs 12 Dec to 0330 hrs 13 Dec 40		Forfs one days pay and Allces			

E. [illegible] major

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

No. L-12062 Name Graham, W.H. Sqn., Battery, or Company Corps Inf Date of enlistment 7 Sep 39 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
UK	21 Jul	43		Granted 59 dys remiss of sentence and released from detn					
UK	25 Aug	43		A.A. Sec 15(1)		Fofrs 18 dys pay and cost of apprehension £ 1-7-0			

CERTIFIED TRUE COPY 18 Oct 43
aaBlack
(A.A. Black) Lieut.,
A/Adjutant, S.Sask.R. C.A.(C).

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6 Feb	41 Pte.		A.W.L. from 2300 hrs 2 Feb to 2335 hrs 6 Feb 41(4 dys 35 mins) ~~xxxxx~~		15 Dys detn forfs 5 dys pay 149(1)(a) FR&I 15 days pay 149 (1)(c) FR&I Total 20 days			
Field	5 Mar	41 Pte.		A.W.L. 4 Mar 41		Forfs 1 dys pay 149 (1)(a)			
Field	21 Apr	41 Pte.		A.W.L. 21 dys		21 dys detn AA Sec 40 21 dys Pay FR&I 149(1)(b)			
Field	18 Jul	41 Pte.		A.W.L.		168 hrs detn 1 dys pay FR&I 149(1)(a) 7 dys pay(1 149 (1)(b) FR&I			
UK	23 Sep	41 Pte.		Under close arrest 1800 hrs		50 dys detn, 50 dys pay			
UK	23 Sep	41 Pte.		Fined FGCM A.A. 40 ans		10 dys detn, fofrs 11 dys pay			
UK	16 Dec	41 Pte.		A.W.L.		Reduced to Pte 180 dys detn, total fofr 183 dys			
UK	27 Oct	42 Sgt.		F.G.C.M. A.A. 18 (4) ans		Forfs 8 dys pay			
UK	21 Jan	43 Pte.		Sec 15(1)		7 dys CB 17 dys pay			
UK	24 Feb	43 Pte.		Sec 15(1)		3 dys pay			
UK	15 May	43 Pte.		Sec 15(1)					
UK	17 May	43 Pte.		Ordered by GOC 2 Cdn Div to be comm to Dtn B&R to complete sentence of 6 mths detn and by FGCM on 27 Oct 42. After serving 57 dys the original sentence was suspended by Senior Off CMHQ wef 23 Dec 42. 126 days of sentence to be served. A.A. Sec 57 A		Forfs 126 days pay			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

M.F.S. 358
22M—5-41 (372-2)
H.Q. 1772-39-620
A.F.S. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-12062	Pte.	Graham, W.H.	South Saskatchewan Regiment

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AWL	4 times	19	times
For	A.A. Sec 40	times	1	times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for xxxxxxxxxx beginning on the xxxxx day of xxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 8 days in Air Force military custody, making a total of 8 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 31 years ~~attestation paper is~~

6. The date of ~~his commission~~ attestation specified in his ~~record of service is~~ attestation paper 9 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 years 1 month

8. The accused is entitled to reckon 4 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of ~~cases~~ in which trial has been dispensed with of accused, Number L-12042 Rank Pte. Unit

Name Graham, N.H. of South Saskatchewan Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	23 Sep 41 In the Field	AA 40	50 dys detn	
FGCM	27 Oct 42 In the Field	AA 15(4)	Reduced to Pte. 150 days detn	59 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. A.A. Black Lieut. Adjutant

Signed this 19th day of Oct 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

5-m-96.

Sgt. Graham, W. N.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 33091 SGT GRAHAM W.H RCCS (X-10 LIST) ATT CDN SEC BRUSSELS CAN

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18.(4)	NOT GUILTY	NOT GUILTY	
2nd AA 40 ALT	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE REDUCED TO THE RANKS AND TO BE IMPRISONED WITH HARD LABOUR FOR SIX (6) MONTHS

7 JUN 45 (Sgd) F.A. Baillargeon, President. (RP 45, 58.)

~~(Sgd) Judge-Advocate, if any~~ Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) GB

(1. AA 57A. Delete if not used.)

(Sgd) E. Dunbar

Date ... Commanding HQ 21 Army Gp (2) Confirming Officer.

11 JUN 1945

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, 53, Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 33091 Sgt GRAHAM W.H.	15 June 45	

Published in Cdn Sec HQ Brussels Garrison CR #158 of 16 Jun 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no illegalities or irregularities in this proceedings or in relation to these proceedings.

RECORD IN AB 160 5M-96.

FIELD GENERAL COURT-MARTIAL

4388

RECEIVED 22 DEC 1945 JAG's Office C.M.H.Q.

(Convened by Order of CONSEC TEXT ELM BURNS MAJ-GEN ComdNG 21 ARMY GP dated 21 MAY 45)

ACCUSED.

(As to joinder for the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, Enc. KR Con 308, 328, 330.)

Number. (a) Prmnt R. (b) ~~Appmt, A/R or A/Appmt.~~ Full Christian Name. Surname. Unit.

B 33091 Sgt WILLIAM HERBERT GRAHAM RCCS (X-10 LIST) ATT CDN SEC HQ BRUSSELS CAN.

PROCEEDINGS REVIEWED 28 Jun 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (~~country~~) BELGIUM on (date(s)) 6 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A. if any~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmln ROs. For guidance on procedure where a variation in this form omits, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which notes are hereafter called "Notes". As to general provision for connecting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 101, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1630 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(ii), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans ...~~

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NIL SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(6). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.) The following are the ranks, names and units of the offrs comprising the Court, etc:

A7. The President, Members, ~~Jdg, if any, and Offrs under instr, if any,~~ are sworn.(1)

President	MAJOR	F.A. BAILLARGEON	1 CDN DIS CENTRE
Member	CAPT	E.R. VAN DINE	1 CDN DIS CENTRE
Member	CAPT	K.S. AVER	2 CORPS
~~Judge Advocate~~			
Prosecutor	CAPT	M.A. CARDINAL	CDN SEC BRUSSELS CAN
Defending Offr	MAJOR	P.S. DELER	1 CDN C.M. CENTRE

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans YES.

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused B 33091 Sgt GRAHAM W.H. before arraignment make(s) (no) ~~applies~~ ~~to~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 138, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does ~~not~~ plead not guilty to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and see separate copies of CF A64 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ver P. 131

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(1. *RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove the statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans _____[5]
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.[1]
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.[1]
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR (1) B
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.[1] B
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.[1] B
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s).[2] The Court is re-opened, and the President announces that the submission is closed, and considers the submission.[3] The Court is re-opened, and allowed on the _____ charge(s), and allowed on the _____ charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]~~ B
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 91 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans GIVE EVIDENCE AS A WITNESS & 8 Do you intend to call witnesses on your behalf? Ans NO SIR. Are they witnesses as to character only? Ans _____ B
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1] B
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*c*).)

D7. The Court is closed to consider the finding[s] (1). The finding[s] of the Court is ~~(are)~~ recorded in Part I of the Schedule.[2] The Court is re-opened. B
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding[s] ~~on if any~~, of Not Guilty, and states to the accused that the finding[s] of the Court on the SECOND charge(s), being subject to confirmation, will be promulgated later.[1] ~~On the President announces that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (1).~~ B
(1. *AA* 54(3) (*b*), *RP* 43, 120(*A*). 2. *AA* 54(3), *RP* 43, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? [1]
Ans NO SIR B
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 2.
Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement[s] as to Character and Particulars of Service[1], and certified true copy (~~copies~~) of Conduct Sheet[s][2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3] B
(1. *MFB* 353 *or MFB* 296. 2. *MFine* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 3, *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement[s] and Conduct Sheet[s], and in mitigation of punishment [1][2] Ans YES THROUGH MY DEFENDING OFFICER B
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1] B
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A., if any~~.[2] B
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *DP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566, *Overseas RQ* 309, 2302, *MML p* 120. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 566. 2. *RP* 50. *As to release from arrest by Convening Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, No B-33091 Sgt William, Herbert GRAHAM, RCCS (X-10 List), att Cdn Sec HQ Brussels Garrison, an NCO of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SEC 18(4)
ARMY ACT

WOAS, stealing property belonging to a person subject to Military Law

in that he

in BRUSSELS, on or about 21 May 45, stole 4,500 Belgian francs, the property of B-132120 Pte GILLIES A.S., HLI of C, a person subject to Military Law.

SECOND CHARGE
ALTERNATIVE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in BRUSSELS, having received from B-132120 Pte GILLIES A.S., HLI of C, a sum of money amounting to 4,500 Belgian francs in cash for safe-keeping, neglected to safe-guard the said money and failed to return 3,500 Belgian francs of the money when required to do so.

(L P Payan) Lt-Col
Commanding Officer
Cdn Sec HQ Brussels Garrison

BRUSSELS
25 MAY 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(ELM Burns) Maj-Gen
GO 1/c
Cdn Sec 1 Echn - HQ 21 Army Gp

In the Field
31 May 45

APPROVED FOR TRIAL
(KR(Can) 540

DJA

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
10/Pam/1607 (30-08)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-33091	Sgt	William Herbert	GRAHAM	RCCS (X-10 List) att Cdn Sec HQ Brussels Grn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 May 45 endorsed by me, (~~are~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable that such offence(s) should be tried by a Field General Court-Martial~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	FA Baillargeon (Must be named. RP 106.)	1 Cdn Disc Centre

MEMBERS.

(Rank.)		(Unit.)
Capt	EB Van Dine	1 Cdn Disc Centre
Capt or Lieut	to be detailed by Comd 2 CBRG. (Named or detailed. RP 106.)	

WAITING MEMBER.

(Rank.)		(Unit.)
	--- (Named or detailed, if any. RP 106.)	

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
	--- (Must be named, if any. RP 106.)	

On Active Service in the Fd

in BELGIUM (Country.)

Date 31 May 45

E.L.M. Burns (Signed personally. RP 105 fn 2.)

Maj-Gen (Rank.)

(ELM Burns) Maj-Gen
Commanding Cdn Sec 1 Echn - HQ 21 Army Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS
(See overleaf for oaths and notes for use on trial.)

APPROVED:
DJA

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B.33091 Pte. GRAHAM W.H. .....

...RCA.Att.Cdn.Sec.HQ.Brussels.Grp. .....Reg'ment

is....FIT....to undergo trial by Court Martial.

~~UNFIT~~

R.R.W. Smith
Signature of Medical Officer

6 Jun 45

(R.R.W.Smith) Capt. RCAMC

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B-33091, SGT. GRAHAM, W.A.

Cdn Section, Brussels Garrison Regiment

is FIT to undergo trial by Court Martial.

Field
7 Jun 45

Signature of the Medical Offr

we got back to the Prairie the Provost were there and took the accused away with them. The currency I gave the accused consisted of:

1 — 1000 Fr (Bel) note
7 — 500 Fr (Bel) notes.

These notes were all of the small size.

The 1000 Fr note I got back from the accused was of a larger size than I gave him. When I asked the accused for the rest of the money he said, quote "Mrs Howe has it in safe keeping".

Cross examination by defence

Nil.

By the Court

The money I gave the accused was my own money. I have not seen the envelope I put the money in ~~and~~ put my Regtl no. and name on. Mrs. Howe gave me no money. When I gave the money to the accused there was another man of my Regt. looking on. I do not know his name as he was in a different Company.

By Defence through Court

I cashed 400 German marks with my Paymaster and drew 2000 Frs (Bel) from my pay book. I also borrowed 1000 Frs (Bel) from Pte. Halroyd a friend in my Company.

R.P. 83 complied with.

Second Witness for prosecution

Mrs. J.C. Howe, ~~Wel~~ Welfare Worker, att. Edw Knights of Columbus, having been duly sworn is examined by the prosecution.

On 22 May 45 I was a Welfare Worker att. K of C in charge of the Prairie leave hotel for Edw Forces. I entered the hotel lobby and was asked had I got 4500 Frs (Bel), by Pte Gillies whom I know. He was staying at the

1.

B 33091 Sjt. Graham, H.G. [illegible]
RCCS (210-List) Att. Ch. Sec HQ, Brussels Gen.

D-3
First Witness
for the prosecution

3132120 Pte. Gillies, A.S., H.L.I. of C.,
Losing been duly sworn is examined by the prosecution

On 21st May 45 I arrived in Brussels Belgium on leave and stayed at the Monica Hotel. When I arrived at the Monica Hotel the accused Sjt Graham who I now recognize was behind the desk. After I was allotted my room, about 1600 hrs, I asked the accused if there was anywhere I could leave my money for safe keeping. The accused said that Mrs Howe was not in and as she was the person who had the key to the safe he would take the money and turn it over to her when she came in. I gave Sjt Graham 4500 frs (Belgium) he counted it; I put it in an envelope, sealed same, put my Regt'l number and name on it; gave the envelope to Sjt Graham who gave me a receipt for the money. The witness produces the receipt for the money which is marked as exhibit #1.

The next morning at 1100 hrs I went to the desk and asked Sjt Graham if I could draw some of my money. He asked me what I wanted and I said 1000 frs. He said Mrs Howe was not in and she had the keys for the safe and I would have wait until she returned. Sjt Graham left the hotel and while he was away Mrs Howe returned. I talked to Mrs Howe and gave her the receipt for my money. ~~[illegible]~~ She returned in 15 mins and we made an appointment for 1400 hrs. I had lunch at the Cosmopolite ~~and [illegible]~~ Sjt Graham was there in the mess hall and gave me the 1000 frs. I had asked for. He said that Mrs Howe had the rest of the money and I suggested to the accused that after lunch we would go back to the Monica together and straighten this out with Mrs Howe. When

Court reopens pursuant to adjournment same members in attendance

Third witness for prosecution

Capt. Allendorf, C.J., C.Bro.C., DAPM Cdn Sec HQ Brussels Gm having been duly sworn is examined by the prosecution.

On 22 May 45 I had occasion to take a statement from Sjt Graham the accused whom I now recognize. The accused was under arrest when the statement was made. The accused was given the usual caution before he gave his statement. The accused signed the caution and then the statement. I produce the statement of the accused marked as exhibit # 2.

The defence has no objection to the statement being put into proceedings as evidence.

The accused after making a statement told me that he had been drinking very heavy and was unable to account for the money.

Cross examination by defence.

When I saw the accused he was not drunk but I would say that he had been drinking earlier that day.

R.P. 83 complied with.

D-6

First Witness for defence

B 33091 Sjt Graham, W.H. RCCS (A-20 list) att. Cdn Sec HQ Brussels Gm having been duly sworn is examined by the defence.

The written statement I gave to Capt. Allendorf, att as exhibit # 2, is correct.

On 21st May Pte Gillies gave me 4500 Frs (Bel) for safe keeping after I had given Mrs Howe the watch for safe keeping. I knew Mrs Howe was not in the Mamica when I wanted to put

Second Witness (Cont'd)

hotel on leave at this time. In the Mannica I have a safe where I keep monies etc, for safe keeping. I knew there was no money in the safe belonging to Pte Gillies. I had received no money or envelope from anyone for Pte Gillies. I have the only key for the safe. Pte Gillies asked me for his money Tuesday 22 May 45 at approx. 1250 hrs. I saw Sgt Graham about 1630 hrs Monday when he handed me a watch in an envelope belonging to somebody called Farley and I went upstairs and put it in the safe. I saw Sgt Graham about 0730 hrs Tuesday when I came in to the hotel from my marketing. He was sitting behind the desk. Sgt Graham did not give me a sealed envelope bearing the name of Pte Gillies and 4500 Frs (Bel) on the 21st or 22nd of May 45. The drill is that when personnel on leave have valuables for safe keeping they are sent directly to me and I lock the valuables in the safe. ~~If I~~ Sometimes other members of the staff, if I am not there, accept the valuables and then later hand them to me to be put in the safe on my return. The intake days I usually stay in my office but on that particular day I was called away and may not have been there when Pte Gillies arrived.

Cross examination by defence

I don't remember seeing Sgt Graham after he gave me the watch. If anyone on the staff ~~[illegible]~~ stole anything he would most likely be caught. Sgt Graham has been very conscientious especially during the first two weeks and always when sober. It is I feel a great temptation when being in a position of trust where you are surrounded by people on leave and frequently being offered drinks. He was sometimes under the influence of spirits during the day time.

R.P 83 is complied with.

The Court adjourns until 0930 hrs 7 June 45

Gillies his 1000 Frs. The result of my inquiry to S.M. Jones was satisfactory. I would have been able to get the 3500 Frs at 1500 hrs that afternoon. I don't think that it is possible to steal anything handed to us for safe keeping without being caught. If I had ~~[illegible]~~ intended to steal the money I would not have given the man a receipt and even then it would be his word against mine and he would probably be believed. I would definitly not have stolen the money as I have 17 yrs service in the army, I have a wife and child and I wouldn't sacrifice their happiness for 4500 Frs. My military record is good. I have already made arrangements that £20-0-0 be sent me immediately so I can repay Gillies. I wrote on the night of the 22nd May for this money. I received a reply dated 27 May on 29 May saying arrangements were being made to forward £20-0-0. Any balance over the £20-0-0 I was going to make up out of my pay. I have a balance of ~~[illegible]~~ $9.00 credit in my pay book not counting my fune pay which has not been entered on account of my arrest. In May the staff was definitly understrength. I was too busy to drink. I did not drink during duty on 21st, 22nd May.

Cross examination by prosecution

I did not report the loss of money on the 21st May because there was no one to report to. I did not report it on the 22nd May because I had worried all night and did not expect to be believed. I did not think I would be believed because I had given the man a receipt for the money and I didn't think anyone would believe I had lost it. When I saw Gillies the next morning I don't think I said I left it with Mrs. Howe. I think he said that he wanted a 1000 Frs which I gave him later. I then made arrangements with BSM Jones for the 3500 Frs. I don't think I said the rest of the money was with Mrs Howe. I did not think 4500 Frs

D-6 . . .
First 'Witness' for defence (Cont'd)

5

Pte Gillies money away because I searched for her at her office and smoke her. She wouldn't have been anywhere else in the hotel. I placed the money in my pocket and went to supper at 1730 hrs. ~~I went~~ After supper I returned to the Monica and made up my books. I looked for Mrs Howe at approx 1800 hrs. I never saw Mrs Howe until 0730 hrs ~~[illegible]~~ 22 May 45. I went off duty at 1830 hrs 21st May went to my room changed into my good uniform changing the contents of my pockets to the new uniform. I placed the sealed envelope in my back pocket and as far as I know I buttoned my back pocket. In my own mind I am satisfied my back pocket ~~[illegible]~~ was buttoned up. I went to the Garrison Cinema. Left cinema at 2130 hrs arrived back at Monica at 2300 hrs. ~~[illegible]~~ After I left the cinema I went Church Army and had a cup of coffee and ~~[illegible]~~ sandwich and from there to the Monica. I only had 2 or 3 drinks of beer during the evening. As we have a habit of pressing our trousers by placing them between the mattress & spring of our beds I noticed that the envelope containing Gillies money was gone when I went to bed after returning from the cinema. I never reported the loss as there was no one to report it to at that time of night. There was no K of C staff present and I was the senior NCO present. I have no idea when or how the envelope left my pocket, I do know it was in my pocket when I left the Monica for the show and gone when I returned. I didn't tell Pte Gillies about the loss the next morning because I had been worrying about it all night and thought that nobody would believe me if I did tell them. I therefore proposed to ~~[illegible]~~ borrow the 3500 Gn in the afternoon and pay them to Gillies. I was going to borrow it from BSM Jones, camp S.M. ~~[illegible]~~ ~~[illegible]~~ BSM Jones is in the hospital. I asked S.M. Jones for the money ~~about~~ before lunch before I gave

First Witness for defence (Contd)

was a lot of money for a man to have, some men coming on leave have had more than that. That amount is about $110.00 Cdn currency and I was willing to pay it back without a fight because I felt that I was responsible for the money because it had been placed in my hands for safe keeping. When I changed my uniform I put my own money 140/150 frs in my left hand trouser pocket. This money did not disappear. I think that my crime sheet is clean. I was court martialed in England when I was Q.M.S. for improper possession of public property. On the 22nd May I did not borrow any money from any other person.

Hdb ~~Then S.M. Jones~~ I do not make a habit of borrowing money. I owe no money to anyone. I wrote my wife for $20.0.0 on evening 22nd May. I did not write my wife the previous night as

Hdb it was after 2300 hrs. when I discovered my loss. I decided to write to my wife after I was placed under arrest as I could not contact S.M. Jones. One day I was interviewed by DAPM I had a couple of beers at lunch time.

Hdb I ~~did~~ told the DAPM I couldn't account for the money as I didn't know when it was.

By the court.

I never at any time used any of the money Pte Gillies had given to me for my own use. The 1000 frs that I paid to Gillies was money given to me by my wife, mother and other in case to my purchases here and which I kept separately for that purpose. R.P. PS complied with

Summing up of Prosecution

Attached

Summing up of Defence

Attached

Plea of Mitigation

Attached

Mr President - Gentlemen of the Court.

You have before you a case in which a Pte soldier coming to Brussels on leave from a front line unit gave for the purpose of safe keeping his money to a Sgt in charge of the leave hostel at which he was staying. The money, ~~was~~ 4500 Belg francs - 1 Bank of 1000 and 7 - 500, was given to the accused in a sealed envelope on which Pte Robbins had written his name. MM4 in offences punishable by ordinary law, page 119, sec 52 Theft by a bailee states, I quote: As deprivation of possession is an essential ~~part~~ element of the offence, a person cannot in general, steal anything which is already in his possession. There is, however, a statutory provision to meet the cases of a "bailee" and a part owner by which a person may be guilty of stealing a thing, notwithstanding that he has lawful possession thereof, if being a bailee or part owner thereof, he fraudulently converts the same to his own use or to the use of any person other than the owner. Speaking generally, a person is a bailee of an article when it is delivered to him for the purpose of ultimately redelivering it or delivering it to some other person. Thus, if a man hires a bicycle for a day he becomes 'bailee' of it; if he sells it, then although he had at the time lawful possession of it, his act is theft. This, however, applies only when the obligation is to redeliver or deliver the specific article. For instance, if A is entrusted with a sum of money

XB

his obligation would ordinarily 4* be not to return identical coins but only an equivalent sum; and he would not be guilty of "stealing" if he wrongfully appropriated it to his own purposes. He would however be guilty of "fraudulent conversion" another offence dealt with by the Larceny act.

* 4 It might be otherwise if the coins were deposited with him in a sealed package.

When Gillies gave the sealed envelope to the accused, the accused became a "bailee" of the money therein contained and it was delivered to him for the purpose of ultimately re-delivering to Mrs How. This the accused failed to do as Mrs How definitely stated having never received any money from the bailee (the accused) for safekeeping for Pte Gillies. Then in fact between the time the accused received the money ~~[illegible]~~ and the time he was asked for part of it by Pte Gillies he has no ~~[illegible]~~ satisfactory explanation to give for the disappearance ~~[illegible]~~ as the money was not with him of with Mr How. Furthermore, it has been established that the 1000 franc note the Gillies received was not the same ~~that~~ had been deposited by him in the envelope. it was of a different size and it was more or less a restitution from the accused of part of the money he had stolen to Gillies. There is then sufficient evidence to substantiate the charge as it reads i.e. stealing property ~~[illegible]~~ belonging to a person to Nicletary law in that he in Brussels on or about 21 May 45 stole 4500

Belgium francs. the property of ~~a~~ B-132130
The Gillis A.S. HW1 of C a person subject to
military law.

This is a question as to the credibility of the
accused as his own sworn state Mal Cardinal Capt
ment is not entirely Prosecuting officer
~~[illegible]~~ conform to the facts

Mal

203

Exhibit "1"
to Tarlangeon Pres

21 May 45

Recevia off Pte Gilles. H.L. 1
of Canada the sum of 4.500 Frs
for safe keeping.

This is Exhibit "A"
referred to in the Summary
of Evidence in the case
of B-33091 Sgt GRAHAM
W.H. taken before me this
24th day of May 1945

W. H. Graham Sgt.
Military Staff

Hotel Monica

(M.A. Cardinal) Capt.

Exh "A"

Defence Summing Up

AB

On the first charge of stealing, the whole thing hangs on Graham's intent. He states he did not steal the money and there is much evidence to show that it would be impossible for a man in his position to steal such money without being caught at once, specially when a signed receipt was given. No man will steal when he knows he will be caught.

On the alternative charge the only particular which discloses an offence is essentially negligence. The evidence shows that he tried to hand the money in the envelope to Mrs How but she could not be found, so he did the next best thing and kept it on his person. During the evening he put it in his pocket and buttoned it up. I submit that he took every reasonable precaution to safeguard the money and was not negligent in any respect.

The rest of Graham's story and actions are fully consistent with those under mental storm a man who thinks he will be accused of stealing and tries to obtain money to repay the loss without any official inquiry. This is shown by the fact that he arranged to borrow 3500 Belg francs from Jones before Gillies had asked him for any money at all. This is not the action of a thief.

AS Osler maj.

AB

Plea in mitigation - Graham

Graham came to England in Feb 40 and to France on 19 Jun 44.

His conduct sheet is not absolutely clear but the only entry of any importance, the earlier Court Martial could not have been serious when he was only reduced one step to the rank of Sgt.

The rest of his history has been brought out in evidence - he is married with one child.

In his own mind he never thought he was guilty of any offence. First, because ~~she~~ it would not have been worth risking so much, specially with the war just over. He would risk his rank, pay, gratuities and of course the disgrace of being convicted for this money. Second, before being asked for the money he took steps to replace it and is still willing to pay Gillies the balance, 3500 Belg Francs. He is making arrangements to give this to Gillies as soon as he receives the money from his wife in England.

For these reasons I submit a very light sentence would be ample.

P J Osler maj

C Barclaigeon
President

Exhibit "2"
A Dallaire
President

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say may be taken down in writing and may be given in evidence. To show I understand this caution I sign my name. W.H. Graham.

On 21 May about 1600 hrs Pte Gillis A.D. of N.R.I. did hand to me $500 B7 for safe keeping. I gave him a receipt for this amount. I tried to put it in the safe at the Manin Hotel. but was unable to as because Pte Gillis was not present. At about 1300 hrs 22 May I was approached by Pte Gillis who asked for some money. I gave him 100 f. and told him he would have the remainder by 1700 hrs to day. 22 May.

W.H. Graham - Sgt

Capt
1515 hrs 22 May 45.

Exh "B"

This is Exhibit "B" referred to in the Summary of Evidence in the case of B-33091 Sgt GRAHAM W.H., taken before me this 24th day of May 1945

(W.A.Cardinal) Capt.

Exhibit "B" Deslargeon Pres

A.F.W. FORM B.200 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-33091	Sgt	GRAHAM	R.Cdn Signals (X-10 List)

* NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers therein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA Sec 15 (1) AWL ..... 1 times.
For N/A ..... N/A times.
For N/A ..... N/A times.
For N/A ..... N/A times.

Date of first entry in Field Conduct Sheet 30 Apr 41

Date of last entry in Field Conduct Sheet May 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for N/A

beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for NIL

days in civil custody; and for [illegible] days in military custody, *i.e.*, NIL days in open arrest, [illegible] days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 44 Years and 10 months

6. The date of his attestation is 5 Sep 1939

7. The service which the accused is allowed to reckon is 5 Years 8 months

8. The accused is in possession of Palestine General Service Medal CVSM and Clasp

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date as Sgt

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of Sergeant	24 Jul 1944
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

*Strike out if not applicable.

W1 55958/5402 20,000 8/44 S1.-4751. Forms/B.200/War/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	In the Field	A.A. Sec 40	Reduced to rank of Sgt (from CQMS) Forf- 21 days pay FRAI 149 (2)	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24 th day of May 45

Malcolm J Catt

Exhibit "C" [illegible]

No. B33091 Name GRAHAM William Herbert | Sqn, Battery, or Company | Corps RO SIGS | Date of enlistment 15 Sep 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB [illegible]) 40/P&S/136-10413

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Apr41	Sjt		AA 15(1) AWL from 2030 hrs 30 Apr 41 to 0730 hrs 1 May 41			1 May 41		Forf 1 days pay FR&I149 (1)(a)
Field	May 44	CQMS		AA 40 Tried by FGCM on 13 Jun 44		Reduced to rank of Sjt Forf 21 days pay FR&I 149(2)	13 Jun 44	FGCM	Forf1 days pay FR&I 149 (1)(c)(1)

Duplicate created from MFM 4 28 May 45. Record of conduct in Canada not available [illegible] capt for Offr IC Coln Sec 2 Ecp HQ 21 AGp

(PTO)

CB

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.33091 Sgt GRAHAM, William, Herbert, RCCS (X-10 List) att Cdn Sec HQ Brussels Garrison, an NCO of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

FIRST WITNESS B.132120 Pte GILLIES A S, HLI of C, having been duly sworn states:

"I am B.132120 Pte GILLIES A S, HLI of C. On the 21st of May 45 I arrived in BRUSSELS on a 72 hr leave. I arrived by train at approximately 1330 hrs. I was allotted a room in the requisitioned Monico Hotel. At approximately 1600 hrs I came down to the lobby of the Monico from my room. I asked the Sgt at the desk (Sgt GRAHAM) whom I now recognize as the accused, if there was any place where I could deposit money for safe-keeping. He answered that Mrs HOW had a safe in which the money could be kept and that if I gave him the money he (Sgt GRAHAM) would turn it over to Mrs HOW. I put the money (4,500 Belgian francs) in an envelope with my name on it after the Sgt had counted the money. The Sgt took the envelope and gave me a receipt (Exhibit "A") for the money therein contained. The following day, 22 May 45, approximately 1100 hrs I asked Sgt GRAHAM if he could give me some of my money. He answered he could not give me any money as Mrs HOW was not there at the time and that I would have to wait until she returned. The Sgt went out of the front door of the Monico. I stayed in the lobby approximately half an hour until Mrs HOW came in. Mrs How asked me for my name, and went to have a look in the safe, she came back and made an appointment with me to meet her there (at the Monico) at 1400 hrs the same day, then I went over to the Cosmopolite for lunch. When I got in the dining room of the Cosmopolite Sgt GRAHAM was there. He came to me and gave me 1,000 francs and he said that he had left the balance of the money with Mrs HOW for safe-keeping. I suggested to the Sgt to go back to the Monico to straighten the thing out with Mrs HOW. When we got to the Monico the Canadian Provost were there and took Sgt GRAHAM away with them."

Questions by the Officer taking the Summary.

Q. This envelope you gave to Sgt GRAHAM containing the money, was it sealed?

A. Yes, I sealed it myself after the Sgt had counted the money.

Q. What were the notes in the envelope?

A. They were seven 500 franc notes and one 1000 franc note.

Q. What conversation exactly took part between the Sgt and yourself at the Cosmopolite?

A. The Sgt came to me and said "Here is 1000 francs you asked me for this morning" which he gave me. I then said "what about the rest of the money?". The Sgt said, "I left it with Mrs HOW". To this I replied, "As soon as I have finished my meal let's go over together to see Mrs HOW at the Monico and straighten the thing out".

FIRST WITNESS (contd)

Q. Was the 1000 franc note that the Sgt gave you the same 1000 franc note that you put in the envelope?

A. No Sir, the 1000 franc note I put in the envelope was the small size bill and he gave me a note of a 1000 franc of a bigger size.

Q. Did you at any time ask the Sgt to give you back the total sum of money you had left with him?

A. No Sir, I did not. I only mentioned to him that I would like to have a 1000 francs.

(Sgd) A S Gillies

The accused declines to cross-examine the witness.

The receipt produced as Documentary Evidence was read over to the accused marked Exhibit "A", signed by me and attached hereto.

(M.A. Cardinal) Capt

SECOND WITNESS Mrs J C HOW, Welfare Worker, attached Canadian Knights of Columbus, having been duly sworn states:

"I am Mrs J C HOW, Welfare Worker, attached Canadian Knights of Columbus. I am in charge of the Monico Leave Hotel for Canadian Forces. On entering the Monico approximately 1245 hrs, 22 May 45, I was called to the desk by Military Helper, and Pte GILLIES asked me for some money I had for him. I had no money in the safe for GILLIES and inquired of him to whom had he given the money. I thenwalked across the Place Rogier to see our Supervisor, found him in the Hotel des Boulevards, explained him the circumstances and he suggested a meeting for 1400 with Pte GILLIES and the Managerial Staff and myself. Eventually the meeting was called and Pte GILLIES told his story and produced a piece of paper stating that he (Pte Gillies) had received 1000 francs from Sgt GRAHAM and that Sgt GRAHAM had given me 3,500 francs. I wish to add that I have never received better help and efficiency from anybody than from Sgt GRAHAM and he was a hundred per cent during his first fortnight with us and at all time when sobep."

Questions by Officer taking the Summary:

Q. Is it a custom for the members of the Monico Staff to accept money or other valuables for safe-keeping and if so where are said kept?

A. They have definite instructions to hand them to me to be put in a safe or to send the leave personnel in question to me.

Q. Was Sgt GRAHAM present at the meeting mentioned in your statement?

A. No Sir.

SECOND WITNESS (contd)

Q. Did you see Sgt GRAHAM between approximately 1600 hrs 21 May 45 and 1400 hrs 22 May 45?

A. I saw him about 1630 hrs 21 May 45 and he gave me a sealed envelope with a watch in. I saw him again on the morning of the 22 May 45.

Q. Did at any time between 1600 hrs 21 May 45 and 1400 hrs 22 May 45 Sgt GRAHAM give you a sealed envelope containing 4,500 Belgian francs for safe-keeping?

A. No Sir.

(Sgd) J C HOW

The accused does not wish to cross-examine the witness.

THIRD WITNESS Capt C J ALLENDORF, C Pro C, DAPM Cdn Sec HQ Brussels Grn, having been duly sworn states:

"I am Capt C J ALLENDORF, C Pro C, DAPM Cdn Sec HQ Brussels Grn. Approximately 1500 hrs the 22nd of May 45, after having been duly cautioned, Sgt GRAHAM made a written statement. I produce the a/m statement signed by Sgt GRAHAM (Exhibit "B").

The accused declines to cross-examine the witness.

(Sgd) C J ALLENDORF

The statement of Sgt GRAHAM produced as Documentary Evidence was read over to the accused marked Exhibit "B", signed by me and attached hereto.

(M.A. [illegible]) Capt

The accused was cautioned as follows:

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. No Sir, I do not want to say anything at this time. I reserve my defence.

(Sgd) W H GRAHAM

The accused does not wish to call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of four pages was taken down by me in the presence and hearing of the accused and that the RP 4 (c), (d), (e), (f) and (g) have been complied with.

(M.A. CARDINAL) Capt
Officer detailed to take the Summary

IN THE FIELD
24 May 45

REQUEST FOR DEFENDING OFFICER

I, the undersigned, would like to have an Officer to act as my Defending Officer and to represent at my trial.

IN THE FIELD
24 May 45

(Sgd) W H GRAHAM

LIST OF WITNESSES FOR THE PROSECUTION

1. B.132120 Pte GILLIES A S, Highland Light Infantry of Canada.
2. Mrs J C HOW, Welfare Worker, att Cdn Knights of Columbus.
3. Capt C J ALLENDORF, C Pro C, DAPM Cdn Sec HQ Brussels Garrison

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Exhibit "A" - Receipt signed by Sgt GRAHAM
Exhibit "B" - Statement made by the accused.

(M.A. CARDINAL) Capt

IN THE FIELD
24 May 45

Ex "A"

Received off Pte Gillies, HLI of Canada the sum of 4500 frs

for safe keeping.

"W.H. Graham" Sgt
Military Staff
Hotel Monico

This is Exhibit "A" referred to in the Summary of Evidence in the case of B-33091 Sgt GRAHAM, W.H., taken before me this 24th day of May 1945.

"M.A. Cardinal"
(M.A. Cardinal) Capt

I have been cautioned that I am not oblige to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To:show I understand this caution I sign my name.

W.H.Graham

On 21 May about 1600 hrs Pte Gillies A.S. of N.L.I. did hand to me 4500 BF for safe keeping. I gave him a receipt for this amount. I tried to put it in the safe at the Monico Hotel, but was unable to do so because Mrs Howe was not present. At about 1300 hrs 22 May I was approached by Pte Gillies who asked for some money. I gave him 1000 Fr. and told him he would have the remainder by 1700 hrs to day 22 May

(SGD) W.H. Graham

1515 hrs 22 may 45

CERTIFIED TRUE COPY OF THE ORIGINAL

(E.A.Cardinal) Capt

Exh 6

O. H. M. S.

40-87

Pte. Grain 12. J.

M. F. B. 270

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C9658 Pte Bernard Joseph Grain, 3 Dn Gds

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for eighteen months.

(Sgd) _____ Judge-Advocate, if any. 21 Dec 44 Date awarded. (Sgd) George A Cooper President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) J M Rockingham (J M Rockingham) Brig

Date 2 Jan 45 Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C9658 Pte Grain B.J. 3 Dn Gds	3 Jan 45	[illegible] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 40-87
CPA66 (In lieu of AFA81) 40-P & S-1698 (6144)
4388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J M Rockingham DSO Comd 9 C I B dated 30 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C9658	Pte.	Bernard Joseph	Grain	3 Gds

PROCEEDINGS REVIEWED
J Rutherglen Capt
11 Feb 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 30 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidence on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A85. For oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 (1)(c). 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1249 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to _____ as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to _____ as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	Lt Cooper	Regina Rif
Member	Capt	Lt Euler	5 Cdn Highs
Member	Lt	MR Oliver	4 Lincs
Judge-Advocate			
Prosecutor	Lt	GF Hunter	5 Dn Gds
Defending Offr	Lt	GD Haig	5 Dn Gds

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 36, 37, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B)* and fn 2 were not followed. See DI p 33.)

A8. The accused C9658 Pte Grain before arraignment make(s) (no) (a) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 36, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP fn 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the Charge Sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Evidence p 12A

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusal to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defensing Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 76-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 27(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form* D *on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 *such parts only of the Summary of Evidence are read as relate to the charges dealt with under* C2. *If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form* D *on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*B*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form* B *or* C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(1. *AFB* 355 *or AFB* 296. 2. *AF/M* 8. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE
A.A. 500 15(1)

The accused, Number C9658 Private Bernard Joseph GRAIN, Stormont, Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with

when on active service

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0800 hrs 21 Oct 44 until 1715 hrs 7 Dec 44. (Absent 47 days 11 hrs and 15 mins).

(R. E. Gemmell) Major,
A/Officer Commanding,
S D & G Highlanders.

Field
27 Dec 44.

To be tried by Field General Court-Martial.

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field
30 Dec 44

FIELD GENERAL COURT-MARTIAL

44C

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.9658	Pte		Bernard Joseph	GRAIN	SD & G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and dated 30 Dec 44 endorsed by me, (or by my authy or my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified authy~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Officer President, for the reason that there are~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	G.A. Cooper (Must be named. RP 106.)		Regina Rif R (Unit.)

MEMBERS.

Capt	S.W. Keeler		SD & G Highrs
Lt (Rank.)	M.E. Oliver (Named or detailed. RP 106.)		HLI of C (Unit.)

WAITING MEMBER.

Capt (Rank.)	J.E. Gillespie (Named or detailed, if any. RP 106.)		HQ 9 Cdn Inf Bde (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)		(Unit.)

On Active Service in the Fd

in Holland (Country.)

J M Rockingham (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Dat 30 Dec 44

Commanding 9 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 55 (In lieu of AFA 3) 40/F & S/1697 (6143) (See overleaf for oaths and notes for use at trial.)

TRIAL BY COURT MARTIAL

I hereby certify that I have this day examined C9658 PTE.
(No) (Rank)

GRAIN, B.J. of S. D. & G. HIGHAS and in my opinion he
(Name) (Unit)

is fit to undergo trial by Court Martial.

Station FIELD

Date 31 DEC. 1944

[signature] Capt
(M.O., S D & G Highlanders)

Plea in mitigation
of R 9658 Pte B Grain

This man joined the Bn. approximately one week after D. day and until this present case he had only one crime in the Bn AWL for two hrs.

He had not seen his brother for three years. He applied for a transfer to his brother's unit while he was with the R.C.H. in England but due to the exigencies of the service this was denied him.

After being posted to the inf. he applied for leave to go and see his brother but this was refused.

He has been worried about his brother and while he was at Hoofplatt he found out where he was and went AWOL in order to see him.

[illegible]

SUMMARY OF EVIDENCE in the case of C 9658 Pte Grain, B.J., Stormont, Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas.

By direction of the Officer Commanding the Summary of Evidence is taken on Oath

First Witness For Prosecution

F 45382 Pte Taylor, L.A. Stormont Dundas and Glengarry Highrs having been duly sworn states

I am F 45382 Pte Taylor LA employed as Coy Clerk 'A' Coy. On the morning of 21 Oct 44 at approximately 0600 hrs when the Coy was about 4 kms HOOFPLATT for an attack on BRESKENS Sgt Taylor, Pl Sgt of 7 Pl reported to me that the accused was missing from the lines. He said he had made a thorough check of the area and could not find the accused. The accused was still absent when the Coy left and at the end of 24 hrs I duly reported his absence on the Parade State.

~~On the return of Pte Grain a check was made of his kit and he was found to be deficient to the value of $ 11.10 eleven dollars and ten cents~~

W.A. Taylor

The accused declines to cross-examine the witness

Second Witness
For Prosecution

L 93674 Sgt TAYLOR, E.T. STORMONT DUNDAS and GLENGARRY HIGHRS having been duly sworn states:-

I am L 93674 Sgt Taylor, E.T. Pl Sgt of 7 Pl A Coy.
On the night of 20 Oct 44 I took over as Pl Sgt and on calling the roll I found the accused, Pte Grain missing. It was dark so I waited until the morning of 21 Oct 44 to make a thorough check of the Pl. The accused was found to be definately missing at 0600 hrs 21 Oct 44. We were about to move forward from HOOLFPLATT and after making sure the accused was missing I reported his absence to the Coy Clerk. The Coy moved at approximately 0800 hrs and the accused was still absent.

E.T. Taylor

The accused declines to cross examine the witness

Third Witness
For Prosecution

B 54554 Cpl LeROY, J.D. STORMONT DUNDAS and GLENGARRY HIGHRS, having been duly sworn states:-

I am B 54554 Cpl LEROY, J.D. Section Leader 8 Pl A Coy. On the 20 Oct 44, at approximately 1300 hrs I was looking for the accused, Pte Graham, to check his ammunition, being at that time Section Leader of 7 Pl. The accused was not around the Pl area and I reported him absent to the Pl Sgt as I thought the accused might have been walking around in the town of HOOLFPLATT on the further was done about his absence at that time. On the morning of 21 Oct 44 the accused was still absent and he was then reported to the Coy Clerk by Room as being absent. We were expecting to move momentarily as the Coy had been ordered to HOOLFPLATT to reorganize. When the Coy left that morning the accused was still missing.

J.D. LeRoy

The accused declines to cross-examine the witness

FOURTH WITNESS
FOR PROSECUTION

Capt R Willey, DAPM, 9 L of C Sub Area

Pursuant to RP 11(G) a statement of this witness's evidence purporting to be signed by him, has been read over to the accused and is included in this summary of evidence as written on the Certificate of Arrest and marked as Exhibit "A". I certify that the presence of this witness cannot be readily procured owing to the exigencies of the service and the expense and loss of time involved.

[redacted] Capt

The accused does not demand the attendance of this witness for cross-examination.

All the evidence having been taken in the presence of the accused, he was asked, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make a statement

Certified that Rules of Procedure 4(C)(D)(E) and (F) have been complied with

Taken down by me in the presence and hearing of the accused this 22 day of December 1944 in the field

H H Waterfall Capt
SD&S Highlanders

Ex A 94C

SUMMARY OF EVIDENCE in the case of C9658 Pte Grain B.J., Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas.
By direction of the Officer Commanding the Summary of Evidence is taken on oath.

1st Witness for the Prosecution

F45382 Pte Taylor L.A., S D & G Highrs., having been duly sworn, states.
I am F45382 Pte Taylor L.A., employed as Coy Clerk of "A" Coy. On the morning of 21 Oct 44 at approximately 0600 hrs when the coy was about to leave Hoofplatt for an attack on Breskens, Sgt Taylor, Pl Sgt of 7 Pl reported to me that the accused was missing from the lines. He said he had made a thorough check of the area and could not find the accused. The accused was still absent when the coy left and at the end of 24 hrs I duly reported his absence on the Parade State.

The accused declines to cross-examine the witness.

2nd Witness for the Prosecution

L93674 Sgt Taylor E.T., Stormont Dundas and Glengarry Highrs., having been duly sworn, states -
I am L93674 Sgt Taylor E.T., Pl Sgt of 7 Pl "A" Coy. On the night of 20 Oct 44 I took over as Pl Sgt and on calling the roll I found the accused, Pte Grain, missing. It was dark so I waited until the morning of 21 Oct 44 to make a thorough check of the Pl. The accused was found to be definitely missing at 0600 hrs 21 Oct 44. We were about to move forward from Hoofplatt and after making sure the accused was missing I reported his absence to the Coy Clerk. The Coy moved at approximately 0800 hrs and the accused was still absent.

The accused declines to cross-examine the witness.

3rd Witness for the Prosecution

B54064 Cpl Lemoy J.D., Stormont Dundas and Glengarry Highlanders, having been duly sworn, states.
I am B54064 Cpl Lemoy J.D., Sec Leader 8 Pl "A" Coy. On 20 Oct 44 at approximately 1800 hrs I was looking for the accused, Pte Grain, to check his ammunition, being at that time Sec Leader of 7 Pl. The accused was not around the pl area and I reported him absent to the Pl Sgt. As I thought the accused might have been walking around in the town of Hoofplatt nothing further was done about his absence at that time. On the morning of 21 Oct 44 the accused was still absent and he was then reported to the Coy Orderly Room as being absent. We were expecting to move momentarily as the Coy had been withdrawn to Hoofplatt to reorganize. When the coy left that morning the accused was still missing.

The accused declines to cross examine this witness.

4th Witness for the Prosecution

Capt R. Willey, DAPM, 9 L of C Sub Area.
Pursuant to RP 4(G) a statement of this witness's evidence, purporting to be signed by him, has been read over to the accused and is included in this Summary of Evidence as written on the certificate of arrest and marked as Exhibit "A". I certify that the presence of this witness cannot be readily procurred owing to the exigencies of the service and the expense and loss of time involved.

The accused does not demand the attendance of this witness for cross-examination.

The accused, having been duly cautioned in accordance with Rule of Procedure 4(E) reserves his defense.

Certified that Rules of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 22nd day of December 1944, in the field.

(P.H.S. Paterson) Capt
S D & G Highlanders.

GFC

Exhibit "A"

Summary of Ev

CERTIFICATE OF ARREST IN ACCORDANCE WITH
ARMY ACT, SECTION [illegible]

I certify that No. C 9658 Rank Pte Name GRAIN, B.J.

of (Unit) Southern Dundas & Glengarry Highlanders, 3rd Cdn. Div.

was arrested at Rouen (place) at 1715 hrs on the

7th December 1944. He was dressed in uniform.

Date 7th December 1944

Signature of Provost Marshal APM or other officer into whose custody the above named person was taken on arrest.

[illegible] Capt. R.A.
Commanding.

243 ~~H.A. Provost Coy. C.M.P.~~
DAPM [illegible]

NOTES.

1. This certificate MUST be signed personally by the officer concerned.

2. In no circumstances may it be signed by one officer "for" another, or by anyone who does not hold commissioned rank.

3. In no circumstances should the place of apprehension be described as "in the Field". The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

18 (B)

Ex B GAC

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
39628	Pte	Grain B.J.	S D & G Highlanders

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—If a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised spells of exemplary or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 40	1 times	2 times.
For AA Sec 15(1)	1 times	3 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

[redacted]

2. The accused has not been previously convicted by [redacted]

[redacted]

3. The accused is not under sentence at the present time, [redacted] N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and 24 days in military custody, making a total of 24 days, of which N/A days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] is 22 yrs

6. The date of his [redacted] attestation specified in his record of service [redacted] is 24 Jul 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated

and in his regiment (*or* corps *or* department) the rank of dated

(A21468) W1.24589/1750 20,000 10/41 A.& E.W.,Ltd. Gp.686
(46906) W1.15286/1486 15,000 5/44

Schedule of Convictions ~~by~~ a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31 day of Dec 44

(Offr i/c Regtl Documents)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion
In the rank of _____	_____ years, _____
In the rank of _____	_____ years _____
In the rank of _____	_____ years, _____
In the rank of _____	

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph completed accordingly.)

No. C9658 Name Grain B | Sqn, Battery, or Company | Corps CIC | Date of enlistment 24-7-41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc AE Hall Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-3-43	Gnr		AA sec 40 WOAS Conduct to the prejudice etc. failing to do a duty necessitating a replacement.	Sjt Beverd W Bdr Mason Gnr Locke	7 dys CB	17-3-43	Major J Vereker	
Field	29-7-43	Gnr		AA sec 15(1) WOAS AWL from 1600 hrs to 2000 hrs 29 Jul 43 (absent 4 hrs)	Gnr Carmen documentary	7 dys CB	29 Jul 43	Major J Vereker	
Field	13 Oct 43	Gnr		AA sec 15(3) WOAS Out of Bounds	documentary	3 dys CB	14 Oct 43	Major J Vereker	
Field	29 Mar 44	Gnr		WOAS Conduct to the prejudice etc. improperly dressed AA 40	documentary	3 dys CB	4 Apr 44	Lt-Col GT Inch	
Field	22 Sep 44	Pte		AWL from 1600 hrs 22 Sep till 2000 hrs 22 Sep 44(4 hrs) AA sec 15(1)	Cpl Oxford	Forf 7 dys pay	26 Sep 44	Lt-Col Rowley	

(over)

(PTO)

Place	Date of offence	Rank	Corps of circumstances	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order approving with trial	By whom awarded	Remarks
				Certified to be true copy of original held in my custody.					

(S.P. LaFontaine) Capt & Adjt
Offr i/c Regt'l Books

3N-29.

Okl. Grain. B. J.

Missing

80-22

Pte. Grams, Ab.

RECORDED AT CMHQ IN AB 160 50-22

CFA96 (To Dept of ADMIN 40/P & S/1698 (49/67)

4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J G SPRAGGE DSO CBE ED Comd 2 CBRG dated 26 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

27 JUN 1945

Number Rank Frmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.

K-4002 Pte Henry Gustav GRAHAM X-4 List (15 Bn) R R of C att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
29 June 45
W M W Shaw Capt
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 29 May 45 33/128

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. For oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans ..... as shorthand writer? Ans ..... The Interpreter is sworn.(1) Do you object to ..... The shorthand writer is sworn.(2)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G G MacKENZIE DSO	FOR X-4 List 3 Cdn DISCD	
Member	MAJOR	G.B.H. COX	CAC	ATT. 1 Cdn DISC CENTRE
Member	CAPT	P.J. POULIN	ACA	Cdn Cm Centre
Judge-Advocate				
Prosecutor	LIEUT	K.A. MACKENZIE	CIC	Cdn Cm Centre
Defending Offr	LIEUT	A.J. THOMPSON	CIC	Cdn Cm Centre

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DV p 3.)

A8. The accused K-4002 Pte GRAHAM, H G before arraignment make(s) (are) (a) plea That he has been previously tried and sentenced for this offence.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG. Vol. V. p 78.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-86 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. *Statement, if any, recorded per Instrs.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form* D *on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K-4002 Pte Henry Gustav CRUSE, K-4 List (13 Bn) Royal Regt of Canada, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 0830 hrs 31 Mar 45 until surrendering himself at 2230 hrs 6 Apr 45

(Total absence: 6 days 14 hrs)

Remanded for Summary of Evidence

(J W Mudhurst) Lt-Col
Commanding
1 Cdn Discipline Centre

In the Field
21 May 45

Remanded for Field General Court-Martial

(J W Mudhurst) Lt-Col
Commanding
1 Cdn Discipline Centre

In the Field
21 May 45

To be tried by Field General Court-Martial

(J A [illegible]) Brigadier
Commander
2 Cdn Base Aft Gp

In the Field
26 May 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 102, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-4002	Pte		Henry Gustav	GRAAS	X-4 List (12 Bn) R R of C att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 26 May 45 endorsed by me, (~~or by an offr of any class for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~6. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G G MacKENZIE RCE		FCE Z-9 Lia & P Cdn Army

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	G B H COX		CAC att 1 Cdn Disciplinary Centre
Capt	P J POULIN		Cdn DA Centre

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 26 May 45

(Signed personally. RP 105(2).)

Brigadier (Rank.)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFAES (In lieu of AF B3: 40/P & S/1087) (4 051)

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 551
(CMHQ CL 173)

I certify that I have this day examined K 4002 (No.)

Pte Grams, H. G. (Name) and in my opinion he is

fit to undergo trial by Court-Martial.

Station 1 Cdn Dive Centre

Date

Maj. Capt (Sgd)
(Medical Officer)

Unit 1 Cdn Dive Centre

CASE OF

K-4002 Pte CRAMS, (R R of Can)

The defence makes a plea of guilty, but offers a plea in bar of trial on the following grounds: That the accused has previously been tried and sentenced by his Commanding Officer for this charge.

The Defence then calls the following witness:

H-26005. SSM Holiday HB, having been duly sworn, states;

I identify the accused as Pte Grams.

I was present when the accused was brought before his C.O. on the charge of absence from 0830 hrs 31 Mar 45 until 2230 hrs 6 Apr 45, as convened for Court Martial. This was Lt Col Medhurst, of the Cdn. Disc Centre. It was last Wednesday.

He was given 28 days detention.

I marched him out. After I went out, the C.O. called me back and told me to have him stand by. Then he told me he would see him again after dinner. I brought him in again in the afternoon to the C.O. He was paraded again on the same charge and remended for Court Martial.

Court.

The accused was not asked at that time whether he wished to be tried by the C.O. or by Court Martial. On the first occasion, the C.O. asked the accused if he accepted his punishment. On the second time, he did not ask the accused whether he wished to be tried by him or by a Court Martial.

At the time, he was held as a soldier awaiting trial.

RP 92 B complied with
Young Gordon Capt

Defending Officer submits that the accused cannot now be tried by Court Martial for the same offence.

Prosecutor makes no reply

See statement of Defending Officer

Court decides to consider.

Court reopens and decision made known to accused.

Court allows submission of Defending Officer and adjourns.

J Gordon
Capt

63/

Case of K4002 Pte Grams H.V.

Plea in Bar of Trial

Evidence has been produced to show that the accused has already been awarded 28 days' detention by his commanding officer on this same charge.

I would refer the Court to AA sec 46(7) which says "an offender shall not be liable to be tried by court-martial where... the offence has been dealt with summarily by his commanding officer..." and to MMX p 40 para. 36 which states "When a commanding officer has once awarded punishment for an offence, he cannot afterwards increase it. It is considered that his award is complete when the man has left his presence."

In view of the above I submit that the court has no jurisdiction to try the accused.

A J Thompson Lt.
Defending Officer.

Summary of Evidence in the case of H-4002 Pte GRANT H G, X-4 List (13 Bn) Royal Rest of Canada, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 48 dated 16 Apr 45

Exhibit "B" - Certificate of surrender dated 7 Apr 45

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

M Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
21 May 45
[illegible] R.

Exhibit H
M. Rousseau Capt

PART II ORDER EXTRACT FORM

TO: Discipline and Pay

99/20/

EXTRACTS FROM: UNIT X4 List (13 Bn) R. REGT. C. 19

Part II Order No. 48 dated 16 APR 45

ABSENT WITHOUT LEAVE
A.W.O. From 0830 hrs 31 MAR 45 Still absent 0830 hrs 1 APR 45.

K4002 Pte GRAMS HG (X4 List (13 Bn)

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ 21 A Gp

The following documents are { attached. Please acknowledge receipt on attached duplicate. required. Please forward same.

Originating Clerk's Initials WVG for (J.R. FENELON) CAPT
Officer in Charge for
Canadian Section, GHQ, 2nd Echelon

C-8/1276 (6704)

LIST OF WITNESSES

N/A

Y

LIST OF EXHIBITS

Certified true copy of extract from Pt II Order No 48 dated 16 Apr 45 "A"

Certificate of surrender dated 7 Apr 45 "B"

I, E-4002 Pte GRAMS HG, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet, free of charge on 4th May 45

H.G. Grams.
E-4002 Pte Grams HG

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 332, 563-566. Overseas RO 309, 2323, para 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Rd4002 Pte Henry Gustav Grams 2nd Lieut (T.O. 2nd) A.A. of C. att 1 Gde Ploeg Primary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Court finds accused on charge that he has been absent Without Leave unduly by his C.O. for the period	
2nd			
3rd		Court finds that Plea in bar of trial is proved	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as to loss of kit see RP 44 fn 4.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital. (2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~To be dismissed H.M.~~

(Sgd) ..... Judge-Advocate, if any. 29/may 45 Date awarded. (Sgd) ~~W. Richmond~~ President. (M.F.J.O.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-760, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

The finding by the court that the Plea in bar of trial is proved is confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders. (1)
(1. AA 57A. Delete if not used.)

Date 8 JUNE 45 (Sgd) ..... BRIG.
Commanding COMD 2 CON. BASE RFT. GP.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D4002 PTE HENRY GUSTAV GRAMS	11 JUNE	W. Richmond Lt-Col

Comd. 2 Con. Base Rft. Gp. Primary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4W-140

Pte Grams H.G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 4002 Pte Grams H G R Regt C

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

NOT As present under sentence for ~~[illegible]~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 47 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one hundred and eighty days.

(Sgd) ..... Judge-Advocate, if any. 14 Jan 45 Date awarded. (Sgd) H. G. Grams Pte President. (RP 48, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

NOT

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

NOT Confirmed

NOT I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 15 Jan 45 (Sgd) J E C Pangman Lt-Col A/Commanding 4 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K 4002 Pte Grams HG	16 Jan 45	G. [illegible] Lt R Regt C

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4 W-140
RECEIVED 2 MAR 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CP/466 (To Item of AFAM 40/47 & 50/51, 1000 4/388)

Convened by Lt-Col J E C PANGMAN A/Comd 4 Cdn Inf Bde dated 11 Jan 45

ACCUSED.

(Particulars of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-4002	PTE		HENRY GUSTAV	GRAMS	R REGT C

PROCEEDINGS REVIEWED

[illegible] 26 Mar 45

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in (country) HOLLAND on (date(s)) 14 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-72, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ as interpreter? Ans ~~[illegible]~~

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans ~~[illegible]~~

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	H. G. Grams	Edmonton
Member	Capt	ST Galbraith	RHLI.
Member	Capt	DR Pain	RR Regt C.
~~Judge-Advocate~~	~~[illegible]~~		
Prosecutor	Lieut	N H Hatton	RR Regt C.
Defending Offr	Capt	TR Wilson	RR Regt C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 1.)

A8. The accused K 4002 Pte Grams H G before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol II Form

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 87(*B*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(1)
(*I. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(*I. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.
(*I. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*I. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(*I. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*I. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*I. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*I. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*I. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*I. Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
Ans .....
(*I. RP* 115. 2. *RP* 40(*A*), *see* 50(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*I. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*I. RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*I. AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative or sentence is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(*I. MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....
(*I. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*I. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*I. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 136, 142, *RP* 46-50, 49, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas MO* 309, 2323, *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(10), 68(1), *KR Can* 564. 2. *RP* 52. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No K-4002 Pte GRAMS, Henry Gustav, 1 Bn The Regiment of Canada, a soldier of the Canadian Army Overs... charged with:-

FIRST CHARGE WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1) Army Act

- in that he -

In the Field, absented himself without leave from 2100 hrs, 8 Nov 44, and remained absent until surrendering himself at 1445 hrs, 26 Nov 44, to the Canadian Provost Corps, in the city of Paris, France. (Total Time Absent: 17 days, 17 hrs, 45 mins.)

IN THE FIELD
8 Jan 45.

(R.... Leathwood) Lt-Col,
Officer Commanding,
1 Bn The Royal Regt of Canada.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

IN THE FIELD
11 Jan 45

(J E C Pangman) Lt-Col
A/Comd - 4 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-4002	PTE		HENRI GUSTAV	GRAMS	R REGT C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jan 45 endorsed by me, [illegible] to be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Maj	K W MacIntyre (Must be named. RP 106.)	Essex Scot

MEMBERS.

Rank.	Name	Unit.
	A Capt to be detailed by CO RHLI	
	A Capt to be detailed by CO R Regt C (Named or detailed. RP 106.)	

WAITING MEMBER.

Rank.	Name	Unit.
	A Capt to be detailed by CO R Regt C (Named or detailed, if any. RP 106.)	

JUDGE-ADVOCATE.

Rank.	Name	Unit.
	N/A (Must be named, if any. RP 106.)	

On Active Service in the Fd

in HOLLAND (Country.)

Date 11 Jan 45

[signature] (Signed personally. RP 105 fn 2.)
(J E C FANGMAN)
A/ Commanding 4 Cdn Inf Bde
Convening Officer.

LT-COL (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 90 (In lieu of AFB 3) 40/F & S/1697 (9143)

MEDICAL OFFICER'S CERTIFICATE
KR (Can) Para 557

I certify that I have this morning examined No K-4002 Pte. Grams, H.G. of 1 R Regt C. and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station In The Field

Date 14 Jan 45

C. U. Bassett Capt.
Medical Officer.

Exhibit B.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No K-4002 Pte GRAMS, Henry Gustav, 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas:-

The accused is informed of his rights.

By Direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS

For the Prosecution

H-204107 A/Cpl Metner, A.J., 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am H-204107 A/Cpl Metner, A.J., "C" Coy, 1 Bn The Royal Regiment of Canada, and the accused, K-4002 Pte Grams, H.G., whom I now recognize, was a member of my section. At 2100 hrs, 5 Nov 44, I called the roll of my section and Pte Grams failed to his answer his name. I duly marked him absent.

The accused declines to cross-examine this witness.

A J Metner
(A.J. Metner) A/Cpl.

SECOND WITNESS

For the Prosecution

Lt G.H. James, 1 Bn The Royal Regiment of Canada, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lt G.H. James, Asst-Adjt, and in charge of all regimental documents for 1 Bn The Royal Regiment of Canada. I present herewith Certificate of Surrender in accordance with Sec 163 (i)(jj) AA, which shows that the accused, K-4002 Pte Grams, H.G., whom I now recognize, surrendered himself to the Canadian Provost Corps in the city of Paris, and which is annexed hereto and marked as Exhibit "A."

The accused declines to cross-examine this witness.

G H James
(G.H. James) Lt.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence on oath or to call witnesses in his defence at this point.

I certify that the foregoing Summary of Evidence, consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

N. Hutton
(N.A. Hutton) Lt.
Officer Detailed to Take Summary.

IN THE FIELD
8 Jan 45

EXHIBIT "A"

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (j)

I C. BEAULNE LT. P.A.P.M. CDN. MILITARY STAFF, PARIS. Certify that

Reg No K-4002 Rank PTE. Name GRAMS H.G.

REGIMENT ROYAL REGIMENT OF CANADA

UNIT H.Q. COMPANY

STATION DUTY FIELD

Surrendered himself to No D-81994 Rank L/Cpl. Name YOUNG J.W.

Of the NO. 6. SEC. NO. 2. L of C Provost Company

on the 26- th. day of November 1944, at 1445 Hours In Paris (Bvd.

des Capucines) AS A DESERTER WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) or

(civilian clothes)

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

C. Beaulne Lieut.

C. BEAULNE LIEUT.
D. A. P. M.
CDN. PROVOST CORPS,
CDN. MIL. STAFF PARIS

EXHIBIT 'C' 1/2

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
K-4002	Pte	Grome, H.G.	1 R Regt C

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct:

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 77 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ xxxx

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	N/A	years
In the rank of		years
In the rank of		years

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of Jan 45.

G H James
(G.H. James) Lt,
Officer IC Records, 1 R Regt C.

MFM 6
(AFB 122)
[illegible]

SUPPLEMENTARY SHEET

No. K-4002 Name GRAMS, H.G. Sqn, Battery, or Company Corps CIC Date of enlistment 5 Nov 42 Badges Service or Proficiency Bcy N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc J.E. Stothers, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE & CORRECT COPY OF ORIGINAL DOCUMENT IN MY POSSESSION: G H James (G.H. James) Lt, Officer IC Records, 1 R REGT C.		EXHIBIT	D		

(PTO)

Statement in mitigation of sentence submitted on behalf of the accused K 400r Pte Gramsc

The accused is aged 20 and single. He was a student at High School before enlisting in the Army on 5th Nov 1942. He came to England in May 1944 and came to the bn. in early July 44 as a rft. He was a rifleman and was wounded once.

He returned to the regt and served as a rifleman for a time and was then sent on a signal course. He returned to the Bn and was wounded slightly again while the bn. was crossing from Antwerp to Merdem. He returned to the bn again but was very nervous and was sent L.O.B. His L.O.B. was extended because he still seemed very nervous. He came up to the bn. again as a rifleman and was wounded once more and evacuated to hospital.

He returned to the bn while it was in a rest area at Mechelen and before the regt moved off went A.W.L. because he states that he had completely lost his nerve.

He is very young and of a nervous type. Afe a history such as this it seems rather peculiar that in this so called modern army with up to the minute medical treatment that a lad who has done his bit and been wounded three times and evacuated twice even though his period of service is short should be given special medical treatment and rest if he is so nervous as a result that he goes A.W.L. and is willing to risk a court martial for his own relief.

He is unable to call any witnesses as to his character since those who knew him for any length of time before he was evacuated the first time are either killed or wounded and those who knew him in the signal platoon have been sent to Canada or posted elsewhere in the Canadian Army.

CAO-1-59 Spr. Drawing, H.



RECORDED AT CMHQ IN AB 168, CA0-1-89

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-62763 Spr. Henrik Granberg, 3 Cdn Cemetery Constr Unit RCE

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 40 AA	Not Guilty	Not Guilty	
2nd Sec 40 AA	Guilty	Guilty	
3rd Sec 18(4) AA	Not Guilty	Not Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

As present under sentence for beginning on (date) ~~Nil~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for sixty (60) days.

(Sgd) Ken MacLeod Capt. — Judge-Advocate, if any. 20 June 46 — Date awarded. (Sgd) H.A.L. Rose Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) ~~Nil~~ NB

(1. AA 57A. Delete if not used.)

(Sgd) N.B. Carmichael Brig

Date 4 Jul 46 — Commanding Can Spr. R.C.E. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
L62763 Spr Granberg H	5 Jul 46	Chas Adam Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 1 1948 CANADIAN BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CF A96 (For Use of APAS) 4/38B

Convened by Order of Col R.J.F. McAlister Comd 2 S Garrison dated 14 June 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L62763	Spr	HENRIK	GRANBERG	3 Cdn Cemetery Constr Unit RCE

PROCEEDINGS REVIEWED 18 Jul 46 C.H. Capt, JA

Held in the R.I. (H.Q.) 2 S.G. BRANCH C.M.H.Q. on (date(s)) 20 19 June 46

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A96, for oaths and instrs on how to record addresses, evidence, etc., which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Mr G.N. Hulse as interpreter? Ans No Sir.

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans ~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.A.L. Rose	RCE	2 Cdn Base Unit (now 6)
Member	Captain	J.C.P. Hardy	CDC	2 Cdn Base Unit (now 6)
Member	Captain	R.J. Kerfoot	CDC	2 Cdn Base Unit (now 6)
Judge-Advocate	Captain	K.M. MacLeod	RCA	~~2 Cdn Base Unit (now 6)~~ ~~2 Spr 2 JAG (C)~~
Prosecutor	Captain	C. Adam	RCE	3 Cdn Cemetery Constr Unit
Defending Offr	Captain	F.M. Pritchard	RCAPC	2 Cdn Base Unit (now 6)

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Yes.(3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L 62763 Spr Henrik Granberg before arraignment make(s) (no) ~~(1)~~ plea(s).(2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79 80, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly~~
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No sir (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty of the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Neither now Do you intend to call witnesses on your behalf ?
Ans No sir Are they witnesses as to character only ? Ans
(*1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up in the JA under RP 42, 103(g).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge, being subject to confirmation, will be promulgated later.(1)
Or ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(7) (8), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 3. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) bearing the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 3 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans I've written through my defending Officer (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to remand from arrest for Confirming Offr see KR Con 567. As to ownership and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Oxack

CHARGE SHEET

The accused, L.62763 Spr Henrik GRANBERG, 3 Canadian Cemetery Construction Unit, RCE, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE Sec 40 Army Act — WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Holland, on 17 May 46, was concerned in the improper obtaining of one hundred (100) cases of Coca Cola for sale to a Dutch Civilian.

SECOND CHARGE Sec 40 Army Act — WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, at AMSTERDAM, Holland on 17 May 46, improperly used a Government Vehicle for transporting Coca Cola from Coca Cola plant to 57 Oude Looiers Straat, a civilian cafe.

THIRD CHARGE Sec 18 (4) Army Act — WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY

in that he

in the Field, in Holland, on or about 8 May 46, stole a tire and wheel, public property.

In the Field
1 Jun 46

R M Davison
(R M Davison) Capt
Officer Commanding
3 Cdn Cemetery Constr Unit, RCE

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

14 Jun 46.

R & F W Alister Colonel.

COMD. 25 GARRISON.

APPROVED ON BEHALF OF THE CDN JAG OVERSEAS IN ACCORDANCE WITH KR (CAN) 540.

In the Field
29 May 46

A M Ecclestone
(A M Ecclestone) Major
D J A
HQ, Cdn Forces in the Netherlands

Mack

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 2301.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L.62763	Spr		Henrik	GRABENKO	5 Cdn Cemetery Constr Unit RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 June 46 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	Major HAC ROSE	2 Cdn Disc Unit (NWE)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be designated by OC 2 Cdn Disc Unit (NWE)	
Capt or Lt	To be designated by OC 2 Cdn Disc Unit (NWE)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be designated by OC 2 Cdn Disc Unit (NWE)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	R.M. McLEOD	2 Cdn Disc Unit (NWE)

On Active Service in the Fd

in France.
(Country.)

R.F. Wallis, Colonel.
(Signed personally. RP 105 fn 2.) (Rank.)

Date 14 June 46

Commanding COMD. 25 GARRISON.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAAD (TO SUPS OF APAS) 60-1-8 & 9/1947 (4951))

(*See overleaf for oaths and notes for use on trial.*)

Hack

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this day medically examined

Pte. Henrik Granberg

and find him fit/~~unfit~~ to undergo trial by Court-Martial.

PRT

In the Field

4 Jun 1946

B R Townsley Capt

Medical Officer RCAMC

Cdn Forces in the Netherlands

TRIAL OF SPR HENRIK GRANBERG :- Hall R

After arraignment, the Prosecutor announced that he did not have sufficient evidence to present with respect to the 1st charge.

Motion by defending officer that 1st charge be dismissed on ground that no prima facie case established by the Prosecution.

Motion allowed by the Court regarding the 1st charge.

3rd Charge

1st Witness for Prosecution: CSM. Walker, R.E., having been duly sworn, states:

I am B 25923, CSM. Walker R.E. 3 C.C.C.U. R.C.E. On 22nd May I went to a Simka garage & found an army type tire. I investigated & took this back to Camp with me. Right after lunch, lined up all the men in Camp & held an identification parade; Store keeper after walking up & down, picked the accused & stated in the accused's presence & hearing that he was the man who had sold him the tire. The accused said he didn't know anything about it.

Hack

I've been in Army 5 yrs + since NCO since 1943. I have standing orders - tire + rim were taken from Garage. White cross on tire to show which tire I took from the Garage; it also has marked on it the word "Military." I delivered tire to Sgt Donaldson for safe-keeping.

X-exam. I don't handle transport + not sure of record of number of tires kept. I was instructed by an MT officer in Eng. that tires with "Military" on it ~~and~~ or ~~who~~ with arrow were prop of Gen Army. Lt. Ackley was the instructor. I believe tire is made in U.S. There's a possibility that tire might be American. I've inspected tires on Jeeps before. Broad arrow + C is on most tires, more usual than the word "Military." As general rule, the accepted marking is broad arrow + C but I've seen "military" on some also. I don't know how U.S. Military property is marked.

~~[illegible]~~

By Court - I made no personal check in Unit. We had + have tires similar to Exhibit 1 in our Unit.

R.P. 83 (B) complied with

2nd Witness Joseph Petrus, Kerkhof,
Prosecution: Deventer, having been duly
states:
I am J. P. Kerkhof, employed in
kitchen "Y" sec. 3 CCCU. I recognize
the accused Granberg. 8 may, wednesday
~~after~~ about 7:30 P.M. I borrowed a
bicycle ~~in the Camp~~ from a Dutch
fellow out of Camp & went to Hotel
where Y sec is located to get my
camera. At back of Hotel, a 15 cwt
Dodge truck & I put bike ~~in~~ up agst
the truck & I saw Hank Granberg carry
a Jeep tire with wheel out of the Garage
& put it in the Dodge truck. I went into
kitchen, got my camera & left.

X-exam - I know it was a Jeep tire
because I've seen lots of them. I've near
seen other people carrying Jeep tires & I've
seen tires on ~~cars~~ cars & being fixed. I
was about 5-7 metres away from accused
when I saw him carrying the tire. He
might have been taking tire to some other
place. Next day I told a corporal and an officer about
Granberg taking the tire. So far as I know
Granberg & I were friends. Granberg said at one
time that I should be fired. I don't remember his
saying this to an officer. I never found out
he wasn't my friend. "Did you ever hear Granberg
say that other civilian ~~people~~ who had not done what he told
them should be fired. Ans: No.

By the Court - didn't see the Dodge truck drive away after tire was placed in it. I couldn't identify the tire in question for sure. Corporal Williams asked me about the tire

R.P. 83 (B) complied with

3rd Witness

Prosecution: Johan Schuppert, Holten,

having been duly sworn, states:

I am Johann Schuppert, garage keeper at Holten. A tire and wheel were in my Garage. A relation of mine, Schuppert, ~~[illegible]~~ brought the tire + wheel to my Garage. Witness examines tire + wheel Exhibit 1. There are so many tires like these it is very difficult to say if this is the one I had in my Garage. I was going to change it to fit a Chevrolet car + then I think it was a Capt. who took the tire away.

X-exam - Relation of mine gave tire to one of my workers. ~~Tire in garage~~ I can't say exactly how long tire was in my garage before being picked up.

By the Court: Not sure of the rank of person who got tire but quite sure he was not a Private soldier.

R.P. 83 (B) complied with

4th Witness Frederik Jan Schuppert, having
Prosecution been duly sworn states:

I am F. J. Schuppert, a dry goods dealer in Holten. I recognize the accused (pointing) On 8th May in the evening. I bought a tire from the accused. It was between 8 – 8:30 in evening. I was serving a customer when Cdn Car drove up + the accused + Kappert came out. Kappert had asked if I had a sofa for sale several times but as I had no new ones, I sold a second-hand one + Kappert came to pick it up. The two came into my shop + the accused said something in English which I didn't understand. I asked Kappert what accused said + Kappert told me that accused had tire with wheel for sale. I was rather surprised at the officer because as it happened I had several flats a few days before + this offer came in very handy. I bargained with Cdn.; he asked 200 guilders I offered 100 + bought it for 100 guilders. I am very sorry this thing happened I know it is not in order but he have a ~~busy~~ business + large staff to keep employed. That's why I bought the tire – to keep on the road. Went inside + Kappert got his sofa; he was not present when I bargained with Cdn. All of us went inside + had a drink. ~~He~~ Put tire in the cellar + two days later, it was taken to Johannes Schuppert's garage to be fixed to

fit my car. Witness looks at Exhibit I. This ~~a~~ tire looks exactly the same type as one I bought but not sure of the number. I paid accused in 4 - 25 guilder notes. I should like to add that accused didn't appear to be quite sober when the tire deal was made because my uncle who had bought a little toy dog with elastic showed it to Cdn who showed rather exaggerated pleasure at seeing the toy.

X-exam: I don't speak English. I bargained with accused by ~~using~~ asking Rappert only on the first instance to find ~~that~~ what accused had said. We bargained I using Dutch. My brother took the tire to the garage for me.

By the Court: Car that came to house was a truck, an Army vehicle with rounded front.

R.P. 83(B) complied with

5th Witness Prosecution

Mr. E. Rappert, Holten, having been duly sworn, states:

I am E. Rappert of Holten, Holland, formerly employed by 3 CCC. U. I recognize the accused. About 8 P.M. Hank picked me up with the truck at my place. I told Hank I wanted to pick up the sofa at Schuppert's

Mack

Prosecution closed.

No submission by Defending Officer re prima facie case

Jan 20/46

Prosecutor declines to make a closing address.

Closing address by Defending officer - see attached address.

J.A. Summing-up - attached.

MEDICAL OFFICER'S CERTIFICATE

Hack

I certify that I have this day medically examined

Pte Spr. Henrik Granberg

and find him fit/~~unfit~~ BRI to undergo trial by Court-Martial.

In the Field

20 Jan 1946

B R Townsley Capt.
Medical Officer RCAMC
Cdn Forces in the Netherlands

We drove to Schuppert's store, Schuppert was loading furniture on a truck. I told Schuppert I wanted my sofa at same time, Hank said something which Schuppert didn't understand. I explained that Hank had a tire; Schuppert wanted to buy it. I got the sofa down. When I had sofa in the truck, we went into the shop into Kitchen & Schuppert told me he had bought the tire; Hank was present at this time having a drink with us. Sat there for awhile & then we left and went home. Truck was a Dodge army truck - small Dodge. I don't know if tire was in truck when I was picked up. I saw a tire in Schuppert's shop afterwards. I think tire was in shop when we first went in. I know Hank pretty well & he was not quite drunk but he had had quite a few drinks & quite happy & gay. I did not see Hank get any money.

X-exam - Granberg doesn't speak Dutch & Schuppert doesn't speak English. When Schuppert told me about buying tire from Granberg, I don't think Granberg would understand what Schuppert said. I did not act as interpreter in tire deal.

By the Court - I understand English a little bit. Granberg told me he had a tire & I understood the word "tire". He first told Schuppert & Schuppert asked me. I did not see Hank handle the tire.

R.P. 83(B) complied with.

Attack

Exhibit 1

1 – 600 x 16 Goodrich Silvertown
military No. 2867836 28–10
(Jeep tire) with rim (wheel)

—"—

I hereby certify that I have received from the President of the Court-martial herein, the above tire + wheel, which tire + wheel came from my Unit.

20 June 1946
Amsterdam

Chas. Adam.
C. ADAM, CAPT.
3 CCC U (2½C)

26276.3 Pte. Granburg H.

Defending Officer's Address.

Sir: what is the usual set of facts established by the prosecution in the case of a stealing charge. First it is shown that some article has been taken from its owner: and secondly that it was the intention of the person taking it to permanently deprive the owner of the article taken.

This is usually done by the owner, or person in possession of the article, coming into Court and saying that the article, which he identifies, was taken from him or that he missed it from amongst his belongings. Then it is shown that the accused was found with the article or evidence is produced to show that he sold this article. and again it is identified by those who saw it in the possession of the accused or bought it from him.

In the present case the accused is involved through the evidence of Schuppert who says Granburg sold him a tire and wheel. About two weeks later C.S.M. Walker found a tire which he produced as an exhibit here in a garage belonging to another Mr. Schuppert, then the prosecution has attempted to establish that these two tires are one and the same.

I would like to point out to the Court that much of what was said in this connection by both these Schupperts is hearsay evidence. Perhaps I am at fault for failing to keep it out of the records in the first

instances ~~it~~ it is sometimes difficult, particularly when working with an interpreter to realize that something is hearsay. I am referring to the statement by Johan Schuppert to the effect that Schuppert brought the tire to his garage. On cross examination he stated that he did not receive the tire himself but was told by an employee that that was where it came from. Then again Frederick Schuppert said the tire was taken to Johan Schuppert's garage - and again on cross examination it was found that he had merely given it to his brother to have repaired.

Taking out this purely hearsay evidence which is actually inadmissible there is nothing to connect up the tire bought by with the one here in Court. No one could identify this tire as being dealt with except Cpl. Walker and he could only say that he seized it.

Not only is there no evidence on that point but the matter of ownership of the tire has not been satisfactorily established.

It is not my intention to discuss law in detail but I must point out that this charge is not an ordinary one of simple larceny but is laid under s. 18(4) of the Army Act. It must therefore be established that the property which has been stolen is public property. In the manual of military law at p. 444 we find this note: "10. If it turns out that the property belongs to some person or persons not included in the category contained in this paragraph the accused must be acquitted, as the offence could in that case only have been charged under s. 41."

the prosecution must establish therefore that the accused took government property.

Elton Walker was called as a witness to say that government property is sometimes marked with the single word "military" and that the tire before the Court is so marked. I believe however that in these days when Army equipment formerly used by the Allies is being sold to civilians that such evidence alone is not sufficient to establish any article as being public property. One has only to look about the streets of any city over here to see civilians driving jeeps which have been sold to them by certain of the Allied Governments. These vehicles & the tires on them will continue to carry certain markings of a military nature - Tires marked "military" such as this one. The Court is entitled to take judicial notice of such matter as are of common knowledge.

It has been suggested that the accused stole a tire from the unit garage. Kirkhoff says that on the 8th of May he saw Granberg putting a tire & wheel in a truck. He could not specifically identify this tire now say whether it was taken away. Yet it was on the evidence of this lad who went as soon as possible to accuse Granberg of theft on such foolish evidence - this small, who because Granberg had no use for him and considered he should be fired, had a grudge against him - that the prosecution would have the Court

believe that a tire was stolen from the unit garage.

That is the poorest type of evidence imaginable. It is easily explained by a legitimate need to take a tire by a person handling transport.

No, if a tire was stolen from the unit it would be a simple matter to produce the unit's records to show by a person who had made a check that a tire was missing; or in the alternative to produce someone to say at least that a wheel and tire for a certain jeep, or an extra wheel and tire were missing.

I do not think I need to go on any longer. It has not been established 1) that Granburg stole a tire — that is that he took it from the owner 2) that the tire here in Court was sold by Granburg to Schuppert and 3) that the tire involved was public property.

For these reasons I respectfully submit that the accused must be acquitted on this charge.

[illegible] Capt.

I.A. Summing up.

It is my duty to advise the Court on the law and to sum up if necessary, the evidence. The Court however is sole Judge of the facts and anything I have said or may say which indicates my own views, ~~[illegible]~~ must be disregarded. My advice on the law should be followed unless you have very strong ~~[illegible]~~ reasons for not so doing.

You have only one charge to consider, the 3rd on the Charge Sheet which reads as follows: (read the charge) By virtue of A.A. 190 (33 A) the expression "steals" has the same meaning as it has for the purposes of the "Larceny Act". Under the Larceny Act a person steals who without the consent of the owner, fraudulently & without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent at the time of such taking, permanently to deprive the owner thereof.

Review. ~~It is encumbent on the prosecution to prove first, that the goods were stolen & [illegible]~~

~~what date~~.

Where an accused is charged with theft, the ownership of the property alleged to have been stolen should be clearly shown in evidence + its identity established (where possible) by production + identification in court. ~~It is for the Court to decide whether, from the evidence, presented before you, all the elements in the above definition have been proven.~~ The intention must be permanently to deprive the owner of the property, there must be taking of the goods, either actual or constructive. Owner is defined in Archbold p. 613 to include any part owner, or person having possession or control of, or a special property in, anything capable of being stolen. The thing stolen must be proved as laid in the charge sheet. You have heard the evidence and you must decide from it alone whether or not all the elements of the above definitions have been proven; if not then the accused should be acquitted ~~of~~ on the charge.

In the considering the burden of proof, regard should be had to two rules:

Rule (1) every man is presumed innocent until proven guilty

Plea in Mitigation

62763 Pte Granberg M.

Sir: this man has been in the army for five and a half years and as the documents presented show has only one offence previous to the present trial. It is a very good record and should indicate that this man has been a good soldier. For one reason or another he has gone slightly astray but one lesson in these cases of this sort is enough and a heavy punishment is not required.

Granberg was induced by Robertson & Scallion to improperly use the vehicle he was in charge of. It is a difficult matter to turn down the request of a friend in circumstances such as this. What he did was a very minor offence of a purely military nature, an offence correctly dealt with by a commanding officer.

Granberg has already spent 31 days in custody and I feel that this is more than sufficient punishment for an offence of this nature. For that reason I ask that the Court award a purely nominal punishment.

[illegible] Capt.

(2) The burden of proof is always on the prosecution. Once the Prosecution has established a prima facie case, the onus of explanation shifts to the accused & it is then for him to give a reasonable explanation in satisfaction of the Charge. Unless the guilt of the accused has been established beyond all reasonable doubt, the accused must be acquitted, as the Prosecution has failed to sustain adequately the burden of proving his guilt. A reasonable doubt is understood as one which an ordinary man would have in the conduct of his own business. It should not light or capricious.

Just a word as to the evidence: you are entitled to believe one witness & disbelieve another. you may believe or disbelieve either the whole or any part of the evidence presented & you may attach whatever weight you decide proper to any of the evidence accepted.

That is all I wish to say unless requested to give further advice by the Court or by the Prosecutor or the Defending Officer.

Respectfully submitted
A.D.S.A.

FIFTH WITNESS. M3266 Pte Robertson W.D. 1 Sec 3 CCCU CAO.
having been duly sworn states
"On 17 May 46 I went to Amsterdam on Army Vehicle driven by Spr Granberg to purchase Coca Cola. We stopped at Soest ~~and~~ for refreshments and while there agreed to take a civilian, dressed in Canadian Army trousers, boots, and skin coat, to Amsterdam. At Coca Cola plant one hundred cases were loaded on the truck — the civilian providing the money to pay for Coca Cola and taken to a place in Amsterdam location of which I do not know, and unloaded there. We then proceeded to a café where the civilian received some money, amount unknown. We next proceeded to Coca Cola plant and loaded with another fifty cases. I was driven up town in the truck and dropped off at Vanevert van Straat where I took two cases of Coca Cola for my own consumption over the week end being on leave."

Q1 Do you know if Spr Granberg received any money from the civilian referred to.

A1. No

Q2. Would you recognize the café again, either outside or inside.

A2. I am not sure.

Q3. Would you recognize the man who paid the money to the civilian.

A3. I believe so.

Q4. Do you know anything further about the civilian that was picked up at Soest

A4. I saw him one night at Sec HQ.

Cross examined by accused

Q. Did I enter the place where the Coca Cola was unloaded?

A. No

W Robertson

Exhibit A
Xtee

Summary of Evidence in the case of L62463 Spr Granberg H, 3 Cdn Cemetery Coun Unit RCE CAO charged with

(i) Conduct to the prejudice of good Order and Military Discipline in that he at Tourcoing, France on 21 May 46 was in illegal possession of two pounds (£2 - -).

(ii) Conduct to the prejudice of good Order and Military Discipline in that he at Amsterdam, Holland on 17 May 46 improperly used a Government vehicle, Dodge 15 cwt No CL 56256 81 and petrol by transporting Coca Cola for Hans Saedtiel a civilian (AA Sec 40)

(iii) Taking a fee in respect of the sale of provisions for the use of 3 CCCU RCE CAO In that he at Amsterdam Holland on 17 May 46 accepted a sum of money, 50 Guildus, from Hans Saedtiel in consideration of purchase and sale, and transporting Coca Cola for Hans Saedtiel. (AA Sec 23(2))

(iv) Neglecting to obey Unit Part 1 Orders dated 23 Apr 46 In that he failed to surrender two pounds (£2 - -) for exchange until searched at Tourcoing France at approx 0900 hrs 21 May 46.

By direction of the Commanding Officer the evidence is to be taken on oath.

FIRST WITNESS. B25923 C.S.M. Walker R.C. 3 CCCU RCE CAO. having been duly sworn states.
"Lon B25923 C.S.M. Walker, 3 CCCU RCE CAO. At approx 0900 hrs 21 May 46 I placed Spr Granberg under close arrest at Tourcoing, France. I searched him and his kit in the presence of SB 92793 CQMS Phillips, 3 CCCU RCE CAO and I found in his wallet £2-0-0 (Two pounds)

which I took. I gave Granberg a receipt for this. The holding of Sterling on the continent was published in 3 CCCU Pt 1 Order d/23 Apr 46, copy of which I submit.
The accused declines to cross examine this witness.

R.S. Walker

The 3 CCCU Pt 1 Order d/23 Apr 46 referred to by above witness is attached hereto as Appx "A"

SECOND WITNESS. B 144912 Sgt Donaldson RM 3 CCCU RCE CAC having been duly sworn states
"I am N.C.O. in charge Y Sec 3 CCCU RCE stationed at Holten, Holland. On the 17 May 46 I sent Spr Granberg, as driver, and Pte Robertson to Amsterdam to pick up Coca Cola for Y Sec 3 CCCU. After picking up the Coca Cola Pte Robertson had authority to proceed on leave. Spr Granberg was to bring back the Coca Cola purchased by Pte Robertson. Hbpl Lively and myself checked the load which consisted of 48 cases of Coca Cola. The invoice received showed 50 cases purchased. This Invoice was submitted on Summary of Evidence on Pte Robertson. Mr A Kappert civilian cook employed by this sec accompanied the truck to and from Amsterdam. The vehicle used was Dodge 15 cwt CZ 5675681. I submit Work Ticket covering this trip.
The accused declines to cross examine this witness.

Sgt R.M. Donaldson

The Work ticket referred to by this witness is attached hereto as Appx "B"

Third Witness B 114388 Hbpl Lively MH Y Sec 3 CCCU RCE CAC having been duly sworn states
"On morning 18 May 46 Sgt Donaldson had me help him check a load of Coca Cola. There were 48 cases on load."
The accused declined to cross examine this witness.

M H Lively

Fourth WITNESS. Mr E Kappert of Holten, Holland having been duly sworn states
"I am employed as civilian cook by Y Sec 3 CCCU at Holten, Holland. On 17 May 46 I obtained permission from Sgt Donaldson NCO i/c Y Sec to go with army truck to Amsterdam. The driver was Spr Granberg. Also on the truck was Pte Robertson. While at Soest having refreshments, a man dressed in Canadian Army uniform came up and spoke to Granberg and Robertson. I did not understand what was said. This man came in the truck with us to Amsterdam. One hundred cases of Coca Cola were loaded onto the truck at the Coca Cola plant, and taken to an old shop which was being repaired. The hundred cases were unloaded there. The truck then stopped at a restaurant. I did not get out of the truck. We then proceeded to Coca Cola plant and got another fifty cases of Coca Cola. Pte Robertson was taken up town and when he got off the truck he took two cases with him.
The accused declines to cross examine this witness.

E Kappert

Fourth Witness (recalled). E Kaffert, Holten, Holland. having been duly sworn states.

"About 10 days ago, I went in Army truck with Gramberg to the shop of Frederick Schuffert to get a divan to take to my house. Schuffert and Gramberg were talking together and Schuffert asked me what Gramberg was talking about. I told him that Gramberg was talking about a tree. They went into a room and I went up stairs to get my divan, while I was up stairs the tree was taken in and left there when we left"

Q.1. Did you interpret for Schuffert and Gramberg to make a deal about a tree?

A No.

Q2 Do you know if Gramberg got money for the tree?

A. Yes he got money but I do not know whether he got 100 or 125 Gaat bus.

~~The account~~ a

Q3 Was Gramberg drunk at the time?

A. No. but we had had a few drinks in Holten, not quite one two beers.

Q4. Where at the Coca Cola plant on 17 May 46 did you receive any money, and if from whom and how much.

A Yes, from Hans Sealtiel I received 50 Gen Ibs

Q5. Did you see Sealtiel give Kobatow and Gramberg any money

A ~~Did~~ No ca

Q6 [illegible] ca.

Q6 On your trip to Coca Cola plant after dinner, did you ask for money

A Yes Kobatow did

Q7 Did you give him any and how much

A I just handed him my wallet

Gramberg 5.

5

HOLCR

SIXTH

~~FIFTH~~ WITNESS. HANS SEALTIEL, of Afflidoorn Holland

having been duly sworn states:

~~On Tuesday 19 May 46. J.F.~~ CA

"On Wed 15 May 46 I spoke to Mr Robatow about the sale of Coca Cola. I told him we could get 100 to 110 Gldrs a case, and it was decided that we go to Amsterdam together on Friday. As I was in Afflidoorn on Friday I phoned Robatow and told him that I would be waiting in Afflidoorn for him. The truck passed without picking me up. I then picked after them and found truck parked in Locot in front of a cafe, and I met Robatow and Gramberg there Kaffert. I went in the truck with them to Amsterdam, In Amsterdam I guided the driver to the Chevalier D'Or cafe on Leidsche Straat. We stopped on the side street. I went to speak to the owner of the cafe but he was not in. We went to the Coca Cola plant but decided not to load till after dinner. While there Robatow asked if there would be anything in it for Gramberg. Robatow Gramberg and I decided that the profits would be split 10% to Kaffert and 20% each to us three. We split up for dinner, and after dinner Gramberg Kaffert & I drove to Chevalier D'Or, there I arranged with the manager to sell 100 cases of Coca Cola at 90 Gldrs a case. When I came out of the cafe the truck had gone and I proceeded to the Coca Cola plant where Robatow Gramberg and Kaffert were loading the empties CA 29 ~~empty~~ cases of empties brought from Holten. I told Robatow that we could sell 100 cases at 90 Gldrs each. Robatow counted his money and didnt have enough to pay for 100 cases. Gramberg gave him 65 Gldrs and Kaffert all his money totaled he took 30 Gldrs. Robatow and I went into the office and paid 3010 15 Gldrs for 100 cases of Coca Cola — kept 850 Gldrs then paid 89 85 refund on the 29 cases of empties. We loaded the 100 cases and delivered them to the carpenter for the Chevalier D'Or at I believe 57 ~~Rokin Straat~~ CA Oude Looiers Straat. We then drove to the Chevalier D'Or and Robatow & I went to see the manager and he paid 8985 to Gildrs to me. 15 00 Gldrs ~~had~~ was

been deducted for the cases of empties we had picked up at 54 Oude Looiers Straat. We ~~drove~~ returned to Coca Cola plant and unloaded the 18 cases of empties & loaded 50 cases of Coca Cola. Before Robertson went upstairs to pay the bill, we split the money as follows. I gave 350.00 Gldrs to Robertson on account of the original purchase, also 165.00 Gldrs as his share of the profit. 165 Gldrs to Granberg as his share of profit and 55.00 Gldrs to Kapput as his share of the profit. Robertson later gave me 15 Gldrs from the refund on the 18 cases of of empties, making my share of the profit up to 165 Gldrs. He also returned 65 Gldrs to Granberg and 30 Gldrs to Kapput. We drove Robertson up town and dropped him with two cases of Coca Cola. After supper, about 2030 hrs we left Amsterdam to return to Holten, stopping en route at Amersfoort, Appledorn, where I picked up a box of my clothing and at Deventer. We arrived in Holten at 0030 hrs 18 May 46

Q1 Can you recognize the manage who paid you the 885 Gldrs at the Chasselier D'or

A Yes.

The accused declines to cross examine this witness

H Saultiel.

~~SIXTH WITNESS. Johan Schuppert of A 196, Holten Holland. having been duly sworn, in Dutch, by Antonius Klass Mud of Dutch State Police, states.~~

SEVENTH ~~Sixth~~ WITNESS. Frederik ~~J~~ Jan Schuppert A 131 Holten Holland. having been duly sworn in Dutch, by Antonius Klass Mud of Dutch State Police, states.

"On Wed, 8 May 46 at about 2015 hrs I was unloading my ~~tt~~ truck at A ~~186~~ ca 168 Holten when a Canadian Army truck stopped. In this Canadian truck was Mr Kapput who came to get a Chesterfield which he had bought from me. The driver of the Army

Hack

truck was a soldier, whom I do recognize as the soldier now present, but whose name I did not know, but have now been informed is Granberg, ~~Kapput as interpreter~~ ca. and he came into my shop. During my talk with them using Kapput as interpreter, I told them of my misfortune with my tires. The soldier Granberg offered me a tire for the price of 200 Gldrs. At last I bought the tire for 100 Gldrs which I paid Granberg. This tire was flat and complete with tube and wheel. The complete tire & wheel was delivered immediately and a few days later I took the tire to the Garage of Johan Schuppert at A 196 Holten, to have holes drilled in it to fit my car. This tire was confiscated by a Canadian Captain on 22 May 46.

The accused declines to cross examine this witness.

J. J. Schuppert.

The interpreter used was Hans Saultiel formerly interpreter for 2 Cdn Graves Conc. Unit at Appledorn and was checked by Antonius Klass Mud, Dutch State Police

Chas. Adam Capt.

EIGHTH ~~Seventh~~ Witness: Johan Schuppert of A 196 Holten, Holland having been duly sworn in Dutch by Antonius Klass Mud of Dutch State Police, Holten. states

~~Between~~ ca.

"About fourteen days ago one of my two employees informed me that Frederik Jan Schuppert had left a tire, wheel in the Garage to have holes bored in it. On 22 May 46 a Canadian Office came to my Garage and confiscated the tire and wheel.

The accused declines to cross examine this witness

J Schuppert

The interpreter used was Hans Saultiel formerly interpreter for 2 Cdn Graves Conc Unit at Appledorn and was checked by Antonius Klass Mud Chas Adam Capt.

Hoare

Witness Lieut J.D. Hogan 2 CCCU. R.C.E. CAO.
having been duly sworn states.
"I am Lieut J.D. Hogan O.C. 2 Pl. 3 CCCU R.C.E.
stationed in Holland. On Monday 20 May 46.
I proceeded to the Coca Cola Sole Plant Amsterdam
to investigate the alleged sale of 100 cases of
Coca Cola by some of the men in my platoon.
I obtained from the Coca Cola plant a triplicate
set of certified true copied Invoices dated
17 May 46 and billed to the Canadian Unit.
Holten. Re. account No 123 Invoice No 999
one copy of which I submit as evidence was
for the purchase of 100 cases of Coca Cola by
my platoon. The 100 cases were not received by
the platoon although purchased ~~for~~ under our
authority.
The accused declines to cross examine this Witness
J.D. Hogan Lt. RCE
Coca Cola Invoice No 999 of 17 May 46 referred to by
above witness is attached as Appx C

The accused was cautioned as follows:-
Q1 Do you wish to make any statement or to give evidence
on oath? You are not obliged to say anything or give
evidence unless you wish to do so, but whatever you say
or any evidence you give will be taken down in writing
and may be given in evidence.
A1. I want to make a statement.
Q2. On oath or not on oath
A Not on oath
The accused states.
"On returning from leave to UK in May 45 I had
£21 (Twenty pounds) in my possession. As far as I know there

Q8 Did you know what he wanted the money for.
A. No.
Q9 Did you know that the others were to sell Coca Cola.
A. No.
The accused declines to cross examine this witness.

J Kappel

FIRST Witness (recalled) B 21923 WO II Walton R.E.
2 CCCU R.E. CAO having been duly sworn
states
"At approx 1030 hrs 22 May 46 I went into a civilian
Garage in Holten called Schuffert and found two
Army tires, Nos 4286733628-1 and 1699T3018.
and A civilian policeman who could speak English
were produced, and the the Garage owner, Mr Schuffert
was questioned. He said he bought the tires from another
Mr Schuffert who is a storekeeper. This other Mr Schuffert
said he had bought one of the tire from a Canadian soldier
station at Holten. He identified tire No 4286733628-1
as the tire he had bought from the Canadian soldier.
At approx 1300 hrs 22 May 46 an identification parade
was held and storekeeper Schuffert identified Sgt
Schuffert Co. Cranberg as the soldier who had sold
him the tire.
The accused declines to cross examine this witness.
R.E. Walton

CA NINTH Witness. Joseph Petrus Kerkhof, December Holland.
having being duly sworn, states.
"About 1930 hrs on what I believe to have been the 8 May 46
on return to Y Sec HQ after borrowing a bicycle I left
the bicycle beside a 15 cwt truck outside the Garage
to the Kitchen I saw Sgt Cranberg having a push bike from
the Garage and put it in his truck I then went to the

kitchen. and that is all I know.
The accused declines to cross examine this witness
J. P. Kerkhof

TENTH ca.
~~Seventh~~ WITNESS: Johannes Willem Gerets. Chanteur D'or Café, Amsterdam, Holland. having been duly sworn states
"The man I have just indicated, Hans Sealtiel, I saw for the first time several weeks ago. On that occasion he offered me Coca Cola for sale. I bought approx 25 cases from him at 10 Guildas per case. Last Week, I think Thursday the 16th or Friday 17 May 46 he came to me again and offered me 100 cases of Coca Cola. In the beginning I refused this offer and told him that I would only take the Coca Cola if it was accompanied by an invoice of the Coca Cola factory made out in my name. He consented to this, whereupon I told him that he could deliver these 100 cases. The price was 9 Gldrs per case. The cases have been delivered and the money has been paid (900 Gldrs)
Q1. Who did you pay the money to?
A1 Hans Sealtiel.
Q2. Was there anyone else present with him when this payment was made?
A2 Yes, a Canadian soldier.
Q3. Do you recognize him as present here?
A3 No.
Q4 Was the full amount of 900 Gldrs paid in cash?
A4 No, only 885 Gldrs.
The accused declines to cross examine this witness
The interpreter used was Mr. G. N. Hille
official Interpreter - Translator, 1 Cdn. S.I.S.
Amsterdam
[signature]

Hack

ELEVENTH ca.
~~Seventh~~ Witness: Franciscus Bockstal of Coca Cola Plant Amsterdam, Holland. having been duly sworn states.
"On Friday, 17 May 46 empty Coca Cola cases were delivered to the Coca Cola Factory by four Canadian soldiers belonging to the Royal Canadian Engineers. Twenty nine empty cases were delivered. They wanted to take 150 full cases back with them. As I was not authorized to deliver that amount I rang up Mr. Van Den Wilden and he ordered me to deliver 150 cases. The Canadians could not load more than 100 cases. They said that they were coming back for the remaining 50 cases. About an hour later they returned, delivered approx 18 empty cases and were then given the remaining 50 full cases. While the last mentioned fifty cases were being loaded onto the Military vehicle I saw that two of the above mentioned Canadians were dividing money. When they saw me watching them they went into the Coca Cola garage. Further I did not see anything of this.
Q1 Did you consider that the four men were Canadian soldiers
A1 Yes.
Q2 Can you identify the two you saw handling money.
A2 Yes This one (Robertson) and this one (Sealtiel)
The accused declines to cross-examine this witness.
The interpreter used was Mr. G. N. Hille
official Interpreter - Translator, 1 Cdn. S.I.S.
Amsterdam.
[signature]

Hack 3

was no regulation regarding the turning in of Sterling.
I therefore kept the two pounds, and had forgot about
them until C.S.M. Walker found them in my wallet.
To the best of my knowledge Mr E. Kaffert ~~[illegible]~~ ca.
did not know that the Cocoa ~~H Granberg~~ C.C.
~~The accused does not call any witnesses.~~ C.C.
Cola was to be sold until after the transaction
was complete.

H Granberg

I certify that the foregoing Summary of Evidence
consisting of thirteen pages was taken down by
me in the presence of the accused and that
RP 4(C), (D), (E), (F) have been complied with.

Tourcoing, France
25 May 46.

Chas Adam Capt.
3 CCCA. R.C.C. C.A.O.

Appx A

3 CANADIAN CEMET[illegible] GRAVES REGISTRATION UNIT, RCE

PART I ORDERS 2[illegible]/46

1. Duty NCOs The following personnel will serve as Orderly NCO on the dates appearing opposite their names from 1700 hrs to 0800 hrs. the following day, and will be responsible that no veh leave the yard without proper authorization from an offr, and that all incoming personnel is furnished with bed and meals, and will be in receipt of the keys of the QM stores and the main gate which will be closed at 1800 hrs until 0800 hrs.

Apr	23	QMS Betts	Apr	24	CSM Walker
Apr	25	Sgt MacLaren, D	Apr	26	Sgt Bradshaw, L
Apr	27	Cpl McCallum L A	Apr	28	L/Cpl Weims, D.
Apr	29	Cpl Pedersen, P	Apr	30	Sgt Britt, L.
May	1	L/Sgt Coyne, J	May	2	Cpl Philips, P.
May	3	L/Cpl Pickard	May	4	L/Cpl McDonald, E.
May	5	L/Cpl Wickett, A	May	6	L/Cpl Alcock.
May	7	Sgt Adamson			

2. CAFES All cafes are out of bounds to all ranks between 0800 hrs and 1700 hrs Mondays to Fridays incl and from 0800 hrs to 1200 hrs on Saturdays.

3. DISCIPLINE The parking of vehs on the pavements in BRUSSELS is forbidden. This applies to mil as well as civ vehs Civ police have instrs to report all cases of such parking even if the veh is only slightly infringing on the footpath.

WD vehs will NOT be parked on the pavements or cycle tracks in BRUSSELS.

4. IMPORTATION AND HOLDING OF STERLING IN BAOR

The holding of sterling by offrs and ORs is forbidden

Offrs and ORs should instruct their correspondents that sterling must NOT be sent to them through the mail or by other means.

Any sterling held or subsequently received by offrs or ORs will be surrendered immediately in exchange for temporary receipt to their commanding officers for investigation.

Any offr or other rank illegally holding sterling or disposing of sterling other than as stated above should normally be tried by Court Martial.

R M Davison

(R M Davison) Capt
Officer Commanding
3 Cdn Cemetery Graves Unit, RCE

The accused L.62763 SPR GRANBURG, H. requests that the Conveining Officer assign an officer to represent him at the trial.

Chas Adan Capt

(Chas Adan)Capt RCE
3 CCCU CAO

I,L-62763 SPR. GRANBURG, H., hereby acknowledge that I have received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein.

H Granburg.

(H. GRANBURG)

LIST OF WITNESSES

L.62763 Spr GRANBURG H.

B.25923	WOII	WALKER	R.E.	3 CCCU Tourcoing France
SB.9279	CQMS	PHILLIPS	P.E.	3 CCCU Tourcoing France
M.3266	PTE	ROBERTSON	W.D.	under Arrest at Tournai
Hans Seatiel				Apledoorn Holland
E.Kappert				Holten Holland
Joseph Kerkhof				Holten Holland
B.144912	SGT	DONALDSON	R.M.	3 CCCU Holten Holland
B.114388	L/Cpl	LIVELY	M.H.	3 CCCU Holten Holland
Johannes William Girrets				Chavelier D'Or, Bathoven Straat, Amsterdam, Holland
Franciscus Boekstal				Coca Cola Plant, Amsterdam Holland
Lieut J.D.HOLAN				3 CCCU Nijmegen Holland

LIST OF EXHIBITS -- L.62763 Spr GRANBURG H.

(1) Court of Inquiry

(2) 3 COCU Part I Order dated 23 Apr 46

(3) Work Ticket

(4) Invoice No 999

(5) Tire No 4286733628 - 1

In lieu of Army Form B296 Revised Jan

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

L 62763 Spr GRANBERG, Henrik 3 Cdn Cemetery Constr Unit RCE

1. The following is a fair and true summary of the entries in the regimental and squadron battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

Within last 12 months	Since Enlistment
AA Sec 40 1 times	1 times.

2. The accused has NOT been previously convicted.

3. The accused in NOT under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges for Nil days in civil custody, and 31 days in Military custody, making a total of 31 R.D. days, of which Nil days were in hospital.

5. The present age of the accused according to his record of service is 25 yrs 8 mth 20 day R.D.

6. The date of his attestation specified in his record of service is 18 Dec 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 5 months.

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 5 months service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, CVSM & CLASP, Defence Medal, Italy Star, 1939-45 star, France and Germany Star.

11. N/A

12. N/A

13. N/A

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

No. L 62763 Rank Spr Name GRANBERG, Henrik of 3 Cdn Cem Constr Unit RCE

--- N I L ---

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14 R.D. day of June 1946.

R M Davison

R M DAVISON Capt
Officer Commanding
3 Cdn Cemetery Constr Unit RCE

Exhibit C Hack
3/17 MFM 6
(AFB 122)
40/F-88/138 (5412)

No. L62763 Name GRANBERG Henrik | Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 18 Dec 41 | GC Badges 1 | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc. H. Bardon Capt signed | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 May 46	Spr		Sec 11 AA Failed to turn in Two Pounds Sterling to the OC for disposition	Documentary	28 days pay	1 Jun 46	Capt R M Davison	
				Certified true copy of MFM 6 held in Unit File.					

Chas Adam Capt
(C. ADAM) Capt RCE
3 CCCU CAO
OFFR I/C REGT DOCS

(PTO)

5-m-16

Mr. Grandchamp, K.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.72163 Pte Rosaire Grandchamp

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of NG see RP 44 fn 6.)

~~[illegible]~~ 'CFC' (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 60 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for twenty two months 'CFC'

(Sgd) ..... Judge-Advocate, if any.

17 May 45 Date awarded.

(Sgd) 'C F Cockshutt President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). RP 62(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 127 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed ~~[illegible]~~ 'CFC'

(1. AA 57A. Delete if not used.)

(Sgd) 'J C Stewart' Brig

Date 18 May 45 Commanding OIC Cdn Sec 1st Echelon AFHQ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.72163 Pte Grandchamp R. 2 Cdn NETD	21 May 45	'D J Burgoyne' Major OC No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

CERTIFIED TRUE COPY [illegible] RECORDED AT CMHQ IN AB 160 5M-16

'(C A Boyle) Capt
Cdn Sec 1 Ech AFHQ

CFA96 (To face of AFA3) 417 pads 25 M 1608 (3804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J C Stewart Comd Cdn Sec 1 Ech AFHQ dated 14 May 45

RECEIVED 20 Jun 45 JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D.72163	Pte	Rosaire	GRANDCHAMP	2 Cdn NETD 'CFC'

PROCEEDINGS REVIEWED 25 Jun 45 "W Hamilton" Capt REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 17 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn RDs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 51, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~[illegible]~~ 'CFC'

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~[illegible]~~ sworn. Do you object to ~~[illegible]~~ as interpreter? Ans 'CFC'

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans

The shorthand writer is sworn.(2)

(1. RP 72. 2. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans no (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C F COCKSHUTT	RCEME	Cdn Sec 1 Ech AFHQ
Member	Lieut	L C DIXON	RCE	2 Cdn NETD
Member	Lieut	G CLERK	CIC	2 Cdn NETD
Judge-Advocate				
Prosecutor	Capt	D C RHODES		2 Cdn NETD
Defending Offr	Lieut	G A LEE		2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans no Is the Defending Offr a lawyer? Ans no (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See Dir p 31.) 'CFC'

A8. The accused ~~[illegible]~~ before arraignment makes(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(C), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.) 'CFC'

A9. The accused is (~~not~~) arraigned ~~[illegible]~~ on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~[illegible]~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B. 'CFC'

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Forms D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (H) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[3], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[5]

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans no [5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly. 'CFC'

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1] 'CFC'

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read over to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges on which accused pleaded GUILTY and remain charged to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3, and recording an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....[1]

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans .....

Do you intend to call witnesses on your behalf ? Ans .....

Are they witnesses as to character only ? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans no

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service[1], and certified true copy of Conduct Sheet[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment ?[1] Ans Yes through my defending officer See Appx I 'CFC'

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.) 'CFC'

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 730. When accused already under sentence of imprisonment or detention see AA 44(1B), 168(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see leaflet on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

'CFC'

CHARGE SHEET

The accused, D.72163, Private Rosaire GRANDCHAMP, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 2335 hrs 15 Jul 44 absented himself without leave until about 0001 hrs 30 Aug 44.
(Total Absence: 45 days, 26 mins).

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 0830 hrs 2 Sep 44 absented himself without leave until about 1300 hrs 18 Jan 45.
(Total Absence: 138 days, 4 hrs, 30 mins).

THIRD CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 2359 hrs 25 Jan 45 absented himself without leave until about 2000 hrs 18 Mar 45.
(Total Absence: 51 days, 20 hrs, 1 min).

D D Burgoyne

In the Field
9 May 1945

(D.J. Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
Italy
14 May 45

'J C Stewart'
(J.C. STEWART) Brigadier
OIC Cdn Sec 1st Ech AFHQ

'CFC'

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/Publ/1697 (1668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.72163	Pte		Rossire	GRANDCHAMP	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX]) committed the offence(s) set forth in the Charge Sheet[X] attached and on (date) 14 May 45 endorsed by me, ([XXXX

'CFC'

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined No D.72163 Rank Pte NAME GRANDCHAMP R of 2 Cdn N.E.T.D. and in my opinion he is fit to undergo trial by Court Martial.

In the Field
DATE 17 May 45

'undecipherable' Capt
MEDICAL OFFICER.

Appexdix E 'CFC' Pres

PLEA OF MITIGATION

2 NETD
1 CBRGp
Avvellino
17 May 45

To the President & Members of the Court

Sir,

I have the honour to submit for your consideration and that of the Court a plea for Mitigation of Sentence in the case of D 72163 GRANDCHAMP ROSAIRE who has pleaded guilty this day to three charges of

ABSENCE WITHOUT LEAVE

While the defendant is fully aware that the army Crime of Absence without Leave is inexcusable, there are certain factors to be considered which are beleived justifiable for a plea for mitigation of sentence. There are factors of enlistment and active service as follows:

The first is that the defendant enlisted as an infantry rifleman the 7th Dec 1940 in the Victoria Rifles in every expectation at that crucial period of the war that he would be fighting soon. While in that action he has not differed from the thousands of other soldiers that did the same, who do not face this Court Martial, yet considering as we may at this phase of the war, that action, bearing in mind that other thousands did not see fit to follow the example of their fellow Canadians, it is a factor to be considered in so mitigating his punishment that he as a soldier that has seen fighting service and as a citizen of Canada be not unduly penalized for a crime he would have been subjected to had he shirked his primary duty to undertaking service.

The second is that as a Bren Gunner, he fought in Sicily and Italy and at Ortona with the RCRs of the 1st Cdn Division. During that time he was wounded twice with shrapnel. His periods of service were interspersed with AWL periods-and for these derelections of duty has been punished. It is trusted that despite these failures in duty-due weight and credit be given to the fact that in the service of this country, this French Cdn did risk his life and was twice wounded.

Sir: I have the honour to be

'G A Lee'
G.A. Lee Lieut RCEME
Defending Officer.

Exhibit A 'CFC' Pres

SUMMARY OF EVIDENCE

In the case of D-72163 Pte. GRUNDHAMP, R., No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS For the PROSECUTION

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No.2 Cdn. NETD. and as such I have custody of regimental documents. I present a certified true extract from X-List the Royal Canadian Regt. Part II Order No. 96 dated 6 Oct 44 (Appended hereto as Exhibit "A"); a certified true extract from X-List the Royal Canadian Regt. Part II Order No. 90 dated 6 Oct 44 (Appended hereto as Exhibit "B"); a certified true copy of a Record of the Declaration of a Court of Inquiry dated 6 Oct 44 (Appended hereto as Exhibit "C"); a certified true extract from X-List the Royal Canadian Regt. Part II Order No. 16 dated 9 Feb 45 (Appended hereto as Exhibit "D"); a certified true copy of a Record of the Declaration of a Court of Inquiry dated 17 Feb 45 (Appended hereto as Exhibit "E") and a certificate in accordance withthe Army Act, Sec.162(1)(jj) purporting to be signed by R.A.Archer, Capt. DADR 76 Section, C.I.B., C.M.Police (Appended hereto as Exhibit "F") all these documents pertaining to D.72163 Pte. Grundchamp, R."

(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED. -"Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that A.F.(4)(c),(d),(e), and (f) have been complied with.

R. D. Antrett Capt.
(R. D. Antrett)
Officer detailed to take Summary of Evidence.

In the Field.
8 May 45.

'CFC'

PART II ORDER EXTRACT FORM

TO: Officer Commanding
2 Cdn NETD
Cdn Army CMF

99/20/

5 April 19 45

EXTRACTS FROM: Unit X List The Royal Canadian Regiment

Part II Order No. 90 dated 6 Oct 44

Strength Decrease

SOS X-2 List as des 21 Aug 44 having been declared illegally absent by a Ct of Inq from 2335 hrs 15 Jul 44. Kit def in the amount of $19.55.

D72163 Pte Grandchamp R.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF D-72163 Pte Grandchamp R.
'R D Hutsell' Capt
(R D Hutsell) Officer detailed to take Summary of Evidence.

[redacted]

Certified true extract
Date of certification: 9 Apr 45

'J B D Sword' Capt
(J B D Sword) Capt
Officer having custody of the original
Det Cdn Sec 2nd Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

PART II ORDER EXTRACT FORM 'CFC'

TO: Officer Commaanding
2 Cdn NETD
Cdn Army CMF

99/20

5 Apr 19 45

EXTRACTS FROM: Unit X- List The Royal Canadian Regiment

Part II Order No. 90 dated 6 Oct 44

Strength Increase

TOS X-3 List from des on adm to hosp 30 Aug 44 (hr unknown)
D72163 Pte Grandchamp R.

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF D72163 Pte Grandchamp R.
'R D Hutsell' Capt
(R D Hutsell) Officer detailed to take Su mmary of Evidence.

Certified true extract
Date of Certification: 9 Apr 45

'J B D Sword'
(J B D Sword) Capt
Officer having custody of the original
DetCdn Sec 2nd Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

THIS IS EXHIBIT "C" REFERRED TO BY ME IN THE CASE OF D72163 Pte Grandchamp R, Army Form B 115.

'R D Hutsell' Capt

(R D Hutsell) Officer detailed to take Summary of Evidence.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

'CFC'

RECORD of the Declaration of a Court of Inquiry assembled at Rome on the 6th day of October 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D 72163 Pte Grandchamp R. Royal Canadian Regt 1 Brigade.

DECLARATION.

The Court declare, D 72163 Pte Grandchamp R. Royal Canadian Regt 1 Bde illegally absented himself from 0830 hrs at 104 (Br) General Hospital on 2 Sep 44 and that he is still so absent. He was not deficient of any Hospital Clothing Equipment or Necessaries.

Names of President and Members

W.K.J. Walls	Capt R.A.M.C.
G.W. Keele	Capt R.A.M.C.
E. Wicks	WO II R.A.M.C.

Signature of Commanding Officer 'W May' Colonel

CERTIFIED TRUE COPY.

E Percy Major RAMC Registrar

Signature of Officer having custody of the Original Record.

(31200) Wt.10085/791 120,000 4/42 A.& E.W.Ltd. Gp.698
(22499) Wt.29692/1800 100,000 10/42 " " Forms/B.115/68

PART II ORDER EXTRACT FORM

TO: Officer Commanding
2 Cdn NETD
Cdn Army CMF

99/20/ 'CFC'

5 April 19 45

EXTRACTS FROM: Unit X- List The Royal Canadian Regiment

Part II Order No. 16 dated 9 Feb 45

Strength Increase

TOS X-4 List (1 Inf Bn) from des 1300 hrs 18 Jan 45 on appreh by "T" Prov Coy.
D72163 Pte Grandchamp R.

THIS IS EXHIBIT "D" REFERRED TO BY ME IN THE CASE OF D.72163 Pte Grandchamp R.
'R D Hutsell' Capt
(R D Hutsell) Officer detailed to take Summary of Evidence.

XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXX

(In Lieu of AFB 196) 'CPC'

RECORD of the Declaration of a Court of Inquiry assembled at on the 17 day of February 1945, for the purpose of inves-tigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.72163 Pte Grandchamp R.

DECLARATION

The Court declare that No D 72163 Pte Grandchamp R, 1 Cdn Inf Base Rft Bn, 1 C.B.R.Gp., illegally absented himself with-out leave from the Field at 2359 hrs on the 25 day of Jan 45 and that on the 17 Feb 45 was still absent, and that on the 17 Feb 45 was dificient, and that he is still deficient of the following articles:-

NO OPINION WAS FORMED BY THE COURT

(Signed) (W.W. Reid) Lieut President
(Signed) (W. Jas Rinn) Lieut Member

Signed at the Field
This 21 day of Feb 1945

Signature of Commanding Officer (Signed) Vincent McKenna)
Lt-col
Officer Commanding
1 Bn 1 Cdn Base Rft Group

CERTIFIED TRUE COPY 'J G Rogerson' Capt
(J G Rogerson) Capt
1 CIBRBn 1 CBRGp
Officer having custody of original

THIS IS EXHIBIT "E" REFERRED TO BY ME IN THE CASE OF D-72163 Pte Grandchamp R
'R D Hutsell' Capt
(R D Hutsell) Officer detailed to take Summary of Evidence.

THIS IS EXHIBIT "F" REFERRED TO BY ME IN THE CASE OF D-72163 Pte Grandchamp R
'R D Hutsell' Capt
(R D Hutsell) Officer detailed to take Summary of Evidence.
'CPC'

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163(1)(ii)

I certify that
No D/72163 Rank Private Name GRANDCHAMP R.
of the "D" Company, 1st Bn Royal Canadian Regiment
was arrested at ROME at 2000 hrs
on the 18th day of March 1945
Signature of PM APM or other Officer) 'R A Archer'
into whose custody the above named)
person was taken on arrest)Rank Captain
Appointment (if any) D.A.P.M.

Commanding 96 Section, S.I.B. C.M. Police
Date 18th MARCH 1945.

Exhibit C 'CFC' Pres

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D.72163	Pte	Rossaire GRANDCHAMP	#2 Cdn N.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, pronounce being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 15(1) AWL ..... 1 ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable

*~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 13 June 1944	A.A. Sec 15(1) AWL from 0800 hrs 14 March 44 until 1500 hrs 27 May 44.	Nine months imprisonment with HL.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 17 day of May 45

'J M Reid' Capt & Adjt
(J.M. Reid) Officer i/c
Regtl Books & Records 2 Cdn NETD

Exhibit B 'CFC' Pres

No. D72163 Name GRANDCHAMP Sqn, Battery, or Company Corps CIC Date of enlistment 7 Dec 4[illegible] GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 45/FAS/136 (54[illegible])

Date of last entry in Company Conduct Sheet Rosaire No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field AAI	14 Mar 44	Pte		AA Sec 15(1) AWL from 0800 hrs 14 March 44 until 1500 hrs 27 May 44.		Nine months imprisonment with HL	FGCM 13 Jun 44		Total forf of 364 dys pay.
Field		Pte		AA 15(1) AWL from 0830 hrs 12 Jan 44 to 2130 hrs 30 Jan 44 (18 dys 13 hrs)		28 dys detn		OC 2 Bn	Forf 19 dys pay 14[illegible](1)(a) Total 4[illegible] dys.

"Certified to be a true copy from the Regtl Books in my Custody".
'J M Reid' Capt & Adjt 9 May 45.
(J.M. Reid)
Officer i/c Regtl Books & Records
No 2 Cdn N.E.T.D.

TTT-273

Pte Grandchamp R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 72163 Pte Grandchamp, R. 4 Bde 1 C R D. RCR.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (3).	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

2 nil. At present under sentence for ..... beginning on (date) .....
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for a period of nine months.

(Sgd) ..... Judge-Advocate, if any. 13 Jun 44. Date awarded. (Sgd) E D B Mayer Brig. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed Eqth

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) E W Hartenberg Brig
Commanding COMMANDER 1 CDN BASE RFT GP Confirming Officer.
Date 15 June 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D/72163 Pte Grandchamp R	17 June 44	R E Davidson (A E Davidson) Capt Adjutant 4 C B R Bn, 1 C B G up.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

J.62 RECORDED AT CMHQ IN AB 160a

RECEIVED 21 JUN 1944

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig E.W. Hartenberg Comd 1 C B R Gp dated 13 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	All Christian Names.	Surname.	Unit.
D 72163	Pte	Raymond	Grandchamp	RCR 4 Cdn Bde RRC Gp

PROCEEDINGS REVIEWED. A.J. Spencer Lt-Col. 22 Aug 44.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

22 JUN 1944 PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 13 Jun 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant fnn RDs. For guidance on procedure when a variation in this form arises, see form for GCMs in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ D D B.
(1. KR Can 537. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 58(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	E.D.B. Mayer	RCE
Member	Lieut	H.E. Boyce	Cdn's Yeo R.
Member	Lieut	D.H. La Rose	PPCLI
~~Judge-Advocate~~			
Prosecutor	Lieut	M. Owen	Seaforth Hrs C.
Defending Offr	Lieut	R.B. Brown	RCA.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See D1 p 33.)

A8. The accused D 72163 Pte Grandchamp, R. before arraignment make(s) (no) (~~no~~) plea. (2) No

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. 13

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination : and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (2).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (2), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 12-14 and p 87 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(2).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(1) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 62 or power, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1223, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and disposal of records after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D 72163 Private Rosaire GRANDCHAMP, R.C.R. on strength 4 Cdn Rft Bn, 1 Cdn Base Rft Gp, a soldier of the Canadian Army Overseas, Allied Armies in Italy, is charged with:

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH
OUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0800 hrs 14 March 44 until apprehended at approximately 1500 hrs 27 May 44. (Total time absent: 74 days 7 hrs)

L. J. Flynn

(L. J. Flynn) Lt.-col,
Commanding
4 Cdn Rft Bn, 1 Cdn Base Rft Gp, CMF.

In the Field
7 Jun 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

E W Haldenby

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group
Cdn Army - C M F

In Italy
In the Field
10 June 44

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AF A2) 40/P&S/1697 [illegible]

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, [illegible].)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-72163	Pte		Rosaire	GRANDCHAMP	RCR

4 Cdn Base Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the ~~Charge~~ Sheet(~~s~~) attached and on (date) 10 June 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". GWH

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~ GWH
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GWH
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ GWH
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	E.D.B. Magee RCE (Must be named. RP 106.)	7 Bn 2 CBRGP (Unit.)

MEMBERS.

Capt or Lieut	to be detailed by O.C.	4 Bn 1 CBRGP
Capt or Lieut (Rank.)	to be detailed by O.C. (Named or detailed. RP 106.)	4 Bn 1 CBRGP (Unit.)

WAITING MEMBER.

Capt or Lieut (Rank.)	to be detailed by O.C. (Named or detailed, if any. RP 106.)	4 Bn 1 CBRGP (Unit.)

~~JUDGE-ADVOCATE.~~ GWH

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

G W Hardenty (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 10 June 44

Commanding HQ 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
R.R. (CAM) Para 552

I certify that I have this morning examined No D72163.....

PTE GRANDCHAMP ... R.....4 BN., 1 Cdn Base Reinf Depot,

and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

D J Hastings Capt
(A.A. Grossman) Capt.
Medical Officer, 4 Bn, 1 C.B.R.D.

In the Field
June 13 1944.

you give will be taken down in writing & may be given in evidence".

The accused reserves his defence.

I certify that R.P. 4(c)(d)(e)&(f) have been complied with

I certify that the above page of summary of evidence was taken down by me in writing in the presence of the accused.

D M Owen
Lieut
Officer taking Summary

CERTIFICATE OF APPREHENSION

IN ACCORDANCE WITH ARMY ACT SECTION 163 (1) (JJ)

I, Capt Campbell, Officer Commanding 14 Cdn Fld Security Section certify that D-72163 Pte Grandchamp, R., of the Royal Cdn Regt was arrested at approximately 1500 hours 27 May 1944.

At the time of his arrest he was wearing military uniform.

Exhibit "B"

(W.S. Campbell) Capt.
O.C. 14 F.S.S.

Pro Forma(in lieu of Army Form B-115).

RECORD of the Declaration of a Court of Inquiry assembled at [illegible]

[illegible] on the 14th day of April 1944,

for the purpose of investigating and recording the absence, without leave, from his duty, and the deficiency, if any, in the arms, ammunition, equipments, instruments, regimental necessaries or clothing of,

No. [illegible] PTE GRANDCHAMP R. (RCR)

D E C L A R A T I O N

THE COURT declare that [illegible] PTE GRANDCHAMP R. (RCR) [illegible] absented [illegible] without leave from [illegible] Regt, Italy, on the 14th day of March 44, and is still absent, and that on the 14th March 44, was deficient, and that he is still deficient of the following articles:-

Total deficiencies amounting to $[illegible].

Names of President and Members.

President Capt C G Price 4 Cdn Arty Bn

Members Capt J D H Cameron " " "

Capt L C Willoughby " " "

Signed at Field, Italy
this 20th day of April 1944.

Signature of Commanding Officer
Signed (L J Flynn) Lt.-Col.

Certified true copy.

Exhibit "A"
[illegible]

[illegible] Capt
Signature of Officer having custody of the Original Record.

Exhibit B

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D72163	Private	Grandchamp R	R C R on strength at present of 4 Bn, 1 C B R Gp

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be completed from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not appended to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the particulars in the conduct sheets, particulars being given in the second column where there is more than one entry and in any exceptional case.

Number of instances of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For	N A times	N A times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
Number of instances of gallantry or distinguished conduct,	N A	

2. The accused has not been previously convicted, or N A

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time from 1500 hrs 27 May 44

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 17 days in military custody, making a total of 17 days, of which days were spent in hospital.

5. The present age of the accused according to his record of service is 25

6. The date of his attestation specified in his record of service is 7 Dec 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N A

8. The accused is entitled to deferred pay or gratuity in respect of N A service.

9. The accused is entitled to reckon N A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N A

12. (*In the case of an officer.*) The accused holds in the army the rank of N A dated , and in his regiment (*or* corps *or* department) the rank of dated

(*[illegible]*) W[illegible] A & E M Ltd Gp.698
(12967) W[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D72163 Rank Private Name Grandchamp R of R C R at present on strength 4 Bn Regiment (or as the case may be). 1 C B R Group

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A. A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this June 13th ~~day of~~ 1944

A. E. Dandon Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years, _____

In the rank of , years _____

In the rank of , years, _____

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Case of Pte. Grandchamp R. D72163.

Charged with being A.W.L. 14 days - 1 hrs.
Accused pleads guilty.
Summary of evidence is read to accused & the court
No witnesses to be called upon.
Statement as to character & Particulars of service of Accused — Nil entries.
M.F.M-6 - Nil entries recorded.

Plea of Mitigation: (by defending Officer)

The accused joined the army 1 Dec - 40. He came down with the R.C.R. to the Medit. theatre. He fought through the campaigns in Sicily & Italy, finally being wounded in Ortona 3 Jan - 44. While in hospital the accused made application for transfer to other branch of service with no results. ~~Finally~~ ~~that~~ After release from hospital, he again made application for transfer to another branch of the service with no results. Finally he went absent and during his absence stayed with the American army. If I might make reference to his M.F.M.-6. to the court, you will see that no charges have been entered against the accused since he entered this theatre I would ask the court that on behalf of

A- the past war record of the accused.
B- the lack of answer to his application for transfer
C- his clean conduct sheet.

that the court consider this case with leniency.

List of Witnesses for Prosecution

A22296 Sgt White J F 4 Bn

List of Witnesses for Defence

N i l

List of Exhibits

Exhibit A - Certified true extract of the record of Court of Inquiry

Exhibit B - Certificate of Apprehension

I request that. LIEUT: R.R. BROWN ...if available not in my defence. If this Officer is not available I request that the Commanding Officer of 4 Bn, 1 C.R.T.D. appoint an Officer to act in my behalf.

D72163 rte Grandchamp R

Date 7 Jun 1944

Received from 4 Cdn Base Rft Bn, 1 Copy of Charge Sheet and Summary of Evidence referring to a charge of D/2163 rfte Grandchamp R R C R for which I was remanded for Court Martial

Extract C Book

No D/72163 Name Grandchamp R | Sqn, Battery or Company | Corps C I C | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/126 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

"CERTIFIED NO MFM 6 IN REGT'L BOOKS
IN MY CUSTODY"

In the Field
7 Jun 44

(A E Davidson) Adjutant Capt

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D- 72163 Pte Grandchamp R. (RCR) 4 Bn 1 C.B.R.D.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec15(1)	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p. 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for [illegible] beginning on (date) [illegible] EDBM

Time in confinement awaiting present trial—a total of 17 days, of which nil days were spent in hospital.(*)
(*. See RP 46(4) fn 2. Information should be found on MI 8 Report AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to be imprisoned with hard labour for a period of nine months.

(Sgd) ..... Judge-Advocate, if any. Date awarded: 13 June 44 (Sgd) "E.D.B. Magee" Major President. (RP 42, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761. KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED "EWH"

I direct that the accused be [illegible] by [illegible] for the period [illegible] until further orders.

Date 15 June 44 (Sgd) "E.W. Haldenby" Brig Commander Commanding 1 Cdn Base Mft Comd Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D - 72163 Pte Grandchamp R.	17 June 44	"A.E. Davidson" [A.E. Davidson] Capt Adjutant 4 Bn, 1 C.B.R. Gp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified True Copy (D. [illegible] Lieut (N.Y.)

TTT-273

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA... 40/P & S/Tech (series) 4/388

Convened by Order of Brig E.W. Haldenby Comd 1 C.B.R.Gp. dated 10 June 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D - 72163	Pte	Rosaire	Grandchamp	R.C.R. 4 Cdn Base Mft Sn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 13 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A45, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto. EDBM The Court is satisfied that it is properly convened and constituted(1), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences EDBM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2) EDBM

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to [illegible] as interpreter? Ans [illegible]

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans [illegible]
The shorthand writer is sworn.(1) EDBM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO (2)

(1. RP 110. 2. If no objection, waiting member returns. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR.	E.D.B. Magee	RCR 7 Bn 2 CBRD
Member	LIEUT.	K.E. Belyea	CAYR. 4Bn 1 CBRGp
Member	LIEUT.	D.R. LaROSE	PPCLI 4 Bn 1 CBR Gp
Judge-Advocate			
Prosecutor	LIEUT.	E. Owen	Staff Capt 1 Cdn Corps
Defending Offr	LIEUT.	R.R. Brown	4 Bn 1 CBR Gp RCA 4 Bn 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans yes. Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D - 72163 Pte. Grandchamp R. before arraignment make(s) (no) (a) plea. EDBM (1)

(1. If a special plea is made for separate trial of one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned [illegible] on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. EDBM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 83-85; calling or re-calling of witnesses see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. No.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charge, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 73 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 80(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.

Do you intend to call witnesses on your behalf ?

Ans. Are they witnesses as to character only ? Ans.

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 44(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3), (5), RP 45, 120(6).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 57(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Age and Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. and Ex. respectively.(3)

(1. *MFB 235 or AFB 2980.* 2. *MFM 9.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement of Age and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans. Yes.

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(5), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and as provided, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 1223. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 13E. When accused MML p 60, 737-759. already under sentence of imprisonment or detention see AA 44(1B), 68(7), KR Can 564.* 2. *RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D 72163 Private Rosaire GRANDCHAMP, R.C.R. on strength 4 Cdn Rft Bn, 1 Cdn Base Rft Gp, a soldier of the Canadian Army Overseas, Allied Armies in Italy, is charged with :

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, in Italy, absented himself without leave from 0800 hrs 14 March 44 until apprehended at approximately 1500 hrs 27 May 44. (Total time ausent: 74 days 7 hrs)

"L.J. Flynn"
(L.J. FLYNN) LT. COL.
Commanding

"EDBm"

In the Field
7 June 44

4 Cdn Rft Bn, 1 Cdn Base Rft Gp. CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

"E.W. Haldenby"
(E.W. HALDENBY) Brig
Commander
1 Cdn Base Rft Group
Cdn Army - C M F

In Italy
In the Field
10 June 44

"EDBm"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 329, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D- 72163	Pte.		Rosaire	GRANDCHAMP R.C.R.	4 Cdn Base Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 June 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial", ~~EDBen~~ "E.W.H."

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) ~~EDBen~~ "E.W.H."
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. ~~DHS~~ "E.W.H." (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. ~~DHS~~ "E.W.H." (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	D.D.S. Magee	302	7 Bn 2 CIBD

MEMBERS.

Capt or Lieut	to be detailed by O.C.	4 Bn 1 CBRDp
Capt or Lieut	to be detailed by O.C.	4 Bn 1 CBRDp
~~DHS~~ (Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lieut	to be detailed by O.C.	4 Bn 1 CBRDp
"EDBen" (Rank.)	(Named or detailed, if any. RP 106.)	"E.W.H." (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 10 June 44

" E.W. Haldenby" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding HQ. 1 Cdn Base Rft. Camp. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAGO (2d Div) OF AFAS) 40/P & R/1807 (4001) (See overleaf for oaths and notes for use on trial.)

"EDBen"

"EDBm"

MEDICAL OFFICER'S CERTIFICATE
M.R. (CAD) FAFA 527

I certify that I have this morning examined No D - 72163 Pte GRANDCHAMP R. 4 Bn 1 Cdn Base Rft Depot, and in my opinion he is fit to undergo Trial by Court Martial.

In the Field
~~13 June 44~~
June 13 1944

"D.J. Hastings" Capt
(A.A. Crossman) Capt
Medical Officer, 4 Bn, 1 C.B.R.D.

EXHIBIT "A" "A"

Summary of evidence in the case of D- 72163 Pte GRANDCHAMP R. of R.C.R., on strength of 4 Bn, 1 C.B.R.Gp.

presently

By order of the Commanding Officer the evidence was taken on oath.

FIRST WITNESS

A 22296 Sgt. White, J.P. of 4 Bn, 1 C.B.R.Gp. having been duly sworn states:

I am orderly room Sgt and as such have charge of regimental records. I produce herewith a certified true extract of the record of a court of inquiry on the accused.

(Shown to accused and marked Exhibit "A")

I also produce certificate of apprehension under A.A. Sec 162(1) (JJ) relating to accused.

(shown to accused and marked Exhibit "B")

Accused declines to cross-examine R.P. 83 (b) complied with.

"Philip White"

The accused was warned as follows:

" Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

(2)

The accused reserves his defence.

I certify that R.P. 4 (c) (d) (e) and (f) have been complied with.

I certify that the above page of summary of evidence was taken down by me in writing in the presence of the accused.

" B.M. Owen" Lieut
Officer Taking Summary.

Pro Forma (in lieu of Army Form B-115).

RECORD of the Declaration of a Court of Inquiry assembled at 4 C.R. Bn, 1 C.B.H.Gp. on the 14 th day of April 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and the deficiency, if any, in the arms, ammunition, instrument, regimental necessaries or clothing of, No. D- 72163 PTE. GRANDCHAMP R. (RCR)

D E C L A R A T I O N

THE COURT declare that D- 72163 PTE. GRANDCHAMP R. (RCR) on strength 4 C.R. Bn, 1 C.B.H.Gp. illegally absented himself without leave from 0800 hrs at Field, Italy, on the 14th day of March 44; and is still so absent, and that on the 14th Mar 44, he was deficient, and that he is still deficient of the following articles:-

Total deficiencies amounting to $50.54.

Names of President and Members.

President Capt C.S. Price 4 Can Rft Bn
Members Capt J.D.H.Cameron " " " "
Capt L.C. Willoughby " " " "

Signed at Field, Italy
this 20th day of April 1944

Signature of Commanding Officer
Signed (L.J.Flynn)Lt.Col.

Certified True Copy. "a.e. Davidson"
Capt
Signature of Officer having custody of the Original Record.

Exhibit "A"
"D.M.Owen" Lieut

"E.D.Owen"

Case of PTE GRANDCHAMP R. P- 72163

Charged with being A.W.L. 74 days 7 hrs.

Accused pleads Guilty.

Summary of evidence is read to accused and the court.

No witnesses to be called upon.

Statement as to Character and Particulars of Service of accused
W.F.M. 6 -- NIL entries
-- NIL entries recorded.

Plea of Mitigation ; (By defending officer)

The accused joined the army on the 7 Dec 40. He came down with the R.C.R. to the Med. theatre. He fought through the campaigns in Sicily and Italy, finally being wounded in Ortona 3 Jan 44. While in hospital the accused made application for transfer to other branch of service with no results. After release from hospital, he again made application for transfer to another branch of the service with no results. Finally he went absent and during his absence stayed with the American Army. If I might make reference to his W.F.M. 6 to the court, you will see that no charges have been entered against the accused since he entered this theatre of war. I would ask the court that on behalf of

A - the past war record of the accused.

B - the lack of answer to his application for transfer.

C - his clean conduct sheet.

that the court consider this case with leniency.

MFM 6
(AFB 122)
40/PAS/136 (24383)

No. D72163 Name GRANDCHAMP R. | Sqn, Battery, or Company | Exhibit "C" Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

" CERTIFIED NO MFM 6 IN REGT'L BOOKS IN MY CUSTODY"

In the field
7 June 44

"A.E. Davidson" Capt
(A.E. Davidson) Adjutant

(PTO)

CERTIFICATE OF APPREHENSION

IN ACCORDANCE WITH ARMY ACT SECTION 163 (1) (JJ)

I, Capt Campbell, Officer Commanding 14 Cdn Fld Security Section certify that D-72163 Pte Grandchamp, R., of the Royal Cdn Regt was arrested at approximately 1500 hours 27 May 1944.

At the time of his arrest he was wearing military uniform.

"WBSCampbell"
(W.B.S. Campbell) Capt
O.C. 14 F.S.S.

Exhibit "B" "EDBM"

"DMOwen Lieut"

IN THE CASE OF D-72163 Pte Grandchamp R.,

Statement of EVIDENCE

The a/m soldier was arrested by the Carabinieri at 1500 hrs 27 May 44 and handed over to A/Sgt Kerri of this Section with a statement to the effect that he was A.W.L. and suspected of armed robbery.

(Signed) CSM Smith R.L.
14 F.S.S.

REMARKS

CHARGE Not on 14 Coy
3 Bn Str

Army Form B 252
(see King's Regulations)

Royal Canadian Regiment Regiment

1 C.G.H. 24 Mar RCR X-3. (Battery (Squadron (Troop or (Company

CHARGE against No. D-72163 Rank Pte

Name GRANDCHAMP R.

Place AVELLINO Date of Offence 27 May 44.

OFFENCE W.O.A.S. absent without leave from .....
until apprehended at approximately 1500 hours 27 May 1944.

No.1 Cdn L of C Provost Coy

File "Undecipherable" Capt.
ORDERLY ROOM

Names of Witnesses:-

A/Sgt Korri - 14 Cdn Field Security Section.

CSM Smith R.L. " " " "

Signature of O.C. Battery, Squadron, Troop or Company)

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

P.S.S. 123-250.000-11/43

List of Witnesses for Prosecution

A22296 Sgt White J P 4 Bn

List of Witnesses for Defence

Nil

List of Exhibits

Exhibit A - Certified true extract of the record of Court of Inquiry

Exhibit B - Certificate of Apprehension

I request that "Lieut R.H. Brown" if available act in my defence. If this Officer is not available I request that the Commanding Officer of 4 Bn, 1 C.B.R.D. appoint an Officer to act in my behalf.

"R Grandchamp"
D72163 Pte Grandchamp R.

Date 7 Jun 1944

Received from 4 Cdn Base Rft Bn, 1 Copy of Charge Sheet and Summary of Evidence referring to a charge of D72163 Pte Grandchamp R RCR for which I was remanded for Court Martial

"R Grandchamp"
(Signature)

DD-11 (case #2)

GNR GRANDILLO M

See M-101 for 1st case

DD-11

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

A2.

A. W.J. Bailie Major

Order convening the Court.

PROCEEDINGS.

On Active Service, this 22 day of APRIL, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named, appointed or detailed hereunder.

* Omit if not applicable.

*I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—]

74

Proceedings Reviewed for Reviewing Officer (I.A.G.) CMHQ 10 May 43

President.

Rank.	Name.	Regiment.
Major	W.J. Bailie	31 Cdn Corps Tps Coy RCASC.

Members.

Rank.	Name.	Regiment.
Captain	W. C. R. Sergent.	44 Cdn Gen Tpt Coy RCASC
Lieutenant	T. G. Williams	1 Cdn M.A.C. RCASC.

*Signed E. A. McCusker (E.A. McCusker) Brigadier D.D.M.S. 1 Cdn Corps.

Commanding Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D.121014 Gunner Michel GRANDILLO 7 Can A/Tk Regt R.C.A.	FIRST CHARGE Sec. 15 (1) Army Act. (See Charge Sheet attached).	Guilty	Guilty 90 days	27 Apr 43 I confirm the sentence but quash the finding of the Court but remit 30 days punishment. R.A. McCusker Brig D.D.M.S. 1 Can Dio.
	SECOND CHARGE Sec. 15 (1) Army Act. (See Charge Sheet attached).	Guilty	Guilty The sentence of the Court is 90 days Detention 24 Apr 43 W.J. Bailie Major	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answers (*to be recorded on separate sheet if necessary*):—

(Signed) R.A. McCusker. (Signed) W.J. Bailie Major
(R.A. McCusker) Brigadier — 31 Can CT Coy RCASC
Commanding D.D.M.S., 1 Cdn Corps. — President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4 ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 24 day of April 1943

W.J. Bailie Major
President of the Court Martial.

C. Certificate in case of death sentence.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*a*) on page 762 M.M.L. 1929.

Signed this 24 day of April 1943

W.J. Bailie Major
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

R.A. McC.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 27 day of Apr 1943

R.A. McCusker Brig.
D.D.M.S. 1 Can Corps.
Confirming Officer.

Promulgated and extracts taken in the case of D121014 Gnr. Grandillo, M.

(*a*) (Dated) 4 May 43 (Signed) J.A. Millies Lt.-Col.
(J.A. Millies) Comd 7 ATk Regt RCA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41718) W6 40023—1(3) 400 m Ogle P. St. G.Bar

B.2

CHARGE SHEET.

The Accused, D.121014 Gnr Michel, GRANDILLO, 113 Bty., 7 Cdn A.Tk., Regiment, R.C.A. a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE Whilst on Active Service, Absented himself without leave,

Sec. 15 (1) Army Act. in that he,

While in the Field, absented himself without leave from 2300 hrs 17 Apr 43, until 0800 hrs 18 Apr 43, a total absence of 9 hours.

SECOND CHARGE: Whilst on Active Service, Absented himself without leave,

Sec. 15 (1) Army Act. in that he,

While in the Field, when in open arrest absented himself without leave from 2300 hrs 18 Apr 43, until 0825 hrs 19 Apr 43, a total absence of 9 hours and 25 minutes.

Signed this 20 day of Apr 43,
IN THE FIELD.

[signature] Lt.Col.
(J.K. Billies),
comd 7 Cdn A.Tk., Regt., R.C.A.

To be tried by Field General Court Martial.

[signature]
(R.A. McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.

In the Field
22 Apr 43.

[signature]

This is to certify that I have examined D.114014 Gnr Grandillo M. on the 24 Apr 43, and find him medically fit ot undergo trial by Court Martial.

Capt.
(M.Bruser), R.C.A.M.C.
7 Cdn A.Tk.,Regt., R.C.A.

Z.

Major

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at #7 Cdn Gen Tpt Coy RCASC

on the 24 day of April 1943 by order of

Brigadier E.A. McCusker

~~Brigadier E. A. McCusker~~ ~~D.D.S.T.~~

Commanding ~~RCASC HQ~~ ~~D.D.M.S.~~ 1 Cdn Corps R.C.A.M.C.

dated the 22 day of April 1943

President.

Major W.H. Bailie 31 Cdn CT Coy RCASC

Members.

Capt W.C. R. Sergent 44 Cdn Gen Tpt Coy RCASC

Lieut T.G. Williams 1 Cdn MAC RCASC

, ~~Judge Advocate~~

Trial of* D1210:4 Gunner Grandillo, Michel 7 Cdn A/T Regt RCA

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that _____ is not available to serve owing to~~

~~_____ waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. J.D. Hall, 7 Cdn A/T Regt RCA

Counsel‡ or defending officer† Accused elected no defending officer

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked A2. signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16639/78. 25,000 sets. 6/40. K. & H., Ltd. G6637/11. Form A 9/39.

B

The President, and members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer. Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer. Guilty.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to both charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D.121014 Gunner Michael Grandillo is found guilty of both charges.

†The summary ~~(or abstract)~~ of evidence is read, marked CC 2, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:— No.

~~or hands in a written statement, which is read, marked C—, signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D121014
Gnr Michel Grandillo
7 Cdn A/T Regt RCA.
Guilty of both charges.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~

Capt. J. D. Hall is duly sworn. ~~is duly sworn.~~

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked D1102 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. None

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D.121014 Gunner Michel Grandillo is found guilty of both charges.

†The summary ~~(or abstract)~~ of evidence is read, marked CC.2, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :— No.

~~, or hands in a written statement, which is read, marked C— , signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

NO. W/D.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D121014
Gnr Michel Grandillo
7 Cdn A/T Regt RCA.
Guilty of both charges.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

*~~The Court being re-opened, the accused is again brought before it.~~

Evidence of character, &c. WJB Capt. J. D. Hall is duly sworn. ~~is duly sworn.~~

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked D1002 signed by the President, and annexed to the proceedings. WJB

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court will inquire into the nature and amount of this additional punishment.] WJB Cross-examined by the accused. None

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused ~~Gnr~~ Sentence.

D. 121104 Gnr Grandillo M. to serve 90 days detention. ~~with automatic forfeiture of pay.~~ W.J.B.

W.J. Bailie Major
24 Apr 43

SUMMARY OF EVIDENCE

CC2

Summary of Evidence taken in the case of D121014 Gnr. Michel, GRANDILLO, 113 Bty., 7 Cdn A.Tk. Regt. R.C.A., a soldier of the Canadian Army Overseas

By the direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS — L18381 Sjt. Preston, J.W., having been duly sworn, states:-

"I am L18381 Sjt. Preston, J.W., on the night of 17 Apr 43 at 2300 hrs. in my capacity as Orderly Sjt. for 113 Bty. I called the roll. Gnr. Grandillo was absent. I duly reported him absent on the Tattoo Report."

J.W. Preston Sjt.

The accused declines to cross-examine this witness.

SECOND WITNESS — M380 Bdr. Kinshella, T.A., having been duly sworn, states:-

"I am M380 Bdr. Kinshella, T.A., on the 18 Apr 43 at 0800 hrs. Gnr. Grandillo reported to me in the Troop Hut. I then told him to report to the Bty. Office. I am an NCO of "L" Troop., 113 Bty. of which Gnr. Grandillo is a member.

T.A. Kinshella

The accused declines to cross-examine this witness.

THIRD WITNESS — M16828 Bdr. Congdon, G.J., having been duly sworn, states:-

"I am M16828 Bdr. Congdon, G.J., Orderly Room N.C.O. 113 Bty. At about 0830 hrs. 19 Apr 43, Gnr. Grandillo reported to me in the Orderly Room. I checked the time and placed him under open arrest.

G.J. Congdon

The accused declines to cross-examine this witness.

FOURTH WITNESS — B6585 Sjt. Routledge, J.W., having been duly sworn, states:-

"I am B6585 Sjt. Routledge, J.W., on 18 Apr 43 I was Bty. Orderly Sjt., 113 Bty. and made the Tattoo roll call at 2300 hrs. Gnr. Grandillo was absent. I heard Lieut. Metcalfe tell Gnr. Grandillo at about 0930 hrs. 18 Apr 43 that he was not to leave camp.

J.W. Routledge

The accused declines to cross-examine this witness.

J.P. Bailie Major

/2

CC2

FIFTH WITNESS

M60824 Bdr. Bronk, B.W., having been duly sworn, states:-

"I am M60824 Bdr. Bronk, B.W. At 0825 hrs. 19 Apr 43, Gnr. Grandillo reported to me. Knowing him to have been A.W.L. I placed him under open arrest. I am an N.C.O. in "L" Tmnp. 113 Bty. of which Gnr. Grandillo is a member.

B.W. Bronk

The accused declines to cross-examine this witness.

The accused having been cautioned in accordance with Rule of Procedure 4(e) makes no statement.

M. Grandillo

Certified that Rules of Procedure No. 4 (c) (d) (e) (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused, this 20 day of April 1943, in the Field.

.....Capt.
(G.D. Hall)
Investigating Officer

W. Bailie Major

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D121104	Gnr.	Grandillo, M.	7 Cdn A.Tk. Regt. R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 427, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15 (1)	Once times	Four times.
For A.A. Sec. 40 ~~(1)~~	Once times	Once times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for _____ days in civil custody, and One days in military custody, making a total of One days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 20

6. The date of his attestation specified in his record of service is 29/1/41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Two

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon Two service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ([illegible]).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of n-a

12. (*If the case of an officer.*) The accused holds in the army the rank of n-a dated _____ and in his regiment (*or* corps or department) the rank of _____ dated _____

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D121104 Rank Gnr. Name Grandille, M. of 7 ATk. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 12/8/42	(1) A.A. Sec. 15 (1) WOAS Absenting himself without leave from 2300 hrs. 5/7/42 until 0530 hrs. 29/7/42. (Absent 23 dys 6 hrs. 30 mins.) (2) A.A. Sec. 40 WOAS Conduct to the Prejudice, etc., unathorized use of a W.D. Vehicle.	60 days detention.	

D1.

W.H. Bailie Major

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 day day of April 1943

(J. D. Hall) Adjt. 7 ATk Regt RCA Capt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of years.

In the rank of years.

In the rank of years.

In the rank of

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Date of Promotion.

M.F.M. 6

No. D121104 Name Grandillo, M. Sqn., Battery, or Company — Corps R.C.A. Date of enlistment 29/1/41 G.C. Badge — Service or Proficiency Pay —

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No. 2 Signature O.C. Company, etc. J.D. Hall Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial with date	By whom awarded	Remarks
				Sheet Destroyed 2 Dec 42. Date of last entry 30/4/41. Cases of Drunkeness:					Nil.
Field		Gnr		(1) A.A. Sec. 15 (1) AWL from 2230 hrs. 3/5/41 until 0700 hrs. 4/5/41. (2) AA Sec. 15 (1) AWL from 0700 hrs. 5/5/41 until 0700 hrs. 11/5/41	L/Bdr. O'Hara	7 days C.B. 7 days Pay	12/5/41		Forf. 7 dys pay FR&I 149
Field	3/5/41	Gnr.							
Field	16/7/41			A.A. Sec. 15 (1) AWL from 0900 hrs. 16/7/41 until 1445 hrs. 19/7/41	Bdr. Jones	14 days C.B. 14 days Pay	21/7/41		Forf. 4 days pay FR&I 149
Field	12/11/41	Gnr.		AA Sec. 15 (1) AWL from Bty.	Sjt. Neilan	7 days C.B.	18/11/41		

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5/7/42	Gnr.		(1) A.A. Sec. 15 (1) WOA^{S} A^{W}L from 2300 hrs. 5/7/42 until 0530 hrs. 29/7/42. (Absent 23 days 6 hrs. 30 mins.) (2) AA Sec. 40 Conduct to the prejudice, etc., unauthorized use of a W.D. Vehicle.	Summary of Evidence	60 days Det.	12/8/42	F.G.C.M.	Forf. 24 dys Pay PAAI 149

Certified that this is a true copy taken from the Regimental books in my possession.

.....Capt.
(J.D. Hall) Adjt.
7 Cdn A.Tk. Regt. R.C.A.

D2. [signature] Major

VI-32 (AFRICA)

SPR GRANDLOUIS Wm.

Correspondence to be PINNED here.

VV-32

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 19th day of October, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of the Royal Canadian Engineers - 1 Cdn. Div., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint~~ :—

*(1. ~~[illegible]~~

*(2. ~~A Field Officer as President~~

~~[illegible]~~

R B Fraser. Maj RCE

Proceedings Reviewed

E K McDonald Capt

Reviewing Officer (J.A.G.) C.M.H.Q.

28 Nov. 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.B.Fraser	2 Cdn.Fd.Pk.Coy. R.C.E.

Members.

Rank.	Name.	Regiment.
Capt.	D.H.Evers	1 Cdn.Fd.Coy. R.C.E.
~~Lieut.~~ LIEUT ~~[illegible]~~	~~[illegible]~~ P.S. HERRING ~~[illegible]~~	~~4 Cdn.Fd.Coy.~~ ~~[illegible]~~ HQ RCE ~~[illegible]~~ RCE

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Lt. Col.
(G.Walsh)
Commanding R.C.E. 1 Cdn. Div.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-16613 Sapper WILLIAM GRANDLOUIS 3 Cdn.Fd.Coy., R.C.E.	First Charge A.A. Sec. 11	Not guilty	Not guilty	Noted
	ALTERNATIVE CHARGE			
	2nd.Charge A.A. Sec. 40	Not guilty	Not guilty	Noted
	3rd. Charge A.A. Sec. 40	Not guilty	Not guilty.	Noted
	(See charge sheet for details)			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) Lt. Col. (C. Walsh)
Commanding R.C.E. 1 Cdn.Div.
Convening Officer (*e*)

(Signed) R.B. Fraser, Majr.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Nineteenth day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction) RBF

were duly sworn.

*Omit if not applicable.

Signed this Nineteenth day of October 1943.

R.B. Fraser - Majr.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. RBF

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this Noted 19 day of October 1943.

Confirming Officer. C.R.C., Can.Div.

Promulgated and extracts taken in the case of Spr. William Grandlouis

(*a*) (Dated) 20 Oct 43 (Signed) R.B. Fraser, Majr.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Wt. 48178/650 20,000 2-43 A.R.H.W.Ltd. Gp.A38

JAG BRANCH - REVIEW RECORD

Accused

D16613 Spr Grandlouis W
3 Cdn Fd Coy R.C.E.

Remarks	Date
Trial in (Country) CMA	19 Oct 43
Charges See 11 etc	
Sentence acquitted	19 Oct 43
Rec'd from CR at JAG Branch	27 Nov 43
To EKM for ~~(pre)(post)~~ rev	28 Nov 43

Recommendations by JAG CMI

(1) Pass and record.
(2) ~~Ltr on irregularities~~
(3) ~~Quash~~ _____ charge(s).
(4) _____

Ret'd to JAG Rev 1 by JAG CMI 28 Nov.

Passed to _____

Passed to _____

To AG 5 for _____

Ret'd from AG 5 to JAG Rev 1 _____

Instrs by JAG Rev 1 on disposal

Record & File [illegible] 28 Nov 43

Instrs completed by _____

CHARGE SHEET

Spr William Grandlouis

The accused, No. D-16613 XXXXXXXXXXXXXXXXXX., 3rd Field Company, R.C.E., a soldier of the Canadian Army Overseas, is charged with:-

1st CHARGE Neglecting to obey 1 Cdn Div Routine Orders in
Sec 11
Army Act

in that he

in the field on 2nd Oct 43 did enter the house of Mr. Leo Nicola and removed from said residence one pair of shoes, a quantity of fools cap and a quantity of beans contrary to No 1 Cdn Div R.O. No. 56 dated 10 Sep 43, para. II.

Alternative charge:-
2nd CHARGE Conduct to the prejudice of good order and military discipline
Sec 40
Army Act

in that he

in the field on 2nd Oct 43 at approx 1300 hrs was in improper possession of a pair of shoes, a quantity of paper and a quantity of beans the property of one Mr. Leo Nicola - Italian civilian.

3rd CHARGE Conduct to prejudice of good order and military discipline
Sec 40
Army Act

in that he

in the field on 2nd Oct 43 at approximately 1000 hrs did enter the house of Mr. Leo Nicola, Italian civilian, when he had no right to do so.

.....
(K.J. Southern) Major
O.C. 3 Field Coy., R.C.E.

3 Oct 43

To be tried by F.G.C.M.

CRE 1 Can Div

Pres. F.G.C.M.

3FC 5-4
2 Oct 43

This is to certify that I have today examined D-16613 Sapper Grandlouis, W. of the 3rd Cdn Field Company, R.C.E. and find him fit to undergo trial by court martial.

V. McKenty Capt
(M.O. R.C.E. 1st Cdn Div)

19 Oct 43

I hereby certify that Spr Grandlouis D16613 is fit to undergo trial by Court martial

V. McKenty Capt
(Medical Officer)

R B Fraser, Major
Pres. FGCM

R B Fraser Major

PAGE 1

S.H.O

Accused D16613 SPR. WILLIAM GRANDLOUIS (Christian Names) (Surname) 3 CDN. FD. COY. R.C.E. (Unit)
(No.) (Rank)

Held in the Field in ITALY on 19 OCT. 43
(Country) (Date)

Rank Name Unit

PRESIDENT: MAJOR R.B. FRASER 2 CDN. FD. CO. R.C.E.

MEMBERS: CAPT. D.H. EVERS 1 CDN FD COY. R.C.E.

LIEUT. F.S. HAWKINS HQ. R.C.E. 1 CDN DIV.

JUDGE ADVOCATE (if any): _____

OFFICERS UNDER INSTRUCTION: N/A

N/A

N/A

N/A.

PROSECUTING OFFICER: LIEUT F.R.V. CARR-HARRIS Lawyer? Ans NO

DEFENDING OFFICER: LIEUT. N.W. DICKSON Lawyer? Ans NO

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (~~are~~) brought before the Court, and at 10.40 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under MH (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to B168e SGT. SANGELO J. as interpreter? Ans NO SIR.

The interpreter is duly sworn.

Do you object to N.A. as Shorthand Writer? Ans N.A.

The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans NO SIR.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

S-H-O

Accused D16613 SPR WILLIAM GRANDLOUIS 3 CON. FD. COY RCE
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ITALY (Country) on 19 OCT. 43 (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	R.B. FRASER	2 CON. FD. PK. COY RCE
MEMBERS:	CAPT.	D.H. EVERS	1 CON FD COY RCE
	LIEUT.	P.S. HERRING	HQ-RCE-1 CON DIV.

JUDGE ADVOCATE: (if any)

OFFICERS UNDER INSTRUCTION: N/A

N/A

N/A

N/A

PROSECUTING OFFICER: LIEUT P.R.V. CARR HARRIS Lawyer? Ans NO

DEFENDING OFFICER: LIEUT. N.W. DICKSON Lawyer? Ans NO

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is ~~(are)~~ brought before the Court, and at 10.40 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to B2680-SPR DANGELO J. as interpreter? Ans NO SIR.

The interpreter is duly sworn.

Do you object to N.A. as Shorthand Writer? Ans N.A.

The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans NO SIR.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RsP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 37), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he plead guilty or not guilty (RP 112). He pleads as follows:

First Charge NOT GUILTY, SIR. Fifth Charge N. A.

Second Charge NOT GUILTY, SIR. Sixth Charge N. A.

Third Charge NOT GUILTY, SIR. Seventh Charge N. A.

Fourth Charge N. A. Eighth Charge N. A.

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (RP 37(B)) Ans_____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans_____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans_____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and Field Conduct Sheet (AFW.6) signed in the manner required by (fn 163 (1) (n)) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3132).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans_____ (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, MR (Can) 503 - 506; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans NO SIR.

2. The Prosecutor's opening address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans YES SIR
Q. Do you intend to call any other witnesses in your defence? Ans YES SIR
Q. Is he a witness as to character only? (RP 40(B)) Ans NO SIR

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the ~~Prosecutor~~, Defending Officer and ~~Judge Advocate~~ (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131). N/A

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

K Brauer - Maj.
(Signature of President)

K Brauer Maj

1. EVIDENCE FOR PROSECUTION

FIRST WITNESS - M/R. LEO NICOLA. ITALIAN CIVILIAN

I am Leo NICOLA and I live in FOGGIA.

Q. Do you RECOGNIZE THE ACCUSED?

A. YES.

Q. How did you come to have anything to do with this unit?

A. They unit, the 3rd Coy was stationed by my house on 2 Oct 43 - Saturday.

Q. Where have you seen the accused before? In very first time that accused was seen

A. At 10.15 in the morning

Q. Where?

A. Walking around the strada

Q. Who was the next time

A. The next time he was seen was coming from my house

Questions repeated and witness declare above statements correct.

Q. Tell in your own words circumstances surrounding seeing accused

A. The accused was walking around my house.

Q. Did accuse do anything else beside walk around the house

A. He walked around my house first and then entered my house.

Q. How far away were you from the house when you saw him.

A 100 metres.

Q. Explain what happened from that time.

A. While a 100 metres away I saw somebody coming away from my house. I left my horses and went over to the house.

Prosecution cautioned by President regarding cross examination.

Q. Tell your story.

A I found upon entering the house that some things were missing. ~~He~~ I spoke to some troops at the scene and was told to go away to go see an officer.

Q. Can you identify any thing or take as yours property.

A. I recognize the shoes.

Q - Shoes only?

A. Nothing but shoes.

Q. Have you anything else to say

A. No.

(B1)

DEFENCE (3)

FIRST WITNESS - FOR PROSECUTION Cross-examined by defence

Q - The first time you saw the accused was at straw stack

A. - Right

Q. The second time you saw the accused was coming out of house

A. - Right

Q - How long was accused in house

A - I cannot say

Q - Repeated

A. - Unable to say.

Q. - Were there any Italian soldiers around your house the night previous

A - No.

Defence rests.

P. (4)

SECOND WITNESS 1 MB 28022, CSM

ZOWSKY. H.E.

Q. Do you recognize accused

A. Yes.

Q. Explain to court what happened 2 oct.

A. At appres. 1700 hrs 2 oct 43 an identification parade was held. while No 2 Pl was being inspected. Pte. Grandlouis was identified by 2 civilians. He his was searched by myself and one of the civilians. We found a pair of shoes. and some foolscap, and in his station was, some white beans were cooking

Q. Do you recognize these shoes as those found

A. Yes.

Prosecutor introduces the following exhibits

Shoes. - Exhibit A.
Foolscap. Exhibit B.
Beans - Exhibit C.

Q. Carry on CSM

A. I was sent by my O.C. To civilians house to check identity of papers with papers in house. He was identical.

(5)

DEFENCE

SECOND WITNESS FOR PROSECUTION Cross examined by defence

Q. Were there any other lots in area of Grand Louis Kits

A. Yes sir

Q. Where were shoes found

A. On thrashing machine

Q. Could they have belonged to any other members of section.

A. Yes sir

Defence Rests

PROSECUTION

Q. Had there been a loan issue to company in the previous days

A. - Yes sir.

Prosecution rests

Prosecution Cross examines

Q. When were shoes found?

A On thrashing machine

Q. Were there other hats on thrashing machine

A. - Yes sir.

Q. How many

A. At least 4 others.

Q. There were a total of 5

A. Yes sir.

THIRD WITNESS I AM. F 91715 (3)

SGT. BLOOKS W. J. - I am platoon Sgt of 2d Pl. of 3 Bd Coy. The accused is recognized by me as a member of this platoon

Prosecution reads D.R.O.

Q. Have you ever heard orders before

A. yes sir.

Q - Do you notify Pl. personnel of daily orders.

A There is a daily order board known about by all of platoon

Q. Was "looting" order published

A. To best of my knowledge

Prosecution submits Exhibit D extracts from orders both Divisional and Coy taken from 3rd Coy files.

DB

THIRD WITNESS for PROSECUTION

Cross examined by defence

Q. You post orders in platoon

A - Yes

Q - Are they read

A - No.

Q. Any compulsary orders to make people read them

A. No.

Court closed to consider plea in bar that there was no "Prima Facie" case

Court opened with the decision that there is NO PRIMA FACIE case in the first two charges but that third charge shall stand.

D16613. EVIDENCE FOR DEFENSE
SPR. GRANDLOUIS - FIRST WITNESS.

Q - Did you enter Mr Leo Nicolas' house

A - No

Q - Were you near

A - Yes I looked in the door but did not enter

Defence Rests

RBL

Prosecution

CROSS EXAMINATION. OF DEFENCE WITNESS

FIRST WITNESS

Q. Did you know Mr. Nicolai house

A. No.

Q. What did you look in house for.

A. A pail.

Q. How far in house were you

A. Just to door where I saw rifles.

Prosecution Rests.

(13)

SECOND WITNESS being duly sworn states.

"I am D123 386 Sps.
MALLETTE, J. M. 5th 3 Can Fd.
Coy R.C.E.

Q. Were you with accused on 2 Oct 43

A. Yes sir

Q. What were you doing

A. We went to well for water.

Q. Is well close to Nicolas house

A. about 50 yds

Q. Did Grand Louis enter house.

A. No.

2nd Witness CROSS EXAMINATION. DEFENCE WITNESS

Q. Did Grand louis enter house

A. No

Q You left him at the well

A. Yes sir but he returned in a short time

Q. Did he find his pail

A. No Sir

Q He was looking for it

A. Yes Sir.

Closing Address By Defence

I would like to submit to the court that the remaining charge against the accused be dismissed on the following grounds

(1) There has been no corroborative evidence produced.

(2) Nicola says the accused was in the house.

(3) The accused under oath says he was not in the house.

(4) Spr McAllister who was with the accused for water at the well near the house states that the accused returned to his lines in ten minutes with a full water bottle. It would take this long to fill a water bottle & return.

5 There is only the word of an Italian against the word of a sapper who is a good soldier.

6 There is no doubt in my mind which man the court will believe

Prosecution declines to make closing address.

Court is closed to consider finding

R B Fraser Maj

Exhibit A

1 Pr Brown Shoes.

Recognized by L. Nicola as his property.

Released to owner at termination
of FGCM. 19 Oct 43.
RB Brown, Maj

EXHIBIT B

PAPER FOUND IN THRESHING MACHINE
NEAR GRANLOUIS N.T.

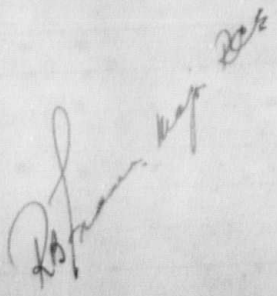


EXHIBIT (B)

PAPER FOUND IN HOUSE BY
CSM. GZOWSKI

LB Frazer Major RCE

'D' 'D'

Certified true copy of extract from 1 Cdn Div Routine Orders, number 56, para II, dated 10 Sep 43.

"II LOOTING, or under a simpler name "THEFT".
This is a most serious crime, and the most serious view, with appropriate disciplinary action, will be taken in future of any instances of looting that come to light."

.....

Certified true copy of extract from unit daily order dated 12 Sep 43, issued by Major R.J. Southern O.C. 3 Field Company, R.C.E.

"Looting - or under a simpler name "THEFT". This is a most serious crime, and the most serious view, with appropriate disciplinary action, will be taken in future of any instances of looting that come to light.

.....

Taken from 3 Cdn. Fd Coy files

R B Frame Major RCE

3 Oct 43

List of Witnesses for the Prosecution:-

Mr. Leo Nicola (Italian civilian) - residence in 3 Fd Coy camp area

B 28022 C.S.M. Czowski, M.E. - 3 Fd Coy RCE

List of Witnesses for the defence:-

D 123386 Spr Mallette, J.M. - 3 Fd Coy RCE

I 65733 Spr Anger, H.C. - 3 Fd Coy RCE

R Spencer Major

5 Oct 43

List of exhibits in case of
D 16613 Spr Grandlouis, W.

A 1 pair shoes

B quantity of fools cap

C quantity of beans

D Extract from Div & Unit Orders.....

R B Fraser, Major

Page I The summary of evidence in the case of D-16613 Spr. GRANDLOUIS, W.J. 3 Cdn. Fd. Coy. R.C.E. by direction of the C.O. 3 Cdn. Fd. Coy. R.C.E. the summary of evidence is taken under oath.

First witness for Prosecution.

I MR. LEO NICOLA having been duly sworn states—

On 2nd day of October 1943 at about 1015 hrs. I saw this man go from my house to his tent carrying a small bag. He had been in the house about fine feet. I went to him and after he came out of the house and was on his way to his tent and said in Italian "Now that we are allies I do not think it fair for you to steal Italian people belongings in particular those of a poor man like myself. Another man told me to go away by the motion of his arm.

Leo Nicola

Cross examined by the accused—

(1) Q Are you sure that what I was carrying was a bag?
A Yes yes I could swear that many times

(2) Q Where were you standing when you saw me?
A I was just entering my house—I saw you put the bag on your arm and go out.

(3) Q Did you see anybody in the house beside myself.
A I did not see another soldier in the house but saw one outside the house at the corner watching for people coming.

(4) Q Would you know the man that was watching if you saw him again.
A No because he had his back turned to me and I never saw his face fully.

(5) Q Were there any other soldiers around the house at any other time

Page 11 ~~[illegible]~~

~~[illegible]~~

A. No other soldier.

2nd witness for prosecution

B-28022 C.S.M. Gzowski H.E. having been duly sworn states

At approximately 1200 hrs. 2nd Oct. 1943 I was called by Maj. Southam and ordered to parade the Coy. by platoons for an identification parade. When No. 2 Pl. was examined by two civilians they immediately identified Spr. Grandlouis as one of two men that they were looking for. Spr. Grandlouis was fallen out and paraded to his kit at a thrashing machine. A search was made by myself and with the permission of the C.O. one of the civilians, a pair of shoes and some foolscap were found in the thrashing machine; these were identified by the civilians as their property. I was sent by the C.O. to the house of the civilians to compare the paper found with that ~~[illegible]~~ contained in the house. It was identical.

In Spr. Grandlouis section lines a pot of white beans were looking on a stove.

~~[illegible]~~ Exhibit - A-shoes. B-paper. C-blanks. C.S.M. H.E. Gzowski

Cross-examined by the accused

Q was mine the only kit on the thrashing machine

A the were at least four others.

The accused, having been duly cautioned in accordance with R.P. 4 (E) reserves his defence

Rd

1st witness for defence

B-123386 Spr. MALLETTE, S.M. having been duly sworn states-

On 2nd Oct 1943 at about 1000 hrs I went with Spr. Grandlouis for water. After that I came into my section and Spr. Grandlouis went ~~[illegible]~~ for a pail to wash in. He returned to the section with nothing except

Page III (MALLETTE CONT'D)

a water bottle and a tin helmet.

Mallette J. M.

2nd witness for defence L 65733 Spr ANGER, H.C. having been duly sworn states—

I was over in the straw pile looking for tent pegs when I found a pair of shoes I threw them over to the thrashing machine. I then told some of the boys if they could wear them put them on. I did not put them on the the thrashing machine.

Spr Anger H.C.

Certified that Rules of Procedure 4 (C)(D)(E)(F) have been complied with

Taken down by me in the presence and hearing of the accused this 2nd day of October 1943 ~~at~~ ~~[illegible]~~ in the field

[illegible]
Lieut [illegible]
Officer taking summary

Rofrance Maj. RCE

1 ~~1 rifle (fusil)~~
~~ladies & men's garments & shoes~~
~~beans (6 kil)~~
1 coat (skin)

R.B. Fearn Major RCE

This is the total amount of property taken from my house on the 2nd October 1943

1 - Two barrel shot gun 3 years old
5 - Jacket
3 - Coats
~~2~~ 1 - Long Jacket
2 - Ladies Coats
2 - High boots
1 - pr Shoes - (evidence F.G.C.M)
2 - pr Italian Army Shoes
2 - Large sacks - Canvas
6 - Kilo beans
1 - Fur blouse -

Lo Ticolo

The above list was made by me on the evening of the 2/10/43 and is as correct as far as my knowledge of Italian will allow.

C.S.M. [illegible]

5 S-59
Rte. Granger, G.

RECORDED AT CMHQ IN AB 160 5 5 59

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (40/10)
4/38B

RECEIVED 10 SEP 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Lt Col H E Miller Comd RCASC 4 Cdn Armd Div dated 6 Aug 45

ACCUSED.

(Assess the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.

[illegible]0640 Pte Gordon Granger 4 Cdn Armd Div Tps Coy RCASC

PROCEEDINGS REVIEWED
10 Sept.

[signature] Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 8 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 37/6.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Mr H Wiersma as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to M11436 S/Sgt E Mott FW as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major C G Brown HQ RCASC 4 Cdn Armd Div
Member	Lieut. D G Macfarlane 10 Cdn Inf Bde Coy RCASC
Member	Lieut. A C Whittier 6 Cdn Fd Pk Sqn RCE
Judge-Advocate	Major E E Wasson DJA HQ 4 Cdn Armd Div
Prosecutor	Lieut. H R Howitt 28 CAR (BCR)
Defending Offr	Capt. D E Lewis HQ RCASC 4 Cdn Armd Div

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ———— before arraignment make(s) (no) (a) plea ———— (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or recalling of witnesses by Court, etc, see RP* 75-79, 88, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with R/P 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty (is/are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/F&S/1097 (2005)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.100640	Pte		Gordon	Granger	4 Cdn Armd Div Tps Coy RCASC.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Aug 45 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	C.G. Brown (Must be named. RP 106.)	HQ RCASC 4 Cdn Armd Div. (Unit.)

MEMBERS.

Lieut.	A.C. Whittier	6 Cdn Fd Fk Sqn R.C.E.
Capt. (Rank.)	D.C. Dingwall (Named or detailed. RP 106.)	10 Cdn Inf Bde Coy RCASC. (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	G.B. McFarlane (Named or detailed, if any. RP 106.)	10 Cdn Inf Bde Coy RCASC. (Unit.)

JUDGE-ADVOCATE.

Major (Rank.)	E.E. Wasson (Must be named, if any. RP 106.)	HQ 4 C.A.D. (Unit.)

On Active Service in the Fd

in HOLLAND. (Country.)

[signature] (Signed personally. RP 105 fn 2.)
(H.E. Miller)

Lieut.-Col. (Rank.)

Date 6 Aug 45.

Commanding RCASC 4 Cdn Armd Div.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused No. B-100640 Pte. Gordon GRANGER, 4th Canadian Armoured Divisional Troops Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, is charged with:

Sec 41 Army Act

When on Active Service and in a place not within His Majesty's Dominions, committing a civil offence, that is to say, Manslaughter;

in that he
at Dieren in the community of Rheden in Holland on the 24th day of June AD 1945, while driving Canadian Military vehicle number CL 4251986, unlawfully killed Johanna Berendina Winkels a Dutch civilian woman.

In the Field
2 Aug 45.

(N.R.V. Faiers) Major.
O.C. 4 Cdn Armd Div Tps Coy.,
R.C.A.S.C.

5 Aug 45

Eel

1ST PROSECUTION WITNESS - Hendrikus Heijink, Police Officer, Dieren, having been duly sworn is examined by the Prosecution.

Q.1 Will you tell the court your name and your position in the police at Dieren?
A.1 I am Hendrikus Heijink, Agent 1st class, of the police at Dieren.

Q.2 On Sunday 24 June 1945 at approximately 3 o'clock in the afternoon there came a report to the police station where you were that there had been an accident on the canal way in the community of Rheden is that correct?
A.2 Yes

Q.3 Did you go to inspect that accident?
A.3 Yes, there is a rule that where there is an accident the police must go to the place.

Q.4 You went there will you tell the court what time you went?
A.4 When I came to the place I do not know exactly what time but I think about a quarter past two in the afternoon.

Q.5 Will you tell the court what you saw at the scene of the accident?
A.5 When the accident took place I did not see anything but when I came there the victim was lying on the right side of the wheel of the car

Q.6 I have here a diagram. Who made that diagram?
A.6 I did.

Q.7 What diagram is this?
A.7 It is a sketch of the canal road where the accident took place.

Q.8 Is that a true representation of the layout of the scene of the accident?
A.8 Yes

Q.9 Did you take these measurements yourself?
A.9 Yes

Q.10 You took the measurements of the road and found it to be 6 metres?
A.10 Yes

Q.11 By the JA. Mr Defending Officer do you object to this sketch?
A.11 I have no objection

Sketch of the scene of the accident submitted to the court, marked Exhibit "A" and signed by the President.

Q.12 Will you look at Exhibit "A" and mark the position of the vehicle you saw at the scene of the accident?
A.12 The witness marks on Exhibit "A" the letter A as the motor lorry.

Q.13 Were there any other cars here at that time?
A.13 No

Q.14 You saw the injured woman. Where was she lying?
A.14 The witness marks the letter A1 as the place where the woman was lying.

Q.15 Where was the bicycle?
A.15 It was against the trees at the side of the road (Marks A2 as the position of the bicycle)

Q.16 What was the condition of the woman?
A.16 She was badly injured.

Q.17 Was she taken away?
A.17 When I came there the woman was by the side of the car.

Q.18 Were there any skid marks?
A.18 I saw a skid mark on the road for about 6 metres from the front wheel to ½ a metre behind the rear wheel.

Q.19 What was the condition of the road?
A.19 It was bad at that place, there were quite big holes in the road.

Q.20 Where were the holes?
A.20 All the road was bad.

Q.21 Was the road wet or slippery?
A.21 The road was a bit wet but I would not say it was slippery.

Q.22 What was the name of the injured woman?
A.22 Mrs Bosch.

Q.23 How do you know that was her name?
A.23 I know her myself personally.

Q.24 Do you know her full name?
A.24 I don't know it myself but I have it in my report.

Q.25 Have you your original report with you to which you can refer?
A.25 I have not it with me.

Q.26 Who took the woman away to the hospital?
A.26 I don't know myself but I think the people there took her.

Q.27 What hospital was she taken to?
A.27 To the hospital at Velp.

Q.28 Were there any other people at the scene of the accident?
A.28 Only Mr Bosch and the soldiers.

Cross examined by the Defence

Q.29 Are you quite familiar with this part of the road?
A.29 Yes

Q.30 You made a statement there were a number of holes in the road at this particular area. Do you remember which side of the road would be the most rutted?
A.30 It would be the right side of the road would be the most damaged.

Q.31 Was it most likely for a vehicle to use the left side of the road in the way this vehicle was travelling?
A.31 The road was bad and I think the motorcycles like to use the easy side of the road, the other side was terribly damaged.

Q.32 Did you measure the distance between the rear wheel of this truck and the edge of the road?
A.32 Yes

Q.33 What distance did you find it to be?
A.33 I don't know.

Q.34 This plan you drew, Exhibit "A", can you give the court any idea of the distance between the rear wheel and the edge of the road?
A.34 It would be about 1 metre.

Q.35 Would you mark that on Exhibit "A"?
A.35 Witness marks 1M as the distance.

Q.36 Have you any idea how far it would be from the edge of the road to the line of trees?
A.36 It would be about 14 ~~m~~ or 15 centimetres, about 20 inches.

Q.37 Can you tell the court whether or not there is a curve in the road two or three hundred yards ahead in the direction in which the vehicle was travelling?
A.37 Where the accident took place the road was very bad for about 200 metres on the right side of the road.

Q.38 I want to know if there was a curve in the road?
A.38 No there was no bend in the road.

Q.39 Did you make any examination to see if there were any skid marks from the bicycle in this area?
A.39 I made an examination but did not see any marks.

Q.40 The road itself at this point was not very slippery?
A.40 No

Q.41 What kind of surface is this road outside of the holes?
A.41 It is a tar surface, and stone.

Q.42 The verge between the road and trees what kind of surface is that?
A.42 It is sod.

Q.43 Is it flush with the road itself?
A.43 Yes.

Questioned by the court

Q.44 Was it a clear day and visibility good?
A.44 Yes

Q.45 On this part of the road is there any part of it that people riding bicycles use most of the time?
A.45 The bicycles must use the road there is no bicycle path.

Q.46 These potholes, how deep are they most of them?
A.46 Witness indicates about 5 or 6 inches.

Q.47 It is not clear to me about this road surface, do you say one side of the road is better than the other?
A.47 Yes the right side of the road is better than the left.

Q.48 You mean the side next to the canal is better than the other side?
A.48 Yes

Q.49 What sort of a vehicle was it you found there which you have marked with an A?
A.49 It was a motor lorry.

Q.50 Did you get the number of it?
A.50 I put it in my report

Q.51 Was the lorry loaded or not?
A.51 It was loaded with petrol.

Q.52 You give this womans name as Mrs Bosch, do youknow her husbands name?
A.52 His name is Adriaan Bosch.

Q.53 Do you know what town he lives in?
A.53 He is living in Diere, on Sportstraat.

Q.54 Was anyone attending to the injured woman when you were there, did you see anyone attending to her?
A.54 Yes, Dr Bottger was looking after her.

Q.55 Where was she taken?
A.55 To the hospital at Velp.

Q.56 What was the condition of the bicycle?
A.56 It was damaged it was a man's bicycle not a bicycle for a woman.

Q.57 Was there any other injured person there?
A.57 Mrs Bosch's child was in the house it was injured in the lefg I don't know how much.

Q.58 How old was the child?
A.58 I think 8 years old.

Q.59 Do you know who was driving the military vehicle?
A.59 (Points to accused)

Q.60 You recognize the accused as the driver?
A.60 I did not see him drive, he told me he was driving.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(B)

THE WITNESS WITHDRAWS

SECOND PROSECUTION WITNESS - Adriaan Maartin Bosch, 30 Sportstraat, Dieren having been duly sworn is examined by the Prosecution

Q.61 Will you tell the court your name and address?
A.61 Adriaan Maartin Bosch, 30 Sportstraat, Dieren.

Q.62 On Sunday 24 June 1945 I believe in the early afternoon you were riding along the road with your wife the road going along the canal towards Laag Soeren, is that correct?
A.62 Yes.

Q.63 We have a diagram here made out by the police, he has marked Dieren this way, Laag Soren this way and trees on both sides of the woad and the width as 6 metres, is that a true picture of the road you were travelling on?
A.63 Yes that is good.

Q.64 Which side of the road were you on and which direction were you going?
A.64 Marks direction with an arrow and the letter B.

Q.65 According to that you were on the right hand side of the road?
A.65 Yes

Q.66 Your wife was riding with you, where was she, on your left, in front or where?
A.66 On the right side of me.

Q.67 You were on the canal side of the road?
A.67 Yes.

Q.68 You were riding along the road, can you tell us what happened?
A.68 We were riding to gether and I saw the lorry was coming and my wife was on my right side and I pushed her in the back and told her she should go ahead of me.

Q.69 Why did you push your wife to go ahead of you?
A.69 I saw it was impossible for the two of us to go by the side of the road.

Q.70 What direction was the motor lorry coming from?
A.70 From the opposite direction from Laag Soeren.

Q.71 Go on now and tell us what happened? On which side of the road was the larry travelling on?
A.71 On the canal side of the road.

Q.72 How far from the verge of the road was the truck?
A.72 About half a metre from the side of the road.

Q.73 Then what happened?
A.73 I saw the lorry was coming nearer and I thought he was go to the other side of the road but he came straight on. She tried to go further to the side then she tried to go to the other side of the road but it was too late.

Q.74 What happened after that?
A.74 Then she was hit byt the right front wheel of the lorry.

Q.75 Looking at Exhibit "A" which wheel hit your wife?
A.75 This one.

Q.76 That would be theleft front one?
A.76 Yes on the left.

Q.77 Your wife was hit, did the vehicle stop right away or did it go on?
A.77 He went about 5 or 6 metres then stopped.

Q.78 Before the truck hit your wife what speed would you say he was going?
A.78 I would say about 25 or 30 kilometres.

Q.79 Do you recognize the accused here?
A.79 Yes (Identifies the accused)

Q.80 When did you first see him?
A.80 When the accident took place.

Q.81 What was he doing?
A.81 When the accident took place I was asking him to go half a metre ahead so I could get my wife and the bicycle to the side of the road.

Q.82 Was he the driver of the lorry?
A.82 Yes

Q.83 Did you hear the driver blow his horn?
A.83 I did not hear anything.

Cross examined by the Defence

Q.84 Have you travelled up and down this road very often on your bike?
A.84 Yes I go most days.

Q.85 Had your wife travelled it very often?
A.85 No not so often.

Q.86 On previous trips did you meet much traffic on the road?
A.86 No I cannot tell it.

Q.87 Could you tell from the tracks whether trucks used the canal side more than the other?
A.87 No I don't know.

Q.88 Had your wife ridden a bicycle very often?
A.88 Yes very often.

Q.89 Do you know if she rode often on roads used by military traffic?
A.89 Yes very often.

Q.90 How many months had she been used to heavy traffic?
A.90 During the whole war.

Q.91 Was she going over roads used by the German's had a lot of traffic on?
A.91 Yes

Q.92 Was she the type of person that would be likely to be nervousin traffic?
A.92 No

Q.93 In other words you consider her to be a good bicycle rider?
A.93 Yes

Q.94 At the time of this accident how far away were you when you first noticed the truck?
A.94 About 100 metres.

Q.95 Within that 100 metres your wife moved ahead of you over to the side of the road?
A.95 I pushed her in the back and she went ahead about 6 metres.

Q.96 That was over to the canal side of the road?
A.96 Yes

Q.97 Did you notice whether this truck moved over at all prior to the accident?
A.97 I saw the car coming but he was coming straight on in the same direction.

Q.98 At this time what were you doing, pedalling your bike, watching the truck, watching your wife, or what?
A.98 I saw at that moment it was going along and then it happened?

Q.99 You did not notice whether or not the truck started to move over or not?
A.99 Yes

Q.100 You could have been watching your wife and did not notice whether the truck swung over?
A.100 It was going to quickly.

Q.101 How fast did you say this truck was going?
A.101 About 25 or 30 kilometres.

Q.102 Do you remember the day the summary of evidence was taken and you were asked questions by an officer?
A.102 No I cannot say.

Q.103 Do you remember telling the Capt the truck had a speed of approximately 20 kilometres?
A.103 I cannot tell it I think it is 20 or 25.

Q.104 It could have been 15?
A.104 I cannot say.

Q.105 Do you drive a motor car?
A.105 No

Q.106 After this truck hit your wife and passed over her where was the body in relation to the truck? Where was the bike?
A.106 The bike was under the lorry and my wife was behind the front wheel.

Q.107 By the time the truck had come to a halt where were you at this time?
A.107 I was near the car.

Q.108 Was the truck between you and the trees?
A.108 I was beforethe car.

Q.109 Did your wife try to pass thecar on the canal side or did she try to go to the other side of the road?
A.109 I think she is not going to try and go past on this side and is going to the other side.

Q.110 How far before the accident occurred did she start to go over then to the left side of the road?
A.110 It was about 6 metres.

Q.111 Did she make a q uick turn?
A.111 Yes she made a quick turn.

Q.112 Did you notice whether or not she tried to get off her bicycle?
A.112 No I did not see it.

Q.113 As far as you could tell she swung directly to the left?
A.113 Yes

Q.114 That would be in the path of the truck?
A.114 Yes

Q.115 Do you remember which part of the truck actually hit her?
A.115 The left forewheel.

Q.116 I show you Exhibit "A". On the rectangle marked A would this left front corner be the point of contact?
A.116 Yes

Q.117 Your wife swerved in towards that wheel?
A.117 Yes.

Questioned by the court

Q.118 At this particular time of day was the road along that side in the shade or what?
A.118 No there was no shade.

Q.119 Was anyone else on the bikes beside your wife and yourself?
A.119 Yes

Q.120 Who?
A.120 My daughter.

Q.121 Where was your daughter?
A.121 She was on the back of the bicycle of my wife.

Q.122 How close was your wife riding to the edge of the road?
A.122 About half a metre.

Q.123 How close were you to her?
A.123 Also about half a metre.

Q.124 Then you saw this truck coming?
A.124 Yes

Q.125 You signalled your wife to go ahead?
A.125 Yes

Q.126 You saw the truck travelling on the canal side of the road?
A.126 Yes

Q.127 As it approached you did it pull over to the right at all?
A.127 No he was coming the same way

Q.128 Did he pull over at all before he struck your wife?
A.128 No

Q.129 How close was the truck to the edge of the road?
A.129 Approximately about half a metre.

Q.130 Was there space to ride a bike between the trees and the truck?
A.130 That I could do myself perhaps there was room but my wife did not see any chance to go between the truck and the trees.

Q.131 Just tell us exactly what happened?
A.131 My wife came near the lorry and she tried to go to the other side of the road and the same time the lorry tried to go also.

Q.132 Your wife turned to the left in front of the lorry?
A.132 Yes

Q.133 At the same moment the lorry turned to the right is that correct?
A.133 Yes

Q.134 This rectangle A on Exh A would that represent the position of the lorry when your wife was struck?
A.134 Yes

Q.135 Would you put the letter C at the point on the road where you think your wife was struck?
A.135 Witness puts letter C on the corner of the rectangle marked A.

Q.136 Did the lorry stop very quickly after your wife was struck?
A.136 Yes

Q.137 Did a Doctor attend your wife?
A.137 Yes

Q.138 What was his name?
A.138 Dr Bottger.

Q.139 Who removed your wife from the scene of the accident?
A.139 Some people who are living around that place are helping.

Q.140 Was your wife well at the time you were riding along the road before the accident?
A.140 Yes

Q.141 What happened to her after the accident?
A.141 She was badly injured, two legs broken and arm broken.

Q.142 What happend as the result of the injuries?
A.142 She died.

Q.143 When?
A.143 The same day.

Q.144 Whattime?
A.144 About half past seven in the evening.

Q.145 Did you see your wife's body after she died?
A.145 Yes

Q.146 What time of day?
A.146 The whole afternoon I was there.

Q.147 Where was that?
A.147 In the hospital in Velp.

Q.148 Did you see her die?
A.148 Yes.

At the request of the Prosecution the court asked the following question?

Q.149 Can you tell us the distance between the verge and the point of impact?
A.149 A little more than two metres.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(B)

THE WITNESS WITHDRAWS.

THIRD PROSECUTION WITNESS - Dr. F.W. Bottger, Hoflaand 16, Dieren, having been affirmed is examined by the Prosecution

Q.150 Can you tell the court your name and address?
A.150 Bottger, Frederick William, Hoflaan 16, Dieren.

Q.151 Are you a qualified physician?
A.151 Yes

Q.152 Are you practicing?
A.152 Yes, since 1929.

Q.153 On the 24th of June this year did you attend Mrs Bosch?
A.153 Yes I did.

Q.154 Where did you first see her?
A.154 I saw her lying on the road, she was lying on her back by the side of the road and there had been nothing done to her when I came. I saw that she was crying. At first she made the impression she

was unconscious but she was not but still she was shocked and was heavily wounded. Her left leg had a large wound at the backside and the leg was broken. The foot of this left also had a wound. First I took care of this large wound and then made a splint for the leg. Then I saw the thigh bone was broken also and also the right leg was broken and the last thing I treated was a broken arm at the left side. Then came a car from the red cross and they had all kinds of things to help. I used them and I gave her a morphine injection and two injections for the heart and brought her personally into thecar from the red cross and took her to the hospital at Velp. That was about 1500 hrs. In the evening about half past nine they brought me a letter from my fellow doctor in the hospital [redacted].

JA - This would not be admissable

Q.155 As the result of information did you go to the hospital and see the woman again?

A.155 No

Q.156 Did you see the dead body?
A.156 No

Q.157 Did you see her in the hospital after she was admitted?
A.157 No

Defence declines to cross examine

Questioned by the court

Q.158 When you came to the scene of the accident did you see a vehicle there?

A.158 Yes

Q.159 In this diagram how far was the lorry from the edge of the road and how far from Mrs Bosch?

A.159 The Doctor draws a rectangle and marks the letter D on Exhibit A as where the body was lying.

In the opinion of the court and the judge advocate it is not necessar to comply with the provisions of R.P. 83(B)

THE WITNESS WITHDRAWS

FOURTH PROSECUTION WITNESS - A 9937 Pte McKenzie, D.T. 4 Cdn Armd Div Tps Coy RCASC having been duly sworn is examined by the Prosecution

Q.160 Will you tell the court your name, where you are stationed and your unit?

A.160 A 9937 McKenzie, D.T. 4 Cdn Armd Div Tps Coy RCASC at present in Rijessen.

Q.161 On the 24th of June, 1945 you were driving along a road coming out of Dieren and there was an accident happened just ahead of you, could you tell the court what you saw of the accident and who you saw there?

A.161 I was following Pte Granger's vehicle.

Q.162 What were you doing what kind of a vehicle were you driving?
A.162 A 3 ton lorry.

Q.163 Where were you going?
A.163 To Borne.

Q.164 Can you tell the court just what you saw from the cab of your vehicle?

A.164 Both of us were driving real slow.

Q.165 Was there anyone ahead of you?
A.165 Yes Pte Granger.

Q.166 Is that the accused in this case?
A.166 Yes

Q.167 Can you describe what happened?
A.167 The first I seen his vehicle came to a halt and a bunch of people gathered around.

Q.168 Which side of the road did you see him halt on?
A.168 He was practically in the centre of the road. The road was quite rough and the vehicles went in and out in order to miss the holes and then he came to a halt.

Q.169 Did you stop also?
A.169 Yes sir.

Q.170 Did you get out and go up to the scene of the accident?
A.170 Yes sir.

Q.171 What did you see at the accident?
A.171 I seen a lady tangled under the truck with her bike.

Q.172 This is Exhibit "A" showing the road going to Dieren and to Laag Soeren and the canal. Can you indicate whereabouts on the road in relation to the canal was Pte Granger's vehicle.
A.172 I would say the vehicle was a little more to the left.

Q.173 A little more to the left of what?
A.173 The road centre.

Q.174 You mean a little more to the left than this vehicle shown here as A?
A.174 Yes more about here, more to the right of the road edge.

Q.175 You would put it further away from the canal than this?
A.175 Yes sir.

Q.176 How much further?
A.176 Three or four feet.

Q.177 Did you see the injured woman?
A.177 Yes sir.

Q.178 Where was she lying?
A.178 Under the truck

Q.179 Can you describe the condition of the road leading up to where the accident happened?
A.179 Not any more than it was a very rough road.

Q.180 Were there any particular spots rougher than others?
A.180 Yes it was much rougher on the right hand side.

Q.181 Which side do you mean by the right hand side?
A.181 The right hand side as you are going to Dieren.

Q.182 What speed would you say Granger was travelling?
A.182 Approximately ten miles an hour sir.

Q.183 Do you think it was possible for Grnager to go along the right hand side of the road?
A.183 In some places yes, and in some places no

Q.184 The bike involved where was it in relation to the truck?
A.184 Behind the front wheel.

Q.185 What happened in so far as the woman was concerned was she left there or picked up?
A.185 It was some time before the Doctor got there and then she was taken on a stretc her as quickly as possible.

Q.186 Was she taken away?
A.186 Yes sir.

Q.187 How far behind Granger were you travelling?
A.187 Approximately 30 yds sir.

Q.188 Did you actually see the accident take place?
A.188 No I didn't actually see it happen.

Q.189 Can you in your own words describe the course of Granger's vehicle up to the time the accident happened?
A.189 It was going in and out to miss the holes because we were heavily loaded.

Cross examined by the Defence

Q.190 At this particular stretch of road did you notice from the trails what side of the road the majority of vehicles were travelling on?
A.190 I think they were mostly travelling on the left.

Q.191 You mean by that the canal side?
A.191 Yes sir.

Q.192 How long have you been a driver?
A.192 Three years sir.

Q.193 How long on the continent?
A.193 Since France on the 26 Of July sir.

Q.194 On this road do you think the speed you were travelling was reasonable or un-reasonable?
A.194 It was very reasonable.

Q.195 What gear were you travelling in?
A.195 I was in third gear

Q.196 In that gear would you have good control of your vehicle?
A.196 Yes sir.

Q.197 How was the visibility?
A.197 I could see easily 100 yds.

Q.198 Do you remember if there were any curves in the road?
A.198 There was one slight bend.

Q.199 Was that where the accident took place?
A.199 Pretty close to there about five yards further.

Q.200 On Exhibit "A" here how far would you say the bend was from the rectangle marked A?
A.200 About 10 yds

Q.201 It is not much of a bend?
A.201 No sir, not much of a bend

Q.202 Did you notice anything approaching?
A.202 No sir.

Q.203 What would prevent you?
A.203 Grangers vehicle for one thing.

Q.204 Can you remember how far from the verge he would be travelling?
A.204 I would say 5 or 6 ft sir..

Q.205 Would there be sufficient room in your opinion ~~xxxld~~ for a man or woman on a bicycle to go through that space between the truck and the edge of the road?
A.205 Definitely sir.

Q.206 Just before the accident happened did you notice whether Granger's vehicle turned to the right?,
A.206 It was turned to the right when I got up there.

Q.207 Did you notice any turn to the right when you were following him?
A.207 Nothing in particular sir.

Q.208 In other words ypur mind was not on it at the time?
A.208 No sir.

Q.209 From you experience as a driver did there seem to be anything wrong with the driving of the vehicle ahead?
A.209 No sir.

Q.210 You think it was a reasonable speed for the road you were on?
A.210 Yes sir.

Questioned by the court

Q.211 You say you were following this vehicle. Were you on the left side of the road also?
A.211 At times

Q.212 What about just before the accident happened?
A.212 When I stopped my vehicle it was more to the right than Granger's.

Q.213 What part of the road were you travelling on when the accident happened?
A.213 Pretty well road centre

Q.214 You found it possible to drive your vehicle in the centre of the road at that spot?
A.214 Yes sir.

Q.215 Had you met any vehicle as you drove along what procedure would you have followed?
A.215 I would get over to the right hand side of the road.

Q.216 Was the road wide enought to pass a vehicle?
A.216 In most places.

Q.217 Is there any reason why Granger could not have been driving in the centre?
A.217 That is hard to answer.

Q.218 Were these holes craters or potholes?
A.218 Potholes sir

Q.219 A six wheeler will go over potholes will it not?
A.219 Yes sir.

Q.220 It was not a physical impossibility for a vehicle to travel on the right hand side of the road?
A.22 0 No sir.

Q.221 Were you in convoy?
A.221 No sir.

Q.222 Were you both travelling about the same speed?
A.222 Yes sir.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(B)

THE WITNESS WITHDRAWS

SUBMISSION BY DEFENCE OF NO PRIMA FACIE CASE

The case before the court is one of manslaughter and one definite thing that has to be proved is that someone was killed and in this case that the person killed died as the result of the accident. In the case before the court we have a lady who was run into or ran into the vehicle and sustained certain injuries. The Doctor pointed out some of the injuries and more or less termed them in the nature of wounds. He did not go into detail merely mentioned wounds. The evidence of the husband says she died the same night. I don't think the Prosecution has brought sufficient proof that the woman died as the result of the accident. There is evidence that might suggest that but I don't think it is sufficient in a case of this magnitude. Further there is a criterion in a case of manslaughter that the negligence must be so great of so gross as to be culpable and show a complete disregard as to the rights of others. I submit the case shown by the Prosecution does not show negligence of any high degree. However, the facts are for the court to decide but I submit the Prosecution has not fulfilled his duty and the as a man is innocent until proved guilty not prima facie case has been established.

REPLY BY THE PROSECUTION

The evidence of the Doctor in this case was that the woman suffered two broken legs a broken arm and a broken thigh bone and two or three other wounds and was taken to the hospital but although the Doctor did not see her there the evidence of the husband was to the effect she died that same evening. Although the evidence is not strong I think there is sufficient evidence that the woman did die and I am safe is saying she died as the result of the accident. It is also my submission there was negligence in this case on the part of the driver and as to the degree that is up to the court. I therefore, think I have established a prima facie case and leave it up to you.

COURT IS CLOSED TO CONSIDER THE MOTION

COURT IS RE-OPENED - THE PRESIDENT ANNOUNCES THE MOTION IS DISALLOWED

FIRST WITNESS FOR THE DEFENCE - The accused B 100640 Pte Granger, G 4 Cdn Armd Div Tps Coy RCASC having been duly sworn is examined by the Defence

Q.223 Do you remember the accident you were involved in on the 24th of June this year?
A.223 Yes sir.

Q.224 Could you tell the court exactly what happened beginning prior to the accident from the time you came out of the petrol yard and to where the accident occurred?
A.224 On the 24th of June we were coming down this road from Dieren.

Q.225 What were you driving?
A.225 I was driving a vehicle, a 3 ton lorry. I was coming down this road and noticed quite a few holes all over the road mostly on the right hand side and pulled over on the left side of the road which was better and I could avoid some of these potholes and just before the accident happened I was pulling over on my right hand side and then I saw this couple coming down the road with the woman in the lead and she seemed to get confused and did not know which way to go and she made a left hand turn and I swung the same way and it was impossible for me to avoid striking the woman.

Q.226 How fast were you going?
A.226 About ten miles an hour.

Q.227 In which gear?
A.227 In third gear.

Q.228 What control over your vehicle would that give you?
A.228 It is much better with a load on and in view of the condition of the road.

Q.229 In this particular spot why were you on the canal side?
A.229 It was owing to the condition of the right hand side of the road.

Q.230 When you first notice these people on the bike how far were they from you?
A.230 I would say a good six feet.

Q.231 Is that the first time?
A.231 I was watching the road so carefully trying to avoid getting in these potholes and then glanced up and saw these people.

Q.232 Do you think there was room for a person to get by between your truck and the trees?
A.232 Yes if the woman had stayed in her place there was plenty of room but she sort of jumped off and swung at the same time or seemed to lose control of the bike.

Q.233 How long have you driven?
A.233 Not very long.

Q.234 About how long?
A.234 I drove through France and Germany since the start.

Q.235 Where did you first learn to drive?
A.235 Itook the tests at Camp Borden and then took the tests in England that would be sometime in July of last year.

Q.236 Did you do any driving in civilian life?
A.236 Yes for ten years or more.

Q.237 Have you ever had an accident before this time?
A.237 No sir.

Q.238 Do you think from your experience as a driver you were being reasonable in driving on the left hand side of the road?
A.238 I thought I was doing the right think in trying to avoid these potholes.

Q.239 What sort of work were you doing?
A.239 Hauling Durve.

Q.240 As soon as thislady got in your way what action did you take?
A.240 I immediately put on the brake and as the truck was in third gear the motor stalled.

Q.241 How far did you go before you stopped?
A.241 It is hard to say, when I jammed on the brakes the motor stalled and I put it in neautral.

Q.242 What kind of a day was it?
A.242 There was no sunshine.

Q.243 What was the surface of the road like?
A.243 I would say it was asphalt.

Q.244 Was it dry or slipper?
A.244 It was not slippery sort of damp, it had been raining either the night before or early morning and was not yet dry when the accident happened..

Q.245 Could you have travelled any slower?
A.245 I figured I was not doing too bad at 10 miles an hour in third gear.

Q.246 That gave you complete control in your estimation?
A.246 Yes sir.

Cross examined by the Prosecution

Q.247 At this particular spot where the accident happened was the road passable on the right hand side, could you have driven over it?
A.247 It was very rough there it was a bad spot.

Q.248 If another vehicle was coming toward you instead of a bike what would you have done, would you have gone over to the rough side?
A.248 If another vehicle had come I would have had to go over or take the consequences.

Q.249 Was there any other course open to you? Could you have stopped?
A.249 I dare say I could have stopped O.K.

Q.250 Just before the accident you were on the canal side?
A.250 Yes but just before the accident happened I was making my way to the right hand side.

Questioned by the court

Q.251 I understand there is a curve in the road near the scene of the accident?
A.251 Yes sir, you have to go over some railway tracks.

Q.252 What distance could you see along the road immediately before the accident?
A.252 I could see quite a bit ahead.

Q.253 Could you see 100 yds?
A.253 Yes I would say that.

Q.254 How far away from you did you see the bikes?
A.254 They were at least 12 ft.

Q.255 You could see 100 yds of the road ahead of you?
A.255 I could not say the distance but I could see a good stretch of road.

Q.256 How far was it from you to the bend in the road approximately?
A.256 I would say 100 yds but I am not sure exactly.

Q.257 Did you first see the bikes when they came around the bend?
A.257 I was going along watching for these potholes and when I raised my eyes I saw these people and I was making my way to the right and she jumped or wobbled and she turned the same way and I could not avoid striking her.

Q.258 What was the number of the vehicle you were driving?
A.258 I have forgotten the number I think the last three numbers were 896.

Q.259 Could that be 986?
A.259 I cannot say for sure, I gave it to the police at the time when I gave my name and number.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(B)

THE WITNESS SITS DOWN

FIRST CHARACTER WITNESS - A 63319 Sgt H.W. Masters, 4 Cdn Armd Div Tps Coy RCASC having been duly sworn is examined by the Defence.

Q.1 Can you give us your number rank and name?
A.1 A 63319 Sgt H.W. Masters, 4 Cdn Armd Div Tps Coy.

Q.2 What job do you carry out?
A.2 I am Pl Sgt sir.

Q.3 Do you know the accused in this case?
A.3 Yes I know Pte Granger.

Q.4 How long have you known him?
A.4 I have known him for ov er a year sir.

Q.5 Does he work for you?
A.5 Yes he is one of the Ptes in my Pl.

Q.6 What do you know as to his general reputation and character?
A.6 I have known him over a year and have come to know him very well as I have the others in my Pl. I have sent Pte Granger on all types of jobs and there is no job too big or too small for him to carry out and he carries out his duties as a first class soldier.

Q.7 What about his honesty?
A.7 I would trust him with anything I have.

Q.8 Is that known generally throughout the unit?
A.8 Yes that is known throughout the unit.

Q.9 What about his general ability as a driver?
A.9 I would say he is as good a driver as we have in the Pl sir.

The Prosecution declines to cross examine.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 85(B)

THE WITNESS WITHDRAWS

Closing address of the Prosecution

In summing up this case there are a few points I would like to speak about. There is evidence the accused drove his vehicle along the left side of the road and I think it has been proved that he crowded the two bikes coming towards him necessitating Mrs Bosch going ahead of her husband in order to avoid being struck by the vehicle. He must have crowded her pretty close or she would not have tried to avoid him. In other words it is my submission that she was caught in a place and could see only one way out and that was to go around to the left of the vehicle. There is the evidence of the Doctor as to the injuries and the evidence of the husband that she died later and there is evidence that she was hit by the truck and you have the evidence that Granger was on the wrong side of the road. There is evidence of the defence that the right hand side of the road was rough but the evidence of the accused was he could see 100 yds ahead and that side of the road could be driven on. However, he says he did not see the woman until she was only 6 or 12 ft away. I submit that Granger was paying attention to the bumps and not to what was ahead of him and therefore due to this negligence he hit Mrs Bosch. I submit the court can find this man guilty of negligence which directly contributed to the death of Mrs Bosch. As to the degree of negligence whether it would support a charge of manslaughter, I leave to the court.

Closing address of the Defence

The case before the court is one that involves a very serious charge, that of manslaughter. In a case of manslaughter and particular one where negligence is involved a certain yardstick should be used in coming to a conclusion. Now it is known that human beings err but in a case of this kind the law is quite definite as to the degree of negligence necessary to constitute the crime charged. The interpretation of the law is one that will be put forward by the J.A. but my argument will be based on that law as I see it. I submit it is one the court should consider when they are coming to a conclusion. I will read from MML page 117 (Reads). It is my submission that the court should keep that before them and if they find the negligence was so gross and culpable then of course the accused must be guilty. If they find the accused was so utterly reckless as to have a complete disregard for others then the charge is supported, but if not then he should be acquitted. An examination of the evidence in this case as to what happened that afternoon and I don't think there is any question of recklessness. It may be a question of an error in judgement on the part of the accused not recklessness. The accused was travelling along very slowly with a heavy load and he was doing what he throught was proper in travelling on the smooth side of the road. He had a job to do and was doing it in the way he thought best. He has had some ten years experience and was a good driver. I submit the left side of the road was more used than the other in view of the pitted and rutted surface. However, he suddenly sees these two figures and thinks they have enough room to get by but notices that the woman is somewhat unsteady and swerved toward him and swung further over to get out of the road. There is some controversy as to the amount of room on the side, but the husband said it was possible to get by. Now the police has said he found a skid mark and found it to be a metre from the side of the road which would be 3'9" and then says it is 14 or 15 " to the trees which in all makes one inch less than five feet and I submit that is sufficient room to allow a bicycle to pass. I submit the woman saw the truck and got flustered did not realize this truck was travelling very slowly and did not act normally in trying to go in front of it. She was riding a man's bike and swerved into the vehicle. I submit the death of this woman was not due to the culpable negligence of the accused, that it was a misjudgement on her part. I submit it was death by misadventure rather than culpable negligence of the accused. Further I feel that under the Road Traffic Act there is not sufficient evidence to show that the accused was driving in any way but the way the vehicle should bedriven.

Summing up by the J.A.

It is my duty at this stage to sum up.

In the first place I wish to make it perfectly clear that the court is the fact finding body just like a jury in a civil case and I am only here to see that the rules of evidence are adhered to and that the case is conducted in a legal manner. Any opinion I may inadvertently express as th the facts should be disregarded. However, any of my directions on the law should not be lightly disregarded.

The court will bear in mind that under our system of jurisprudence the accused is innocent until proven guilty and that the onus of proof rest on the prosecution throughout. In other words there is no onus on the accused to prove his innocence but the prosecution must prove his guilt.

The court will further remember that the accused is entitled to the benefit of any reasonable doubt. A reasonable doubt is just not any doubt no matter how flimsy but such a doubt as would affect a reasonable man in making a decision affecting his own affairs.

The accused is charged with committing manslaughter.

Every crime is composed of two parts, a guilty mind and a guilty act. In other words there must not only be a guilty act committed by the accused but the intention to commit that guilty act. In the case of manslaughter the law finds constructive intent if the degree of negligence is sufficiently great.

Manslaughter is one of the forms of culpable homicide and is of course a very serious offence. Manslaughter is defined (Archbold's Criminal Pleading, Evidence and Practice 31st Ed page 859 read.

Negligence (Archbold's Criminal Pleading, Evidence and Practice 31st Ed page 882 read)

I advise the court that if it does not feel that sufficient negligence has been established in this case, the court will then consider whether or not the prosecution has made out a case of Dangerous Driving under the Road Traffic Act 1930 (Archbold's Criminal Pleading, Evidence and Practice 31st Ed page 961 read)

I have tried to make it clear and as the Defending Officer has pointed out, a very high degree of negligence must be proved to find the accused guilty of manslaughter, and failing that that it is open to the court to find him guilty under Sec 11 of the Road Traffic Act which would be a dangerous driving charge at home. If the court is not satisfied the accused drove in a dangerous manner it will acquit the accused.

With regard to the evidence, it is clear that two Dutch civilians were riding along the road and the accused was driving a 60 cwt going in the opposite direction. The civilians were on the right hand side of the road which was the correct side for them and the accused was on the left hand side in order to avoid certain potholes. According to his own evidence he was so intent on avoiding these potholes he did not see these civilians until he was about 12 ft from them. When he saw them according to his own testimoney and according to the testimony of the cyclist he swerved to the right. At the same time the deceased apparently got into a flurry at the sight of this vehicle bearing down and also swerved in the same direction, that was to her left, and they collided and the woman died of injuries. The husband stated he thought he could have ridden his bicycle between the vehicle and the line of trees but he doubted the ability of his wife to do so. That is the

situation and evidence before the court, and it is up to the court to decide whether the action of the accused amounted to manslaughter, failing that, dangerous driving, and failing that, he should be acquitted.

I should point out also that pursuant to R.P. 74 the court may take judicial notice of all matters of notoriety including all matters withint their general military knowledge as a result of their service as army officers.

Is there anything else you wish me to say Mr. President?
No

And you Mr. Prosecutor?
No

And you Mr. Defending Officer?
No

Plea in Mitigation

The court has heard the evidence but there are a few things I would like to bring to the attention of thecourt before they consider sentence. The accused in this case is 41 years of age, and is not married. Prior to the war he worked for a paper mill in Toronto and intend to go back to the same type of work when he is released from the army. He has had a good record in the army and is proud of that record and wants to use that record in obtaining a good job. The man volunteered for the army and has gone through the whole campaign on the continent and has an excellent character as born out by his Pl Sgt. This should be taken into consideration when awarding sentence. If at all possible this man would like to go home without a blemish on his record. The facts of the case suggest not so much recklessness but an error in judgement. Taking all this into consideration I think the accused should be given the lightest sentence possible by the court. The range of the Road Traffic Act is very wide and the degree of negligence is very limited. This man was on duty and was doing a job that had been ordered by the army and was doing it in the manner he thought was best, has had an unblemished record, and I wish to have the court give earnest consideration to all these factors when determing sentence.

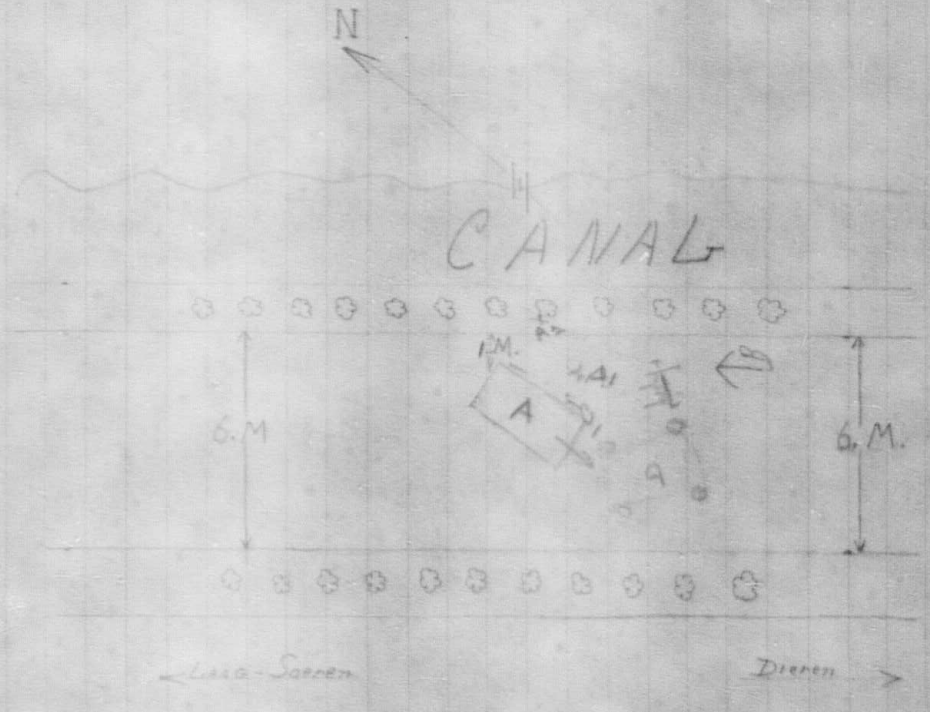


Exhibit A

ARMY FORM B.290.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 100640	Pte.	Granger, G.	4 Cdn Armd Div Troops Coy, RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not attached to the proceedings.

† See para. 877, K.R., 1940.

‡ The numbers herein stated should correspond with the entries in the conduct sheets, provision being given to the proof setting forth in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous conviction of the accused by a civil court, court martial or naval court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ~~imprisonment~~ beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and (Nil) days in military custody, making a total of (Nil) days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 41 yrs. 3months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 10 Sept 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 11 months service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)) 39-45 Star - France-Germany Star.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*If the case of an officer.*) The accused holds in the army the rank of x dated and in his regiment (*or corps or department*) the rank of dated

(7)(500) W.L.24804/1720 12/1000 10/42 A.A.F.W.Ltd. Gp.698
(2000) W.L.24804/1449 12/1000 2/44

Exhibit X

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B100640 Rank Pte. Name Granger, G. of 4 Cdn Armd Div Troops Coy, RCASC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating the convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or matter of [illegible] authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Aug 45.

(C. Scarr) Lt & A.O.,
4 Cdn Armd Div Troops Coy, RCASC

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of N/A years,

In the rank of years

In the rank of years,

In the rank of

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

SUMMARY OF EVIDENCE

In the case of

B 100640 Pte. Gordon GRANGER, of the 4th Canadian Armoured Divisional Troops Company, Royal Canadian Army Service Corps, Canadian Army Overseas.

The Officer Commanding, Major H.A.V. Faiers, directs that the evidence be taken on oath.

FIRST WITNESS: Adriaan Maartin BOSCH, of 30, Spoorstraat, Dieren, having been duly sworn, states:

"I am Adriaan Maartin Bosch of 30 Spoorstraat, Dieren. On Sunday 24 June 45 in the mid-day at 1445 hrs I rode with my wife J.B. Winkels, both riding on bicycles for men, along the way of the canal to Dieren, coming from the direction of Lattenburg and going to Laag-Soeren. My wife rode on the right side of the way and I immediately on the left side from her. On the bagage carrier of my wife's bicycle, my young daughter Johanna Alberdina was seated. We both rode on the right side of the way reserved for us. When we neared the Oxygenium Factory on the way, I saw coming from Laag-Soeren a military truck that rode on the left side of the way reckoned from it's direction, that is to say, on the part of the way that is reserve for us. This truck had a speed of approximately 20 kilos per hour. As there was not sufficient space remaining for us to let the truck pass, I said to my wife, "you can better ride in front of me so we can pass the truck", which my wife immediately did. The driver of the mentioned truck, who had neared us, did not try in the least way to go to his right and continued to drive straight ahead. For one moment I got the impression that my wife tried to pass the truck on the left because she turned that way. However it was too late and she was struck by the left front wheel of the truck. She fell under the bicycle just before the left wheel of the truck and the truck went over her bicycle and her two legs. Had she not tried to pass the truck in this way, then perhaps she might have been brushed between the left side of the truck and the trees on the road. The driver of the truck did not try to stop the truck at the moment my wife fell. My wife was dragged by the truck for 5 metres before the driver of the truck got stopped. My little daughter was thrown from the bicycle onto the road, happily away from the truck. The driver of the truck was still in the cab, when I called him to get out of the cab. I did not hear the driver give any warning and declare that he was driving on the left hand side of the road."

Questioned by the accused.

Question: "Before the accident did the woman try to get off the bicycle?"

Answer: "I did not notice but the army truck appeared to swing her with the bumper. At the last possible time the driver turned to the right."

The above statement was read back to the witness.

This is to certify that to the best of my ability the above is a true interpretation of the statement as taken in the Dutch language.

Signed:- Frances Tjarda van Stakenborgh

(Cont'd on page 2)

SECOND WITNESS: A 9937 Pte. McKenzie, D.F., of 4th Cdn Armd Div Troops Coy, R.C.A.S.C., having been duly sworn, states:

"I am A9937 Pte. McKenzie, D.F., of 4 Cdn Armd Div Troops Coy, RCASC. On 24 June 45 at approximately 1500 hrs I was coming out of Dieren driving a 3 ton vehicle carrying a load of derv. The load was to be delivered to the Borne Supply Point. At the time I was travelling behind Pte Granger, who was driving truck CL 4251986. I was about 30 yds behind Pte Granger and our speed was about 10 miles per hour. Suddenly I noticed his vehicle coming to a halt and I saw him swing towards the right side of the road. I stopped within 20 yds of him and got out of my vehicle because I saw civilians running towards Granger's vehicle. When I reached the front of Granger's truck, Granger was out of his vehicle, a woman was lying under the vehicle tangled up in her bicycle, and a small child was sitting on the road approximately five feet from the truck. It was a man's type of bicycle. After some time a doctor attended the injured woman and later an army ambulance took her to the hospital."

Questioned by the accused.

Question: 1. "What was the condition of the road surface?"

Answer: "The road was very rough on the right hand side."

Question: 2. "From your position could you see the bicycle approaching?"

Answer: "No."

Question: 3. "Did truck CL4251986 give any warning with horn?"

Answer: "Not that I could tell."

Question: 4. "How far was left hand side of truck from trees on left side of road before it pulled to the right?"

Answer: "I could not see as there is a curve in the road."

The above statement was read back to the witness.

The accused was then warned in the following manner:

"Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

ACCUSED: The accused declined to make any statement.

Certified that Rule of Procedure 4 has been complied with and that the evidence of the witnesses was taken down by me in writing in the presence and hearing of the accused.

(E.W. Sorgal) Capt,
Officer detailed to take Summary.

In the Field
31 July 45.

APPENDIX "A"

POLICE REPORT - RHEDEN-DIEREN

Subject - Concerning an accident between veh CL 425196, the driver being a Canadian soldier, G. Granger, No. B100640, and a lady cyclist named J.B. Winkels, address Spoorstraat 30, Dieren, in which Mrs Winkels was mortally wounded and died a few hours later.

On Sunday 24 June 45 at approximately 1455 hours, there came a report at the Police Station at Dieren that just before, on the canal-way "Kanaal-weg" at Dieren in the community of Rheden, an accident took place between a military truck and a lady cyclist, in which the cyclist was badly wounded.

Immediately I, Hendrikus Heijink, policeman and constable of Rheden at Dieren, went to the named place and saw that in front of the Oxygenium Factory on the Kanaal-weg, a six wheeled military truck No. CL 425196 was standing with his nose pointing in a south-east direction. This truck which was laden with filled jerricans was not damaged. Right next to the left front wheel lay Johanna Berendina Winkels, whom I knew, born in Ermmen on the 24 August 1909, wife of A.J. Bosch, address Spoorstraat 30 at Dieren, and who was administered first aid by Dr. F.W. Bottger.

This lady was badly wounded in both legs and after having been bandaged she was immediately brought by hospital car to Algemeene Hospital at Velp.

At approx two metres from the said truck, lay a completely ruined men's bicycle on the verge of said road. It was obvious that one of the wheels of said truck had gone over it. As I heard later, this was the bicycle on which Johanna B. Winkels had been riding before the accident. Over a distance of six and one half metres, reckoning from the front axle of said truck, there was an obvious skid mark on the road, which was made of asphalt. The skid mark ran from the front axle underneath the truck and extended behind. The road at this place is six metres wide and as it had rained a bit, it was rather wet.

In the house right next to the Oxygenium Factory I found J.A. Bosch-Winkels little daughter, who had been sitting on the back of her Mother's bicycle and who had a few sligh bruises on her left foot, Johanna Alberdina Bosch, aged 8 years and living with her parents.

Said truck, being a military vehicle, I did not check its brakes.

Sunday evening at approx 2000 hrs the said Johanna Berendina Winkels died from the wounds at the Algemene Ziekenhuis at Velp.

A chart of the place where the accident happened is added to this police report, as is also a statement by the doctor examining Johanna Berendina Winkels. The names of these people were checked on their identification cards.

I have made this report after duly being sworn.

Signed - Hendrikus Heijink

This is to certify that to the best of my ability the above is a true interpretation of the police report as submitted by the police of Rheden, Dieren.

Signed - Francee Tjarda van Starkenborgh

CERTIFIED TRUE COPY

(E.E. Borgal) Capt.

APPENDIX "B"

STATEMENT OF DR. F.W. BORGAL, MD. of Hofland 15, Dieren/Theden

I am the doctor in charge of this case. I attended Mrs. J.S. Bosch/Winkels of Spoorstraat 30, Dieren, who was wounded and had the following injuries from which she died a few hours later.

Left leg broken below the knee and a large wound.
Left leg above the knee and a minor wound.
Flesh wound on the right foot.
Right leg above the knee broken.
Right leg below and knee broken.
Left arm above the elbow broken.

Her little daughter Johanna has slight injuries on her left leg below the knee.

This is to certify that to the best of my ability the above is a true interpretation of the statement as made in the Dutch language.

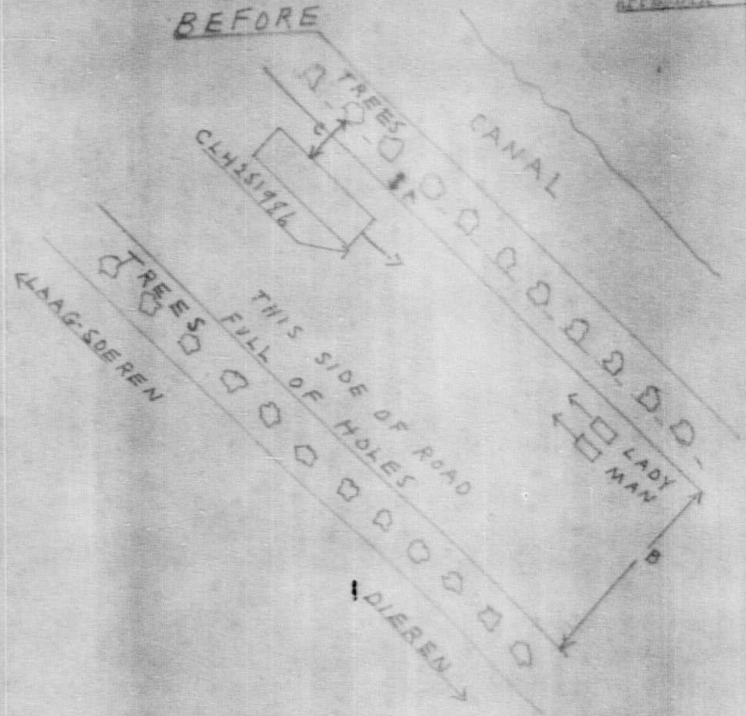
Signed - Francis Tjarda van Starkenborgh

CERTIFIED TRUE COPY

F.W. Borgal

( ) Capt.

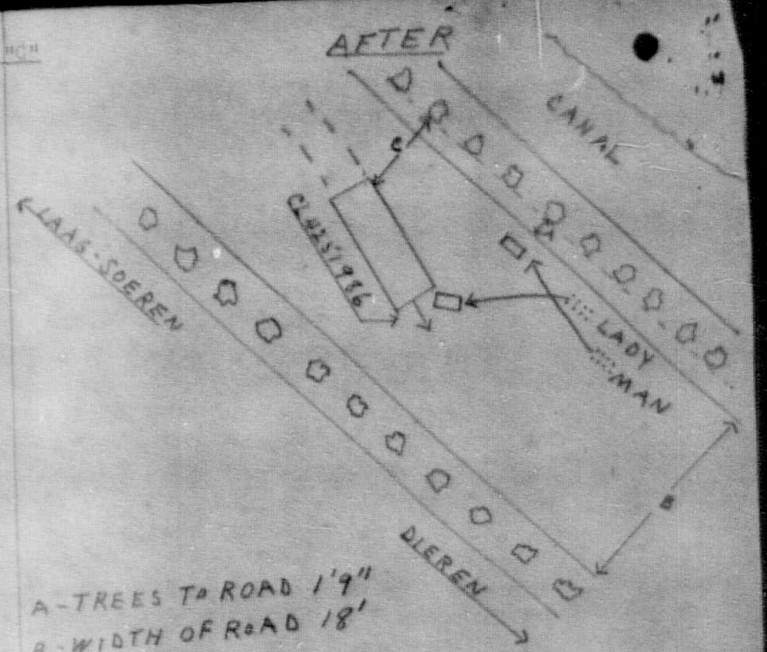
APPENDIX "C"



A-DISTANCE SIDE OF ROAD TO TREES 1'9"

B-WIDTH OF ROAD 18'

C-DISTANCE SIDE OF TRUCK TO TREES 3'6"



A-TREES TO ROAD 1'9"

B-WIDTH OF ROAD 18'

C-DISTANCE TRUCK TO TREES 7'

DISTANCE FROM REAR END OF MARKS TO FRONT OF TRUCK 18½'

No. R100640 Name GRANGER, G. A. Sqn, Battery, or Company | Corps RCASC | Date of enlistment 10 Sept 1940 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 1[illegible] 40/P&S/[illegible])

Date of last entry in Company Conduct Sheet | Nil | No. and date of last drunk | Nil | Period not reckoning towards freedom from extra fine | Sheet No Two | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified NIL entries.					
Awarded Cdn Vol				Service Medal and Clasp. w.e.f. 15 Jan 44.					
				Awarded First Good Conduct Badge w.e.f. 10 Sept 42.					

CERTIFIED TRUE COPY FROM ORIGINAL WHICH IS IN MY POSSESSION.

[signature]
(C. Scarr) Lt & A.O.,
4 Cdn Armd Div Troops Coy, R.C.A.S.C.

(PTO)

Exhibit E
[illegible]

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ~~charge(s),~~ and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on~~ the latter charge(s).(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give evidence as a witness. Do you intend to call witnesses on your behalf? Ans. Yes. Are they witnesses as to character only? Ans. Yes.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 5.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Forms B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. No Sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. X and Ex. Y respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes by my Defending Officer.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would effect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 98. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 562-565, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AN

Accused: B.100640 Pte Gordon Grange

Charge. (Insert "alternative" where applicable)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space fo
1st AA 41	Not Guilty	Not guilty, but guilty of dangerous driving Act 1930 (20 & 21 Geo 5, c 43) Road Traffic Act 1934 (24	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of XXX days, of which 24 days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~To be fined the sum of £ s d etc~~ To forfeit all or any of [illegible] 90 days

(Sgd) _____ Judge-Advocate. Date awarded. 10 Aug 45 (Sgd) _____ President. (RP 41, 82.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Accounts require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, accused may be tried again: AA 132, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to [illegible] or detention barracks until further orders.~~ (4)
(4. AA 57A. Delete if not used.)

Date 29 Aug 45 (Sgd) _____ Commanding HQ RCASC 4 Cd Area Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. 30 Aug 45 Signature of Offr. _____

B.100640 Pte Grange G. _____

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D

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SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B100640 Pte Gordon Granger 4 Cdn Armd Div Tps Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 41	Not Guilty	Not guilty of manslaughter but guilty of dangerous driving under Road Traffic Act 1930 (20 & 21 Geo 5, c 43) s 11 as amended by Road Traffic Act 1934 (24 & 25 Geo 5, c 50) s 4	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of N/A days, of which N/A days were spent in hospital. (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~[illegible] to be fined the sum of £50/0/0~~

[illegible] forfeit all ordinary pay for a period of ninety (90) days

(Sgd) [illegible] Judge-Advocate, 7th Date awarded. 10 Aug 45 (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 7 ad.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (*)

~~(1. AA 57A. Delete if not used.)~~

(Sgd) [illegible]

Date 29 Aug 45 Commanding HP RCASC 4 Cdn Armd Div

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. B100640 Pte. Date. 30 Aug 45. Signature of Offr. [illegible] McDonnell [illegible] 4 Cdn Armd Div Tps Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MMM 48

TPR GRANT AA

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 76116 TPR. GRANT, A.A.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. 19	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Four months detention

(Sgd) ..... Judge-Advocate, if any. 11 Apr 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Confirmation of finding and sentence refused May wish to take ...

Date 17 Apr (Sgd) ..... Commanding 5 Cdn Armd Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further order.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K76116 Tpr Grant AA	14 April 1944	L. Macdonald Capt DAdvJ

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 169 - MMM-48

JUDGE ADVOCATE GENERAL'S OFFICE RECEIVED 25 SEP 1944 CANADA

CFAB6 (To item of AFA3) 40/P & C 1604 (2064)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J D B Smith, OBE Comd 5 Cdn Armd Bde dated 9 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, (ins, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K. 76116	Tpr	Arthur Alexander	GRANT	9 Cdn Armd Regt

REVIEWING OFFICER, JAG BRANCH, CMHQ

R. Grant Wills G 5 Capt.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 11 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all references from KRs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 44(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans N/A

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71. ML MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	J M McAVITY	2 Cdn Armd Regt
Member	CAPT	W.A. MALKIN	9 Cdn Armd Regt
Member	LT	J.L. UPHAM	5 Cdn Armd Regt
Judge-Advocate			
Prosecutor	LT	H.N. WILLIAMS	9 Cd. Am. Regt
Defending Offr	LT	J.G. BAKER	9 Cd. Am. Regt

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Dans Off(s).
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused TPR GRANT AA before arraignment makes(s) (his) (a) plea NOT GUILTY (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 103), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 132, RP 37), or (in one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 102. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, rte, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to pleas when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :-*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ~~3~~

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3, para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged in Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans YES - GIVE EVIDENCE Do you intend to call witnesses on your behalf ?

Ans YES Are they witnesses as to character only ? Ans NO

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(m).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part II of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)

~~Or~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans NO.

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried sepernately see RP 70(D). Give sentence only, comprised of the punishment or punishments (and spare in AA 40, 44 and its proviso, if to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 565-566. Overseas RO 309, 2323. As to sentences assigned for civil offences by the law of England see AA 41(3), 96(4), p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 566. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K 76116 Trooper Arthur Alexander GRANT, 9 Cdn Armd Regt(BCD) C A, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
A A Sec 19

WHILST ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the Field, and in the town of Bari, Italy, at approximately 1525 hours 26 March 44, was drunk.

In the Field
5 March 44

(F A Vokes) Lt-col Comd
9 Cdn Armd Regt(BCD) C A

To be tried by Field General Court Martial.

9 Apr 44.

(J D B Smith) Brig
Comd 5 Cdn Armd Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/F&S/1697 (2563)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.76116	Tpr	-	Arthur Alexander	GRANT	9 Cdn Armd Regt (BCD)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 9 Apr 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj	J M McAVITY	2 Cdn Armd Regt
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt or Lt	(to be detailed)	9 Cdn Armd Regt
Capt or Lt	(to be detailed)	5 Cdn Armd Regt
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lt	(to be detailed)	5 Cdn Armd Regt
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(J D B Smith) (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 9 Apr 44

Commanding 5 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

This is to certify that I have this morning examined K 76116 Tpr Grant A A, 9 Cdn Armd Regt (H'D) C A and find him fit to undergo trial by Court Martial

F C Dobie

(F C Dobie) Capt RCAMC
9 CDN ARMD REGT(H'D) CA

In the Field
Date - 11 Apr. 44

Court Martial. 11 Apr 44.

1/.

Addresses of Prosecutor & Defending Officer.

Any objections.

Any statements by accused.

1020 hrs. court sworn.

1st Grant case.

Not guilty plea of Grant.

Prosecuting officer: (D-2) Sir I think this a case where honour & dignity of Cdn Army is brought out. A soldier of the Cdn. Army who in any way disgraces it is not a credit to our Cdn Army. Personnel went on leave from our regt. were duly warned of this & asked to behave themselves. In this part. rest camp, 50% of pers. are Cdns. 90% of crime committed is done by Cdns. Mingling with Eng. soldiers our actions are closely watched & for this reason unless pers. behave themselves, others will be refused leave. I would ask this court to uphold this prin. of the Cdn Army.

Def. officer to Capt. Poole (D-3) - Were you given nominal roll. Yes
Do you remember seeing Grant Yes.
Did you see Grant drunk No.

Def. officer to Capt. Midgley: (D-3) Did you see accused on 26 Mar. No.
" " " drunk No.

Statement by Grant: (D-6) Wishes to give evidence himself Not as to character
" " call Tpr Jones H.A. " " " "

Statement by Def Officer: I feel that we can estab. sufficient to leave a grave shadow of doubt as to whether Tpr Grant was drunk.

Address by Def Officer: I feel in the def of Grant that he is charged with only 1 thing - drunkness. Drunkness is a thing which for many years has been a ques. as to drunk or not. In this case, evidence as given by prov., states accused was picked up while unconscious. Rarely does anyone become so drunk as unconscious. But there are many other reasons why a man may become unconscious - I intend

2/

to bring suf evid. to prove accused was not drunk but unconscious for another reason.

Statement by Grant on oath: On day of Mar 26 Sir I was at a bar in Bari drinking with my friends T pr. Jones. I mentioned to him that I had a headache. An Eng soldier overhearing, offered me some pills. I consumed 3 and later left bar, not having more than 1 Bottle of Wine to drink. I was in bar from 1 to 2 o'clock. I drank wine only. That is all sir.

Pres: What time take pills — 2 o'clock sir.
What do 2 to 25 by past 3 — looking over town.

Def Officer: How far from bar did walk: About 10 blocks
What did pills look like: Like Aspirin.
How much wine did Jones have: Same as I 1 Bottle.
Did Jones become unconscious: No Sir.
" " Have any pills: " "

Pros. Officer: What time leave camp: After dinner.
Any wine before leaving: No.
" " " 1 o'clock: No.

Pres: How old are you: 22

Pros. off: How know how far you walked: I remember walking around jail.
You could have been drunk? Have never been on bottle of wine before Sir.
What were pills — Like Aspirin.
Could have been bicarbonate of soda: May have.
There is a doubt pills may have had no effect.
I cannot think of anything else.
Were you sick on leaving camp: No.
Report to M.O. "
The headache occurred 1-2 — not 10.
Where was Englishman in bar? Rt hand side not far away.
Approx. how far away: 2-3 ft.
Was he young man: Fairly young.

Name: Grant

Cross Exam Name of
Re Exam "

Prosecuting officer = ~~Cal~~ Lieut. H. ~~M~~ N. Williams.

Defending officer = Lieut. J. G. Baker.

1st Witness Prosecution = Capt R. H. Poole.

2nd. " " Capt. T. N. Midgley, RCAPC.

Accused = K 76116 Tpr. Grant A.A.

1st Witness Defence = B 62172 Tpr Jones, A.J.

Court President = Major J. M. McCarthy.

~~Page Number on both sides~~ Number pages
Use both sides
Margins

4. Statement - Plea of Mitigation by Defense.

(E-3) Great, young man 22, not has leave for 8 mos. Regt. has been C.B. for long time. Very normal for young chys going out to take a drink of wine. No evidence to show he was disturbing peace ~~etc~~ ~~#~~ or affecting anyone. I submit that he should be shown leaning.

		Rank	drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
~~contrary~~				contrary to above orders. Open arrest AA Sec 15(3)					
In the Fd	17-10-42	Tpr		AWL from 2200 hrs 17 Oct 42 until 2300 hrs 17 Oct 42. (Absent 1 hr) AA Sec 15(1)	K 6 ALCpl Clarkson JW	3 days C B	19-10-42	Maj C A West	
Field	19-8-42	Tpr		1st Charge - AA Sec 40 WOAS Conduct to the prejudice of good order & military discipline - while on Provost Patrol failed to report at stated times and place. Close arrest 0005 hrs 20-8-42.	K 1095 Tpr Sanford W G	28 days F P	21-8-42	Lt Col W C Murphy	Forf 28 days pay FR&I 149(1)(b)
Field	11-11-42	Tpr		2nd Charge - AA Sec 40, Partook of alcoholic stimulants. Close arrest. AA Sec 15(1), WOAS AWL from 0930 hrs 11 Nov 42 until 1300 hrs 11 Nov 42.	K 1142 Cpl Costello RSLW	7 days C B	13- 11-42	Capt J L Tyrer	
Field	6-12-42	Tpr		AA Sec 19, WOAS Drunkenness (and while in such condition did trespass on private property).	Documentary	14 days C B	22-12-42	Lt Col W C Murphy	Forf 21 days pay under FR&I 149(2)
Field	16-11-42	Tpr		AA Sec 40, WOAS Conduct to the prejudice of good order and military discipline - Lt W F Hull	SSM Koronko	Forf 7 days pay FR&I 149(2)	30-12-42	Lt Col W C Murphy	

Ex 'B' JU

M.F.M. 6 (A.F. B.122) 40/P & S136 (2965)

No. K 76116 Name GRANT A A | Sqn., Battery, or Company A | Corps 1104/1 | Date of enlistment 23 Jun 41 | G.C. Badges | Service or Proficiency Pay 1.75

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet 1 Destroyed 24 Dec 41					
Victoria, B C	8-7-41	Pte	1	AA Sec 19, Drunkenness	L/Cpl Cole L/Cpl Carter	Admonished	8-7-41	Lt Col C J Loat	
Camp Borden		Tpr		AWL from 1845 hrs 12-7-41 to 0100 hrs 16-7-41 (Absent 3 days, 7 hrs 15 min) AA Sec 15(1)	Documentary	96 hrs detention	19-7-41	Lt Col G C Oswell	Forf 4 dys pay FR&I 149(1)(a) Forf 4 days pay FR&I 149(1)(b)
In the Fd	8 Mar 42	Tpr		AWL from 2230 hrs 8 Mar 42 to 1205 hrs 10 Mar - Arrested in London (Absent 35 hrs 35 min) Close arrest. AA Sec 15(1)	K 842 L/Cpl Birnie C B	96 hrs Detention	13 Mar 42	Lt Col J H Larocque	Forf 2 days pay FR&I 149(1)(a) Forf 4 days pay FR&I 149(1)(b)
In the Fd	19-3-42	Tpr		Found beyond limits fixed by Sqn Pt I Ord No. 32 d/16 Feb 42, in that he at Headley was found in NAAFI premises	SSM G A File	4 days 6 B	19 Mar 42	Capt J Tyrer	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
Field	20-8-43	A/Cpl		AA Sec 15(1), WOAS AWL from 0800 hrs 20 Aug 43 until 0800 hrs 23 Aug 43 (Absgnt 3 days).	K 809 SSM Koronko	Reverts to perm grade of Tpr	26-8-43	Lt Col H Angle	Forf 3 days pay FRAI 149(1)(a)
Field	13 Sep 43	Tpr		AA sec 40 WOAS Conduct ~~sec~~ - at 0810 hrs 13 Sep 43 spoke disrespectfully to his Superior officer, Lieut G L Mortensen	Lieut G L Mortensen, Sgt Adams WED, Cpl	14 days F P	15 Sep 43	Lt Col H Angle	Forf 14 days pay FRAI 149(1)(b)
Field	29 Oct 43	Tpr		AA Sec 11, WOAS failing to obey Sqn Orders - Consuming alcoholic beverages duging noon hr.	K 1033 Sgt Adams WED	5 days C B	30 Oct 43	Maj G C Smith	
Field	10 Dec 43	Tpr	3	AA sec 19, Drunkenness - drunk at approx 1925 hrs 10 Dec 43	Documentary	Forf 8 days pay FRAI 149(2)	13 Dec 43	Maj I S Secord	
Field	27 Jan 44	Tpr	4	AA Sec 19, Drunkenness - drunk at 1645 hrs 27 Jan 44	Capt W S Anderson Sgt Thompson JW	28 days F P	31 Jan 44	Lt Col H Angle	Forf 28 days pay FRAI 149(2).

CERTIFIED THAT THIS IS A TRUE COPY FROM THE REGTL BOOKS IN MY CUSTODY

L. Macdonald Lt & Adjt.

(L Macdonald) Lieut & Adjt

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2965)

No. X 76116 Name GRANT A A | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 Continued | Signature G.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				did consume alcoholic beverages while on duty (16 Nov 42)	Cpl Duplessis R J				
Field	21-11-42	Tpr		AA ec 40 WOAS Conduct to the prejudice of good order and military discipline On 21 Nov 42 made a statement to his Comd Offr that he had not seen any alcoholic spirits consumed in "A" Sqn lines well knowing such statement to be false.	Capt J L Tyrer Cpl Duplessis R J	Forf 7 days pay	30-12-42	Lt Col W C Murphy	
In the Field	11 Jan 43	Tpr		AWL from 0100 hrs 11 Jan 43 to 2100 hrs 21 Jan 43 (Apprehended by Mil Police) Absent 10 days 20 hrs. Close arrest AA Sec 16(1)	Documentary	180 Days Detention	1 Feb 43	FGCM	Forf 11 days pay FRAI 149(1)(a) Forf 180 days pay FRAI 149(1)(b) Forf 9 days pay FRAI 149 (1)(e)

I certify that I have this date received one copy of the Summary of Evidence and one copy of the Charge Sheet in my case.

H G Nicholls

(H G Nicholls) Pte
71 LAD att
9 Cdn Armd Regt (BCD) C A

In the Field

Date -

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K76116 Rank Trooper Name Grant A A of 9 Cdn Armd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	In the Field 1 Feb 43	AWL 10 days, 20 hrs	180 days detn	60 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of April 1944

L. Macdonald Lt & Adjt

(L Macdonald) Lt & Adjt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ Date of reduction.

In the rank of _____ years _____

In the rank of _____ years _____

INSTRUCTION—If any of the above paragraphs cannot be stated from the regimental books the paragraph must be stated through, regard this date of a trial by field general court-martial the information may be collected from such sources as are available and the accused amended accordingly.

Ex 'A' JL

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K76116	Trooper	Arthur Alexander GRANT	9 Cdn Armd Regt(BCD)CA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to entries of recorded special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	Drunkenness A A Sec 19 (8-7-41)(6-12-42)(10-12-43) (27-1-44)	2 times	4	times.
For	A A Sec 15(1)	1 times	6	times.
For	A A Sec 15(3)	times	1	times.
For	A A Sec 40	1 times	5	times.
For	A A Sec 11	1 times	1	times.

[redacted]

or

[redacted]

2. [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or [redacted]

Nil

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 22 years 3 mos

6. The date of his attestation specified in his record of service is 23 JUN 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 10 mos

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 10 mos service.

9. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

10. The accused is in possession of [redacted] and to (*state any military decoration or reward*)). Cdn VSM & Clasp

11. [redacted]

12. [redacted]

(*[illegible*) [illegible] (1937) [illegible] A.A.F.W. Ltd. [illegible]

MMM-49 (case #2)

TPR GRANT AA

See X-136 for 1st case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 76116 Tpr Arthur Alexander GRANT, 9 Cdn Armd Regt (BCR)

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MANL p 483 fn 4 para 2, RP 44; special findings see RP 44 and MANL p 753, and in lieu of Kit see RP 44 fn 6.)

(1) Awaiting trial (Date) [illegible]
(Strike out if not applicable. Insert date of present trial under sentence for.)
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which nil days were spent in hospital.(1)
(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer F.P for three months and to forfeit 2 months pay

(Sgd) W M Shaw Capt — Judge-Advocate, if any. 16 Apr 44 — Date awarded. (Sgd) [illegible] — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MANL p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MANL pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MANL p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MANL p 63. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Finding and Sentence Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(I. AA 57A. Delete if not used.)

Date 18 Apr 44 (Sgd) [illegible] Commanding 5 Can Armd Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K 76116 Tpr. Grant Alexander	18 Apr. 1944	L macdonald Capt a Adj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

CANADIAN T.I.O. 26 APR 1944 G.H.Q. SCHELDT
RECEIVED RECORDS BRANCH E.M.P. RECORDED AT CMHQ IN AS 100

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AF B3) 41/P.S./B.1008 (3804)

Convened by Order of Brig J D B Smith, OBE Comd 5 Cdn Armd Bde dated 12 Apr 44

ACCUSED.

(As to trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) last appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.76116	Tpr	Arthur Alexander	GRANT	9 Cdn Armd Regt

PROCEEDINGS REVIEWED 25 May 44
R. Deane Wills Capt. GS
(REVIEWING OFFICER, JAG BRANCH)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 12 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn HQs. For guidance on procedure when a variation in this form arises, see Form for GCM in MANL pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to be interpreted ? Ans~~
~~to shorthand writer ? Ans~~
~~The Interpreter is sworn.(1) Do you object to the shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MANL p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	W A MILROY	2 Cdn Armd Regt
Member	Capt	R E Stubbs	9 Cdn Armd Regt
Member	Lt	J L Jones	5 Cdn Armd Regt
Judge-Advocate	Capt	W M Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lt	H N Williams	9 Cdn Armd Regt (BCR)
Defending Offr	Lt	J B. Baker	9 Cdn Armd Regt (BCR)

(above infm to be filled in by President)

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused before arraignment make(s) (no) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is directed) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 55(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans _____ (5)
(1. *RP 27(B).* 2. *RP 27(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(s). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as refers to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, Sir (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s) (2) The Court considers the submission.(3) The Court is re-opened, and the President announces that the submission is allowed on the _____ charge(s), and allowed on the _____ charge(s), and, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Give evidence. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans No.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the The charge(s), being subject to confirmation, will be promulgated later.(1) ~~On the President announces that the accused is found Not Guilty on all charges and is to be released from the proceedings. The sentence, if any, awarded by the Court, Part I of the Schedule is settled and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?~~ (1)
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB 355 or AFB 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Thru day sir. (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 49. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 330, 363-364, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 364.* 2. *RP 32. As to release from arrest by Confirming Offr see KR Can 361. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K 76116 Trooper Arthur Alexander GRANT, 9 Cdn Armd Regt(BCD) C A, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
A A Sec 19

WHILST ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the Field, and in the town of Bari, Italy, at approximately 1525 hours 26 March 44, was drunk.

In the Field
5 March 44

(F A Vokes)Lt-col Comd
9 Cdn Armd Regt(BCD) C A

To be tried by Field General Court Martial.

9 Apr 44.

(J D B Smith) Brig
Comd 5 Cdn Armd Bde

16 Apr 44
9 CDN ARMD REGT (BCD) CA

This is to certify that I have this date examined K 76116 Tpr Grant A A, 9 Cdn Armd Regt (BCD) CA, and found him fit to undergoe trial by Field General Court Martial.

(F C Dobie) Capt RCAMC

12 Apr 44

This is to certify that I have this date examined K 76116 Tpr Grant, A.A. 9th Cdn Armd Regt (BCD)CA and have found him fit to undergo trial by FGCM.

(F C Dobie)Capt RCAMC att
9th Cdn Armd Regt (BCD)CA

CFA99 (In lieu of AFA3)
40/FAR/1697 (2003)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.76116	Tpr	-	Arthur Alexander	GRANT	9 Cdn Armd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Apr 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.) W A MILROY (Must be named. RP 106.) 2 Cdn Armd Regt (Unit.)

MEMBERS.

Capt or Lt (to be detailed) 9 Cdn Armd Regt

Capt or Lt (Rank.) (to be detailed by) (Named or detailed. RP 106.) 5 Cdn Armd Regt (Unit.)

WAITING MEMBER.

Lt (Rank.) (to be detailed) (Named or detailed, if any. RP 106.) 5 Cdn Armd Regt (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.) W M W. SHAW (Must be named, if any. RP 106.) HQ 5 CDN ARMD DIV (Unit.)

On Active Service in the Fd

in Italy (Country.)

J D B Smith (J D B Smith) (Signed personally. RP 105 fn 2.) Brig (Rank.)

Commanding 5 Cdn Armd Bde Convening Officer.

Date 12 Apr 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

liquor on breath not necessarily drunk
No re-exam.
Court:- nil.

RP83(B) complied with

3rd Wit Prosn] Lt H N Williams, BCD, duly sworn, states:-
Took summary, after evidence cautioned accused under RP 4 (E), he wished to give evidence on oath. 2 swore him, took down statement which he signed. 2 identify his signature & statement (Read, marked "A" and attd)

Prosn closed

1st Wit Def] The accused R76116 Spr Grant, AA, duly sworn, states:-

On 26 Mar was drinking in bar in BAR1 - 2 mentioned to Spr Jones that 2 had headache - an English soldier offered me some pills - 2 took 3 & later left the bar not having drank more than 1 bottle of wine. That is all. Vermouth wine. Took pills for curing headache only. Pills looked like aspirin, small white pills. Bar closed 1800 hrs. When left bar felt no effects. Spr Jones left me as we left bar - He left me outside bar.

Cross-exam:- Entered bar approx 1200 hrs - Can't say if before or after 1300 hrs - Had 1 whole bottle vermouth. Thought pills would cure headache only. When left bar intended to walk around town. Last place 2 remember sort of looked like a jail with an English & Italian soldier on gd. Positive took pills

Re-exam - nil

Court - Headache started in bar. Bottle similar to ration beer bottle. Took pills prior to 1800 hrs. Bottle almost finished when took pills. It cured headache. Had lunch at 12 o'clock. Had nothing to drink in morning. Was had an all-night trip from Camp to Bar the night before - Left Camp here around 1000 hrs & got to Bar 1900 hrs. Then to rest camp, saw a play & then to bed about 2200 hrs. Got up about 0800 hrs 26 Mar. Went in to BAR1 after lunch. Remember close to 1 hr after leaving bar - just walking around by myself. Have drank Italian wine before - one bottle does not have any effect on me.
Usually take 2 or 3 aspirin.
Can't say if wine strong or weak.
Have heard of taking aspirin & cocoa-cola. That knocks one out. Did not think about taking aspirin with wine. Was first try at Vermouth

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2862)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K.76116	Tpr	-	Arthur Alexander	GRANT	9 Cdn Armd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Apr 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Maj	W A MILROY	2 Cdn Armd Regt

(Must be named. RP 106.)

MEMBERS.

Rank.	Name	Unit.
Capt or Lt	(to be detailed)	9 Cdn Armd Regt
Capt or Lt	(to be detailed by)	5 Cdn Armd Regt

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name	Unit.
Lt	(to be detailed)	5 Cdn Armd Regt

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

Rank.	Name	Unit.
Capt	W M W. SHAW	HQ 5 CDN ARMD DIV

(Must be named, if any. RP 106.)

On Active Service in the Fd

in Italy *(Country.)* (J D B Smith) *(Signed personally. RP 105 fn 2.)* Brig *(Rank.)*

Date 12 Apr 44 Commanding 5 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A), and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Opl H. Jones, EWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of proceedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA.*(*RP 40 fn 10*).) or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 85(C).*)

(v) Closing address (on matters other than in mitigation of punishment) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 93.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 562(40).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written words MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (A).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after mention of sentence awarded. (*AA 53(9), RP 148(C), MML p 748.*)

4. The President or JA, if *any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

I

WMWS

at 1130 hrs 12 apr 44 court adjourn until 1300 hrs 16 apr 44
at 1300 hrs 16 apr 44 court re-assemble pursuant to adjournment, Present same members as on adjournment.

Pros:- Will call 2 witnesses of Provost Corps to prove charge.

1st Wit Pros:- } 870962 L/Cpl Graham W.J., 5 Cdn Provost Coy, duly sworn, states:-

On 26 Mar at approx 1515 was on patrol with Cpl Kippen noticed a chap laying on pavement - went over & examined him. A Col was present & told us to grab tongue so wouldn't swallow it. Breath smelled strongly of liquor & he was unconscious. Loaded him in truck & took to L of C Provost Coy. Had to hurry out on another call & when returned it obtained receipt for his body. I recognized the man from his pay book. The accused is the man. Believed him drunk because breath smelled strongly of liquor & unconscious - he remained unconscious while in my custody. Was laying on back, arms outspread, had greatcoat on. Was a fine day, sun shining, moderate temperature.

Cross-exam:- I have had a drink. Depends how much I had to drink whether I was sober or not. Came to conclusion that drunk because smelled of liquor - never occurred to me that unconsciousness due to anything else. Can't remember if tongue swollen - Don't think would have noticed anything out of the ordinary.

Re-exam:- Am not medical man.

Court:- He was lying in street - in center of thoroughfare - 10 or 15 ft from sidewalk. Not positive where his beret was. Clothing had dust but not as though rolling around excessively.

RP 83(B) complied with

2nd Wit Pros:- } *7688081 Cpl Kippen, H., 230 Pros Coy, duly sworn, states:-

On 26 mar 44 on duty at DARI at about 1520 hrs in coy with L/Cpl Graham - Saw small crowd in Prajta Dias on investigation found Cdn soldier lying on back unconscious. I bent down, smelled breath - very strong of drink. He was taken to CMP gd rm where identified as Tpr Grant & handed over to gd Cmdr to be detained - charged with being drunk.

Opinion drunk because comotose condition & smell of drink. He remained unconscious. Accd is the man. Identified him by his pay book at Dari.

Cross-exam:- Was on brothel patrol. Received no instrs from any while picking accd up. I heard L/Cpl Graham receive instrs to keep his head tongue out & head on one side. [illegible] to say whether condition due to other causes [illegible] drunk & charged as such. May with

liquor in breath not necessarily drunk
No re-exam
Court:- nil.

RP83(B) complied with

3rd Wit Prosn] Lt H N Williams, BCD, duly sworn, states:-
Took summary, after evidence cautioned accused under RP4 (E), he wished to give evidence on oath. I swore him, took down statement which he signed. I identify his signature & statement (Read, marked "A" and attd)

Prosn closed

1st Wit Def] The accused K76116 Spr Grant, AA, duly sworn, states:-
On 26 Mar was drinking in bar in BARI - I mentioned to Spr Jones that I had headache - an English soldier offered me some pills - I took 3 & later left the bar not having drank more than 1 bottle of wine. That is all. Vermouth wine. Took pills for curing headache only. Pills looked like aspirin, small white pills. Bar closed 1400 hrs. When left bar felt no effects. Spr Jones left me as we left bar - He left me outside bar.
Cross-exam:- Entered bar approx 1200 hrs - Can't say if before or after 1300 hrs - Had 1 whole bottle vermouth. Thought pills would cure headache only. When left bar intended to walk around town. Last place I remember sort of looked like a jail with an English & Italian soldier on gd. Positive took pills
Re-exam - nil
Court - Headache started in bar. Bottle similar to ration beer bottle. Took pills prior to 1400 hrs. Bottle almost finished when took pills. It cured headache. Had lunch at 12 o'clock. Had nothing to drink in morning. Was had an all-night trip from Camp to Bari the night before - left Camp here around 1000 hrs & got to Bari 1900 hrs. Then to rest camp, saw a play & then to bed about 2200 hrs. Got up about 0800 hrs 26 Mar. Went in to BARI after lunch. Remember close to 1 hr after leaving bar - just walking around by myself. Have drank Italian wine before - one bottle does not have any effect on me.
Usually take 2 or 3 aspirin.
Can't say if wine strong or weak.
Have heard of taking aspirin & cocoa-cola. That knocks one out. Did not think about taking aspirin with wine. Was first try at Vermouth

Def offr in closing:-
Great deal of doubt whether drunk - Was unconscious - Reason for being unconscious can be questioned. Took pills but no intention of making himself unconscious - was to cure headache. Smell alone does not say drunk. Accd is entitled to benefit of doubt. Innocent until proved guilty. No evidence to prove that drunk.

Pros. in closing:-
Accd on leave, took full bottle Vermouth mild which not entirely familiar, no experience with that brand before. Left car apparently fairly sober because had consumed bottle in less than 1 hr. Full effect did not take place but was found unconscious on the street.
Accd says took pills - these brought about or merely aided the liquor. Quote "page 27 MMA says (reads). ∴ he was drunk - incapable of looking after himself. Considers proven.

Judge Advocate:- Defines functions of court re facts, credibility of witnesses, burden on pros: "reasonable doubt": drunkenness

Court closed.

2nd wit for defence Opr Jones, recalled under provisions of RP 76 + still under oath, is examined by the Court:- Accd went back to camp by truck - 7 or 8 miles - was riding on back of truck - open - back to camp about quarter to 3 + saw Cdn 20. - then went to my hut. Was feeling "merry" when I got back to camp. Knew Accd had been drinking but was not drunk.
RP 83(b) complied with

Def offr in mitigation:- Consider that this Accd is the first in 8 mos. While may have been drinking - should not be considered too seriously. Alcohol different effects at different times. Did not consume more than could usually consume + control - should be shown leniency.

W.M.L. Shaw
Capt

In my opinion due to the exigencies of the service it is necessary for the court to sit on Sunday.

WMWS

2nd Wit
Def

B62172 Tpr Jones, A J., BCD's, duly sworn, states:
Acsd & 2 to Bair to pub - had 2 bottles of Vermouth between us. While there acsd complained of headach ache English fellow offered some pills. Shortly after we left since 1900 his closing. 2 left him outside & went back to camp. Between 22 & 23 his that night he came in & said had been picked up.
Left Rest camp right after dinner, left about 1230. Went into pub just before one. 2 saw Eng give acsd pills - saw Grant take them - not sure how many "a couple" - maybe 2 or 3.
2 was OK when left Grant. He was OK also sober.
Cross exam - Bottle about size of Nation beer bottles. Had nothing to drink during morning. Left pub right after consumed bottle. Grant is my friend. Would not have allowed to take if thought would do him. Pills could have been anything at all. Positive he took pills.
2 went back to camp.
Re-exam: nil
Court: - Eng soldier - did not take any notice of him. Label on bottle - was sealed bottle. Vermouth not as good as they have here - Better than North African.
Had a cup of coffee before buying the wine. Bought wine about 1315 hrs - Bought both bottles at same time. Think 150 lire a bottle.
RP 83(B) complied with.

3rd Wit
Def
Character

K1033 Sgt Adams, MED, 8 Can Armd Regt, duly sworn, states:-
Acsd 2n my trp 8 mos - little trouble before last last few months "right on the bit" and trying. Work has been good & no trouble. No complaints from offrs. Acsd is gnr-op. - He is good gnr-op - valuable.
Cross exam:- Has been charged with drinking before - once that 2 know of when 2 had anything to do with it. He has been valuable man when 2 have had anything to do with him. 2 say acsd is not bad - unreliable. When charged with drunkenness he formerly he was on leave & it is just human nature. He has never had good conduct badge. Man of good character would have one.
Re-exam - nil
Court:- Acsd charged for drinking in Brighton but was not drunk. General reputation good & is honest. Gets along well with other men.
RP 83(B) complied with
Def closed.

Summary of evidence in the case of K 76116, Tpr Grant, A.A., 9th Cdn Armd Regt (BCD) C A, Cdn Army Overseas, charged with Drunkenness.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR PROSECUTION

Lieut R H Poole, 5th Tp, "B" Sqn, 9th Cdn Armd Regt (BCD) C.A., sworn, states:

I was the officer in charge of the leave party, and on 24 Mar 44 I called all the leave personnel together. I read to them orders from SCAD concerning leave. I emphasized the fact that good behaviour on the part of these men meant that other personnel in the Regt would get leave. I also read from orders that 50% of the personnel at the leave camp were Canadian and that 90% of the crime was committed by Canadians. I stressed the fact that we did not want this to happen with our own lads. I repeated this again on Saturday morning 25 Mar 44 just before the truck left camp.

The accused declines to cross examine this witness.

R H Poole Jr
(Signature of Witness).

SECOND WITNESS FOR PROSECUTION

Capt T H Midgley, RCAPC, "B" Ech, 9th Cdn Armd Regt (BCD) C A, sworn, states:

I am well aquainted with K 76116 Tpr Grant, A.A., whom I recognize here as the accused. I was and still am O C "B" Ech and ordered Lieut R H Poole to warn the personnel going on leave that they would be sent home if they misbehaved. To the best of my knowledge they were all warned and Mr. Poole informed me this was done.

The accused declines to cross examine this witness.

T H Midgley Capt.
(Signature of Witness).

THIRD WITNESS FOR PROSECUTION

L/Cpl Graham, W.J., No. 5 Pro Coy, C.M.P.:

Document purporting to be a signed statement of the evidence of L/Cpl Graham, W.J., No. 5 Pro Coy, C.M.P., was read over to the accused, marked Exhibit A and attached hereto.

I certify that in my opinion owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

H. A. Williamson Lieut
Signature of officer taking summary.

FOURTH WITNESS FOR PROSECUTION

Cpl Kippin, H., C.M.P.:

Document purporting to be a signed statement of the evidence of Cpl Kippin, H., C.M.P., was read over to the accused, marked Exhibit B and attached hereto.

I certify that in my opinion owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

H. N. Williams Lieut
(H N Williams) Lieut
Officer Taking Summary.

The accused was warned as follows:

Doyou wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or give evidence unless you wishto do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

Exh "A"
WMWS

The accused: I desire to give evidence under oath.

The accused, K 76116 Tpr Grant, A.A., 5th Tp, "A" Sqn, attached to "B" Ech, 9th Cdn Armd Regt (BCD) C A, sworn, states:

At between 1300 and 1400 hrs on 26 Mar 44 I was drinking in a bar in Bari. I mentioned to my friend, B 62172 Tpr Jones, A.J. that I had a headache. An English soldier overheard and offered me pills. I consumed three of the pills and shortly after left the bar. During the time I was in the bar I consumed not more than one bottle of wine.

A. A. Grant
(Signature of accused)

The accused states that he desires to call B 62172 Tpr Jones, A.J. as witness in his behalf:

B 62172 Tpr Jones, A.J., 5th Tp, "A" Sqn att to "B" Ech, 9th Cdn Armd Regt (BCD) C A, being duly sworn, states:-

Tpr Grant and I went into this Pub and had a couple of bottles between us and he mentioned he had a headache. There was an English fellow who overheard him and gave Tpr Grant the tablets. He took a couple of them. The pub closed and I left him outside the Pub. When I got back to camp he came in about ten o'clock and said he had been picked up by the provost for being unconscious.

K. J. Jones
(Signature of Witness).

PAGE THREE

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

H N Williams Lieut
(H N Williams)Lieut
9th Cdn Armd Regt(BCD)

In The Field
6 Apr 44

STATEMENT OF EVIDENCE IN THE CASE OF K 76116 Tpr GRANT, A.A.
9TH CDN ARMD REGT (BCD) C A

EXHIBIT "A"

Sir

At Bari on 26th March 1944 at about 1525 hrs I was on duty accompanied by Cpl Kippin, H. C.M.P. in Piazza Diaz where I saw the a/m soldier unconcious lying on the ground. His breath smelt of drink.
He was drunk.
I arrested him and took him to C.M.P. H.Q. where I handed him over to N.C.O. i/c Guard, to be detained.

Signed "W.J. Graham" L/Cpl
No. 5 Provost Co.

Bari 26-3-44

Sir,

EXHIBIT "B"

I have read over and corroborate the above statement.

Bari
26-3-44

Signed "H Kippin" Cpl
C.M. Police.

10745

LIST OF WITNESSES

For the Prosecution

1	Lt R H Poole	9 Cdn Armd Regt (BCD) C A
2	Capt T N Midgley	RCAMC, 9 Cdn Armd Regt(BCD) C A
3	L/Cpl Graham W J	No 5 Pro Coy, C M P
4	Cpl Kippin H	do

For the Defence

1	B 62172 Tpr Jones A J	9 Cdn Armd Regt(BCD)CA

LIST OF EXHIBITS

A	Statement of L/Cpl Graham W J	No 5 Coy	C M P
B	Statement of Cpl Kippin H	No 5 Coy	C M P

This is to certify that I have this date received one copy of the Summary of Evidence and one copy of the Charge Sheet in my case.

A. A. Grant.

(A A Grant) Tpr
9 CDN ARMD REGT (BCD) C A

Date -

I desire the convening officer to detail an officer to represent me at my forthcoming trial by Court Martial.

I desire the services of Lt J R Jewell, 9 Cdn Armd Regt (CD) if he is available.

A A Grant

(A A Grant) Tpr
9 Cdn Armd Regt (CD) C A

In the Field
5 Apr 44

CHARGE 230/3/788.

Army Form B 252
(See King's Regulations)

9th Cdn Armd

Regiment
Battery
Squadron
Troop or
Company

British Columbia Dragoons

CHARGE against No. 76116 Rank Pte

Name Grant A.M.

Place BARI Date of Offence 26-3-42

OFFENCE W.O.A.S. DRUNK

E. O'Farrell Capt.
D.A.P.M. 6 BASE SUB. AREA

Names of Witnesses :— Cpl Kippen H. C.M.P.
L/Cpl Graham W. [illegible]

Signature of O.C. Battery, Squadron, Troop or Company } Leave Cancelled

Punishment Awarded } recommended by OC Unit

By whom Awarded } [illegible]

Commandant, Eighth Army Rest Camp.
Adjutant.

P.T.O.

0245. Wt.W4837/7/1056. 1,600,000. 2/43. K. & H., Ltd. G627/47

E. A

Statement of EVIDENCE in the case of

H 26116 Pte Grant AA.

9th Cdn. Armoured Regt. B.C.E.

Sir

at Bari on 26th MARCH 1944 at about 1.25 hrs I was on duty accompanied by Cpl Hippin H. C.M.P. in Piazza Diaz where I saw the 9/m soldier unconscious lying on the ground. His breath smelt of drink

He was DRUNK

I arrested him and took him to C.M.P. H.Q. where I handed him over to M.C.O. 1/c guard to be detained.

W. J. Graham L/Cpl
705 Provost Co

Bari 26-3-44 REMARKS

Sir

I have read you and corroborate its above statement.

Bari
26-3-44

H Hippin Pte
Cmr. Police

B

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
K76116	Trooper	Arthur Alexander GRANT	9 Cdn Armd Regt(BCD)CA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Drunkenness A A Sec 19 (8-7-41)(6-12-42)(10-12-43)	2 (27-1-44) times	4 times.
For A A Sec 15(1)	1 times	6 times.
For A A Sec 15(3)	times	1 times.
For A A Sec 40	1 times	5 times.
For A A Sec 11	1 times	1 times.

~~[illegible]~~

or

~~[illegible]~~

2. ~~[illegible]~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~[illegible]~~ Nil ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 ~~Nil~~ days in military custody, making a total of 5 ~~Nil~~ days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service ~~[illegible]~~ 22 years 3 mos

6. The date of his ~~[illegible]~~ attestation specified in his record of service ~~[illegible]~~ is 23 JUN 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 10 mos

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 10 mos service.

9. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

10. The accused is in possession of ~~[illegible]~~ to (state any military decoration or reward) Cdn VSM & Clasp

11. ~~[illegible]~~

12. ~~[illegible]~~

~~[illegible]~~

(*[illegible]) [illegible] A.& K.W. [illegible] Gy.[illegible]

"B"
[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K76116 Rank Trooper Name Grant A A of 9 Cdn Armd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	In the Field 1 Feb 43	AWL 10 days, 20 hrs	180 days detn	60 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of April 1944

L. Macdonald. Lt & Adj
(L Macdonald) Lt & Adjt

13. The accused has served [illegible] commissioned officer continuously, without reduction, to the present date.

In the rank of _____ years _____ Dt _____ Reduction

In the rank of _____ years _____

In the rank of _____ years _____

Observation [illegible] any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except [illegible] case of a trial by field general court martial the information must be collected from such sources as any available [illegible] accused [illegible] (vide Rule 1).

4TH CDN ARMD DIV TPS COY, R.C.A.S.C. 4 ETC 4-6-

Date 10 Aug 45

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. B 100640

Rank Pte Name Granger G

of 4 Cdn Armd Div Tps Coy RCASC

and in my opinion he is fit to undergo trial by Court-Martial.

Station Field

Date 10 Aug 45

Medical Officer

A

M.F.M. 6
(A.F. B.123)
40/P & /5108 (2968)

No. K 76116 Name GRANT | Sqn., Battery, or Company A A | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 Continued | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				did consume alcoholic beverages while on duty (16 Nov 42)	Cpl Duplessis R J				
Field	21-11-42	Tpr		AA Sec 40 WOAS Conduct to the prejudice of good order and military discipline On 21 Nov 42 made a statement to his Comd Offr that he had not seen any alcoholic spirits consumed in "A" Sqn lines well knowing such statement to be false.	Capt J L Tyrer Cpl Duplessis R J	Forf 7 days pay	30-12-42	Lt Col W C Murphy	
In the Field	11 Jan 43	Tpr		AWL from 0100 hrs 11 Jan 43 to 2100 hrs 21 Jan 43 (Apprehended by Mil Police) Absent 10 days 20 hrs. Close arrest AA Sec 15(1)	Documentary	180 days Detention	1 Feb 43	FGCM	Forf 11 days pay FR&I 149(1)(a) Forf 180 days pay FR&I 149(1)(b) Forf 9 days pay FR&I 149 (1)(c)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	20-8-43	A/Cpl		AA Sec 15(1), WOAS AWL from 0800 hrs 20 Aug 43 until 0800 hrs 23 Aug 43 (Absent 3 days).	K 809 SSM Koronko	Reverts to pers grade of Tpr	26-8-43	Lt Col H Angle	Forf 3 days pay FR I 149(1)(a)
Field	13 Sep 43	Tpr		AA sec 40 WOAS Conduct to - at 0810 hrs 13 Sep 43 spoke disrespectfully to his Superior officer, Lieut G L Mortensen	Lieut G L Mortensen. Sgt Adams WED. Cpl	14 days F P	15 Sep 43	Lt Col H Angle	Forf 14 days pay FR&I 149(1)(b)
Field	29 Oct 43	Tpr		AA Sec 11, WOAS failing to obey Sqn Orders - Consuming alcoholic beverages duging noon hr.	K 1033 Sgt Adams MED	5 days C B	30 Oct 43	Maj G C Smith	
Field	10 Dec 43	Tpr		AA sec 19, Drunkenness - drunk at approx 1925 hrs 10 Dec 43	Documentary	Forf 8 days pay FR&I 149(2)	13 Dec 43	Maj I S Secord	
Field	27 Jan 44	Tpr		AA Sec 19, Drunkenness - drunk at 1645 hrs 27 Jan 44	Capt W S Anderson Sgt Thompson JW	28 days F P	31 Jan 44	Lt Col H Angle	Forf 28 days pay FR&I 149(2).

CERTIFIED THAT THIS IS A TRUE COPY FROM THE REGTL BOOKS IN MY CUSTODY

(L Macdonald) Lieut & Adjt

No. K 76116 Name GRANT A A | Sqn., Battery, or Company A | Corps 1104/1 | Date of enlistment 23 Jun 41 | G.C. Badges | Service or Proficiency Pay 1.75 | M.F.M. 6 (A.F. B.122) 40/P & /8136 (29650)

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Victoria B C	8-7-41	Pte	1	AA Sec 19, Drunkenness	L/Cpl Cole L/Cpl Carter	Admonished	8-7-41	Lt Col C J Lost	
Camp Borden		Tpr		AWL from 1645 hrs 12-7-41 to 0100 hrs 16-7-41 (Absent 3 days, 7 hrs 15 min) AA Sec 15(1)	Documentary	96 hrs detention	19-7-41	Lt Col G C Oswell	Forf 4 dys pay FR&I 149(1)(a) Forf 4 days pay FR&I 149(1)(b)
In the Fd	8 Mar 42	Tpr		AWL from 2230 hrs 8 Mar 42 to 1205 hrs 10 Mar - Arrested in London (Absent 35 hrs 35 min) Close arrest. AA Sec 15(1)	K 842 L/Cpl Birnie C B	96 hrs Detention	13 Mar 42	Lt Col J H Larocque	Forf 2 days pay FR&I 149(1)(a) Forf 4 days pay FR&I 149(1)(b)
In the Fd	19-3-42	Tpr		Found beyond limits fixed by Sqn Pt I Ord No. 32 d/16 Feb 42, in that he at Headley was found in NAAFI premises	SSM G A File	4 days C B	19 Mar 42	Capt J Tyrer	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
~~CONTINUED~~				contrary to above orders. Open arrest AA Sec 16(3)					
In the Fd	17-10-42	Tpr		AWL from 2200 hrs 17 Oct 42 until 2300 hrs 17 Oct 42. (Absent 1 hr) AA Sec 16(1)	K 6 ALCpl Clarkson JW	3 days C B	19-10-42	Maj C A West	
Field	19-8-42	Tpr		1st Charge - AA Sec 40 WOAS Conduct to the prejudice of good order & military discipline - while on Provost Patrol failed to report at stated times and place . Close arrest 0005 hrs 20-8-42. 2nd Charge - AA Sec 40, Partook of alcoholic stimulants. Close arrest.	K 1095 Tpr Sanford W G	28 days F P	21-8-42	Lt Col W C Murphy	Forf 28 days pay FR&I 149(1)(b)
Field	11-11-42	Tpr		AA Sec 15(1), WOAS AWL from 0930 hrs 11 Nov 42 until 1300 hrs 11 Nov 42.	K 1142 Cpl Costello RSLW Documentary	7 days C B	13- 11-42	Capt J L Tyrer	
Field	6-12-42	Tpr	2	AA Sec 18, WOAS Drunkenness(and while in such condition did trespass on private property).		14 days C B	22-12-42	Lt Col W C Murphy	Forf 21 days pay under FR&I 149(2)
Field	16-11-42	Tpr		AA Sec 40, WOAS Conduct to the prejudice of good order and military discipline - Lt W F Hull	SSM Koronko	Forf 7 days pay FR&I 149(2)	30-12-42	Lt Col W C Murphy	

Z Z Z 112 Case #2

Spr Grant A.R.

Case #1- Y-43

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82203 Spr. Grant A.R.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not Guilty	Guilty	
2nd	Alternative	Guilty	Not Guilty	This finding was automatic when 1st finding was "Guilty"
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on disjunctive charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~(1. Insert sentence being served, or delete, if not applicable. See RP 44(A). Information should be found on MF B355 or AF B296.)~~ beginning on (date) (Sgd)

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 6 months

(Sgd) ..... Judge-Advocate, if any. 2 Sep 44 Date awarded. (Sgd) C.E.K. Wright-Maj President. (RP 85, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding and sentence set forth in Part I is:

The finding of the court that the plea in bar of trial is not proved is confirmed.
Finding of Guilty confirmed.
Sentence confirmed.

~~I withhold confirmation of the finding and sentence and submit the case to higher authority with my recommendation that the finding be quashed and the accused be released from arrest.~~ (1. AA 57A. Delete if not used.)

Date 2 Sep 44. (Sgd) ..... Commanding CRE 2 Can Corps Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-82203 Spr Grant A.R.	5 Sep 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 23 OCT 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160. 222-112

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA32) 40-P-26-87/1608 (3804)

Convened by Order of LT-COL. A.J. KERRY Comd 2 Cdn Army Tps dated 29 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82203	Spr.	Alan Roy	Grant	32 Fd. Coy., R.C.E.

PROCEEDINGS REVIEWED 23 OCT 44 HP JAG H.C. Pratt Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 2 Sep. 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~are~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans:~~

~~The Interpreter is sworn.(1) Do you object to a shorthand writer? Ans:~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans: No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj. E.H. Wright	34 Fd. Coy., R.C.E.
Member	A/Capt. H.A. Conn	11 Fd. Pk. Coy., R.C.E.
Member	Lt. R.B. Snyder	34 Fd. Coy., R.C.E.
Judge-Advocate		
Prosecutor	Capt. W.B. Sinclair	32 Fd. Coy., R.C.E.
Defending Offr	Lt. J.W. McCammon	32 Fd. Coy., R.C.E.

Questions by President: Is the Prosecutor a lawyer? Ans: No Sir. Is the Defending Offr a lawyer? Ans: No Sir.

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 32.)

A8. The accused D-82203 Spr. A.R. Grant before arraignment makes(s) ~~made~~ (a) plea in bar of trial which was disallowed by the court (see proceedings).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 39, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If scheme as, delete and make appropriate; record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 105; duty of Prosecutor see RP 60(A), (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85,86; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; see of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 2. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn a. 3. RP 37(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider this statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, see Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea pending as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D2 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B2 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s). The Court is cleared, and considers the submission(2). The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Yes I will give evidence myself you intend to call witnesses on your behalf ?
Ans No Sir Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 (ins 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Existence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(m).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s) being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated.~~ Part I of the Schedule is (is not) signed.(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45. (1). This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Services(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.(3)
(1. AHB 335 or AFB 294. 2. MML p 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Have not.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Ilustrations RD 309, 23/D, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already in ter servitude of imprisonment or detention see AA 44(1B), 56(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of wizard after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of 67 AB)
40/PAM/1457 (2002)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy: AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, Ins, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D82203	Spr.	Alan Roy	GRANT	32 Cdn Fd Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ~~(since)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Aug 44 endorsed by me, ~~(or by an offr of my comd for me)~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (an) Offr(s) to form the Court, (by a Pd Offr as President) for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate (to) the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.H. Wright	34 Cdn Fd Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieutenant (Acting Captain)	H.A. Cann	11 Cdn Fd Pk Coy
One lieutenant	to be detailed by O.C.	34 Cdn Fd Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
One lieutenant	to be detailed from	H & R.C.E. 2 Cdn A Tps

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France
(Country.)

Date 29 Aug 44

(Signed pursuant to RP 105(a)(2)) Lt/Col
(Rank.)

Commanding CRE 2 Cdn A Tps.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, D82203 Spr Alan Roy Grant, Royal Canadian Engineers, on strength of 32 Canadian Field Company, a soldier of the Canadian Army Overseas, placed on active service, is charged with:-

FIRST CHARGE
AA Sec 19

DRUNKENNESS

in that he

when on active service, in France, was drunk at 0730 hrs on 25 Aug 44 on the morning parade of No 1 platoon 32 Cdn Fd Coy.

SECOND CHARGE
In the Alternative
AA Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field in France at 0730 hrs 25 Aug 44 was unfit for duty due to previous indulgence in alcoholic stimulants.

(P.J. Maggs) Maj RCE
O.C. 32 Cdn Fd Coy

In the Field
DATE 29 Aug 44

I direct that F.G.C.M.

...Lt. Col. R.C.E.
C.R.E., 2 Cdn A. Tps.

29 Aug 44.

E H Wright Maj
Pres.

This is to certify that I have this 2 day of Sep 1944 medically examined D82203 Spr Grant, A.R. and that he is fig. to undergo trial by Court Martial.

Field

Date 28/9 1944.

(Medical Officer)
RCE 2 Cdn Army Tps

PROCEEDINGS E H Wright Maj Pres (1)

The accused before arraignment makes a plea in bar of trial because he was not given a copy of the charge sheet or told why he was under close arrest until 1900 hrs 27 Aug 44 (59 hrs. 30 mins.) after being placed in close arrest.)

On being questioned the accused admits that he did not request a copy of the charge at all within this period.

The court having regard to Sec 45 footnote (1) of the A.A. where it states that the charge must be forthcoming within 48 hrs and a copy given to the accused at his request — Also the fact that the 27 Aug 44 was a Sunday which made it unnecessary to bring the accused before the O.C. until the following morning despite the fact that the 48 hrs. in confinement were up at 0730 hrs. on Sunday morning disallow the plea and continue with the trial

1st Witness M-7157. Sgt. Nelson L.F. 32 Fd. Coy. R.C.E.

Having been duly sworn, states.

I called parade at 0730 hrs. 25 Aug. 1944. Spr. Grant, a member of #1 Pl. appeared on parade in an unsteady and wabbly condition. I asked him what was wrong. He stated he was drunk. He had all the appearances of being drunk. I left him for a few minutes, but he appeared unable to straighten himself up. so I sent him back to his own tent. When told to fall out and go to his tent. he went in the opposite direction, and had to be assisted to his own tent.

Questions by Prosecutor:

Q. Was Spr. Grant required for work that day?

A. He was sir.

Q. Would he have been able to carry out this work?

A. He would not

Question by Defence:

Q. Did you smell liquor on the accused?

A. I did not. I wasn't close enough.

Q- If he was very sick might his reaction have been similar?
A- No. They would not know.

Question by Court:-

Q- Did accused complain of being ill on the morning in question?
A- No. Sir.
Q- Had he attended sick parade that morning?
A- No. Sir.
Q- What were accused's exact words to you on parade?
A- "I'm drunk Sgt."

Question by Accused:-

Q- Was I on parade & did I answer my name on roll call?
A- Yes in both cases.
Q- Did you make any attempt to find out whether I was drunk or whether I was sick?
A- By the time I got through with parade your were in your bed sound asleep.
Q- Why did you not place me under close arrest immediately when you thought I was in a drunken condition?
A- Because there was a parade on & was detailing men for the job. and knew that in the condition you were in, you were harmless.
Q- Did you come down to my tent later?
A- I did at approx 0800 and the accused had his head covered up and all the appearances of being asleep.
Q- You made no attempt to find out whether I was asleep or not?
A- I did not.
Q- Was there a guard on my tent when you visited me at approx 0800 hrs?
A- There were two men detailed and one was on guard. He told me you Drunk was asleep.

2nd Witness:- M-7012. L/Sgt. Lamoureux. J.A. 32 Fd. Coy. R.C.E.

Having been duly sworn states.

I was on parade with #1 Pl. 32 Fd. Coy. R.C.E. at 0730 hrs. 25 Aug. 1944. and saw Spr. Grant. He was unable to stand steady on parade. He was ordered to return to his own tent, and staggered off to a tent other than his own. He had to be assisted to his own tent.

Questions by Prosecution:-

Q- Could the accused have carried out his duties that morning?

A- No. Sir. Not in my opinion

Questions by Defence:-

Q- Did you smell liquor on the accused?

A- No. I did not.

Q- If he were violently sick might he not have been in the same condition?

A- In my opinion. No.

Q- At what time had the tents under which the men slept been put up?

A- The previous evening in daylight.

Q- Is it possible the accused did not know for sure where his tent was?

A- No. I hardly think so.

Questions by Court:

Q- Did Spr. Grant complain of any illness on the morning in question?

A- No. Sir.

Q- Are you his section commander?

A- Yes.

Q- Did you hear the conversation between Spr. Grant + Sgt. Nelson on parade.

A- Yes Sir.

Q- What was his reply to Sgt. Nelson?

A- "I am drunk Sgt."

3rd Witness - M-100264 Spr. Morkin R.C. 32 Fd. Coy. R.C.E.

Having been duly sworn states.

On the evening of Aug. 24. two civilian came into our bivouac area. at approx. 2100 hrs. with a bottle of spirits. Spr. Drant + I bought the bottle. We drank the bottle and went to bed.

Question by Prosecutor:-

Q. What size bottle was it?
A - The ordinary size wine bottle.
Q. What kind of spirits were in the bottle?
A. I thought when I bought it, it was Cognac. but later found out it was Calvados.
Q. Did any one else but Spr. Drant + yourself have any of that bottle?
A. No. Sir.
Q. About what time did you go to bed?
A. About 2300 hrs.

Question by Defence:-

Q. Did you see Spr. Drant before morning parade on Aug. 25?
A. Yes. Sir.
Q. Did he appear sick to you?
A. Yes he was sick.
Q. Did you consider him still drunk?
A. I am unable to answer that question.
Q. What evidence of his sickness can you give?
A. He was throwing up. when he first got up.

Question by Court:-

Q. In your opinion was the accused fit for work that day?
A. I don't think he was too sick to work

4th Witness - D-40997 Gpr. Pascoe. T.G. 22 Fd. Coy. R.C.E.

Having been duly sworn states

After the morning parade on Aug. 25. I was detailed to guard Gpr. Grant. I went to his tent. Gpr. Grant was asleep inside.

Question by Prosecution:

Q. How long after parade was called did you go down to the tent?

A. At approx. 0750 hrs. I reported at Gpr. Grant's tent as guard.

Question by Defence:

Q. Did you smell liquor on the accused?

A. No. Sir.

Q. Were you close enough to him that you could have smelled it?

A. No Sir.

Q. Was Gpr Grant sick?

A. Yes. He appeared to be sick.

Q. Was he detailed in a sick condition for the next 24 hours, while you were my guard?

A. Yes.

5th Witness: D-82203 Gpr. Grant. A.B. 32 Cdn. Fd. Coy R.C.E

Having been duly sworn states.

In evidence Gpr. Martin gave, I agree with. I did buy a bottle with him, we drank it, and went to bed. I had been suffering, more or less from diarrhea, and I believe that to be one of the contributing causes of my condition the next morning. I also don't think that I was in any condition to go to work. But I do not believe, and I know that it was not due to drunkenness, although I do believe that what I had to drink the night before had something to do with it. I made my way out onto parade all right and fell in on parade in the usual manner, and I think my condition was due to a combination of the condition of my stomach and what I had to drink the night before.

Question by Prosecutor:-

Q- How do you know you were sobber on parade on the morning of Aug. 25?

A- I was able get up, get on parade, without assistance, and also fell in on parade in the usual manner. I also answered my name when the roll was called.

Q- Your definition of a drunken man, then, is an unconscious man?

A- No. Sir.

Q- Surely as long as you were conscious, and heard your name called, You could answer it?

A- Yes. Sir.

Q- ~~Could you [illegible]~~ Have you a better explanation then of why you think you were sobber?

A- In my opinion my mind was clear.

Q- Why did you tell the Sgt. you were drunk?

A- It was just that I did feel so miserable that at the time I didn't think any action would be taken, I just wanted to get out of parade, as I was sick

Q- Why did you wait until you were ordered to leave parade, rather than ask permission on account of illness?

A- Because I knew that by the way the names were being called, that the parade would soon be over, and I would have a chance to leave, then.

Q- If you were doubtful as to when you were going to throw up, why did you not go to a latrine instead of to your tent?

A- I had been throwing up, and was trying to suppress the urge to throw up, as there was nothing left in my stomach to throw up.

Q- Over drinking causes people to vomit, does it not?

A- It depends on the person.

~~Q- If a person became ill in the manner it would not necessarily make him sobber?~~

Question by Court:-

Q- Why did you not report sick on morning of 27 Aug.

A- I was too sick to care whether I went to the M.O. or not.

Q. Do you know of any one else who has had diarrhea, and has thrown up?
A. Only two men, that I know of.

Prosecutors Closing Address:-

The evidence of two witnesses has shown that Spr. Grant appeared on parade in an unsteady condition that could not be mistaken for illness. He was by his own admission not in a fit condition for work. In my opinion he has failed to give a satisfactory explanation of why he believes he was sober. There is no evidence to show that he actually was sober. It has also been shown, that the accused had a considerable quantity of strong liquor, 8½ hrs. before parade time.

Defence Closing Address:-

Spr. Grant had previously been sick with diarrhea. This combined with the liquor, made him very ill. Under such condition, a person can very well be shaky and unsteady on their feet. A full eight and a half hours had passed since he had drunk the liquor. No evidence was given that he smelled of liquor. My contention is, that Spr. Grant was sick and the evidence does not prove he was drunk.

Plea in Mitigation of Sentence by the Accused:-

I have been overseas for four years, and I know my crime what it is now too good. Most of my time has been spent in the infantry. About 2 years ago, I was sent out of the infantry, on account of my age. I didn't want to leave, and after being sent to 5 C.I.R.U. I had two opportunities of going back to Canada. On one of them I was detailed as a P.O.W. escort and I was paraded, and asked to be taken off. This wish was granted. Later I was sent to N.E.T.L. for re-allocation, and could have gone

back to Canada from there. I did the P.S.O. office there to do what he could to keep me overseas. I didn't feel as though I wanted to spend all that time over here, and be sent home at the last moment, just when it appeared something might happen. The result was, I was posted to "J.C.E.R.E." I didn't at the time, care much for the Engineers, I suppose, on account of having spent the years I did in the infantry. As a result, I got into three crimes in "J.C.E.R.E." all A.W.L.'s. My reason was that I thought by doing so I might get sent back to my own unit. I was treated there, on those charges very leniently, as they seemed to understand the way I felt. The last time I saw the C.O. of "J.C.E.R.E." he told me that I would most likely be posted to the P.E. establishment, when I had finished my training. After I had finished my training as a sapper, I asked to be paraded to the C.O. again. At the time, I told him I did not want to go on P.E. but wished to get with a more active unit. He told me that, with my age and through C.M.H.O. orders concerning age, I would the best he could do. would be to post me to Army Troops, which was done. Since coming to the Engineers in the field I have been in no trouble to speak of, outside of a little of an hours, which happened at Maidstone. Outside of that, I don't think that any fault could be found with my work and duties. I have always wanted, and still do, to have a more active part in things than I am doing. I tried, about every thing possible, to get back to my original unit, or the infantry, and still do. Want to get back. I can't say that I'm happy in the Engineers, because I am not, but rather than be out of things altogether I would prefer to be there. I think that most of the trouble I've been in, in the last year, have been due to that course of events, when I was sent from an outfit that I liked, and still would like to be with. There is nothing the matter with me physically, that I know of

and I would welcome an opportunity to get back
if possible.

I hope that the court will try and understand
the way I feel about being in the position I am in
now, and if I thought that drinking that night
would place me where I now am, I certainly wouldn't
have taken any. I think that I have acted and tried
to stay with an active part of the army, and at
that to be sent out of it right at this moment.
Regardless of any of the things I do, and always
did want to do my bit in this war, ~~and~~ I

Question by the Court:

Q. Are you a married man?
A. Yes. I have a wife in the U.S.A.
Q. Have you any children?
A. No, sir.

EXHIBIT "A"

M.F.B. 356
80/P & S/575

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D82203	Spr	Grant, A.R.	32 Cdn Fd Coy RCE

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron Battery~~ Conduct sheets ~~or Company Conduct~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AA 15 (1)	4 times	AA 15 (1)	11 times
For		times	AA 19 (Drunkenness)	4 times
For		times	AA 40	1 times
For		times	Charges of Drunkenness	times

~~[illegible]~~ 2 charges carried over from original sheet
3rd charge-Field 12 Feb 41
4th charge-Field 12 Sep 42

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~[illegible]~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Army Act~~ Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~

day of .....

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 44 years, ~~69~~ 73 days

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper 23 May 1940

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon 4 yrs 97 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~[illegible]~~ military decoration, or ~~[illegible]~~ military (or is in possession of or entitled to). State any ~~[illegible]~~ military decoration or reward. CVSM & Clasp

10. (If the accused is a warrant officer.) ~~[illegible]~~

11. (In the case of an officer.) [illegible] Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. [illegible] present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with, of accused, Number D62203 Rank Spr

Name Grant, A.R. of 32 Cdn Fd Coy RCE Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	1 Feb 43	AWL 10 days 19 hrs	80 days det	24 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this twenty ninth day of August 1944

W.W. Sinclair, Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

EXHIBIT "B"

No. D82203 Name Grant, A.R. Sqn., Battery, or Company — Corps RCE — Date of enlistment 20.5.40 G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 20.11.40 and date of last drunk — Period not reckoning towards freedom from extra fine 2 — Signature O.C. Company, etc. ????? — Sheet No. I

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Original sheet destroyed 20,12,40					
Field	[illegible]	Pte		AA 15 (1) AWL 2 days 18 hrs		Admonished	6 Jan 41		3 days pay 149(1)(a)
Field		Pte		AA 15 (1) AWL 2 days 17 hrs 35 mins		3 days pay	23 Jan 41		3 days pay 149(1)(a)
Field		Pte				Fined $10.00	12 Feb 41		
Field		Pte	3	AA 19 Drunkenness		14 days pay	13 Feb 41		
Field		Pte		AA 40		Admonished	14 Apr 41		1 day 149(1)(a)
Field		Pte		AA 15 (1) AWL 18 ½ hrs		14 days FP &	28 Apr 41		5 days 149(1)(a)
Field		Pte		AA 15 (1) AWL 4 days 2[illegible] hrs		14 days pay			2 days 149(1)(a)
Field		Pte		AA 15 (1) AWL 1 day 23 hrs 12 mins		7 days CB & 7 days pay	27 Oct 41		8 days 149(1)(a)
Field		Pte		AA 15 (1) AWL 7 days 8 hrs		27 days FP & 27 days pay	2 Dec 41		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		(1) AA 15 AWL 14 hrs		5 days CB & 5 days pay	16 Mar 42		1 day 149 (1)(c)
Field		Pte		AA15(1) AWL 8½ hrs		3 days pay	8 Jun 42		1 day 149(1(a)
Field		Pte		AA 19 Drunkenness		27 days FP & 27 days pay	12 Sep 42		
Field		Pte		AA 15 (1) AWL 6¾ hrs		7 days CB	26 Dec 42		1 day 149(1)(a)
Field	15 Jan 43	Pte		AA 15 (1)AWL from 2300 hrs 15 Jan to 1800 hrs 26 Jan 43(10 days 19 hrs) FGCM		80 days det	1 Feb 43	FGCM	5 days 149(1)(c)(1)
				Granted a remission of 24 days					
Field	7 Jun 43	Pte		AA 15 (1) AWL from 2359 hrs 7 Jun to 2000 hrs 10 Jun 43. (2 days 20 hrs 1 min)		10 days pay	11 Jun 43		3 days 149(1)(a)

Certified true copy as taken from documents in my custody

??????????????

Capt & Records Officer 5 CIRU

No D82203 Name Grant, A.E. | Bqn, Battery or Company | Corps RCE | Date of enlistment 20-5-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/FAnS/196 (3438)

Date of last entry in Company Conduct Sheet 20-11-44 | and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Jan 44	Spr		AA 15(1) AWL from 2200 hrs 16 Jan 44 to 1800 hrs 31 Jan 44 (absent 14 days 18 hrs)	Sgt Curtis, Doc	14 dys det F forf 14 dys pay FR &I 149 (1)(b)	1 Feb 44	Maj H F McLachlin	For 15 dys pay FR & I 149 (1)(a)
Field	2 Mar 44	Spr		AA 15(1) AWL from 2230 hrs 27 Feb 44 until app at 2345 hrs 2 Mar 44 (Absent 4 dys 1 hr 15 mins)	Doc	Forf 14 dys pay FR & I 149(2)	3 Mar 44	Lt Col A S Rutherford	Forf 5 dys pay FR &I 149 (1)(a)
Field	26 Mar 44	Spr		AA 15(1) AWL from 2230 hrs 26 Mar 44 to 2000 hrs 31 Mar 44 (Absent 4 dys 21 hrs 30 mins)	Doc	14 days FP	11 Apr 44	Maj VEC Odlum	Forf 5 dys pay FR & I 149(1)(a) Forf 14 dys pay FR & I 149(b)

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Jul 44	Spr		AA 15(1) AWL 10 hrs, 30 mins	Doc L/Cpl Morris F	14 days CB 14 days pay	5 Jul 44	P.J. Maggs Major	Forf 1 days pay FR & I 149(1)(a) Forf 14 days pay FR & I 149(2) Total forf of 15 days pay

Certified True Copy from the Regt'l Documents in my possession

(W.B. Sinclair)

(W.B. Sinclair) Capt REE
2 i/c 32 Cdn Fd Coy RCE

SUMMARY OF EVIDENCE

IN THE CASE OF

D82203 Spr GRANT, A.R.

32 CANADIAN FIELD COMPANY

ROYAL CANADIAN ENGINEERS

CDN ARMY (O)

First Witness - M7157 Sgt Nelson, L.F. having been duly sworn states: I, M7157 Sgt Nelson, L.F. am platoon sergeant of No 1 platoon, 32 Cdn Fd Coy. The accused D82203 Spr Grant, A.R. a member of 1 platoon, whom I recognize, was in a shaky and unsteady condition on the morning parade at 0730 hrs 25 Aug 44. I asked him what was wrong with him and he stated that he was drunk. He had all the appearances of being drunk and was in no condition to go to work to carry out the duties required of him. I told him to go to his tent and lie down and he did not seem to know where it was. He had to be assisted in order to get there.

L. Nelson
M7157 Sgt Nelson, L.F.

The accused declines to question the witness.

Second Witness - M7012 L/Sgt Lamoureux, J.A. having been duly sworn states: I, M7012 L/Sgt Lamoureux, J.A. am in charge of 1 section, 1 platoon, 32 Cdn Fd Coy. The accused whom I recognize is a member of this section. I was present on morning parade at 0730 hrs, 25 Aug 44. Spr Grant, the accused, was unable to stand steady on parade. He was ordered to return to his tent and he staggered off to a tent other than his own. He had to be assisted to his own tent.

J.A. Lamoureux
M7012 L/Sgt Lamoureux, J.A.

The accused declines to question the witness.

Third Witness - M100264 Spr Morkin, R.J. having been duly sworn states: I, M100264 Spr Morkin, R.J. am a member of 1 platoon, 32 Cdn Fd Coy. The accused, Spr Grant, whom I recognize is also a member of 1 platoon. On the 24 Aug 44 at about 2100 hrs, two civilians came into the company bivouac area to sell some liquor which they had in bottles. Spr Grant and I bought a bottle between us and we each drank some during the evening. It was about an average size wine bottle of spirits which I believed to be cognac but have since found out to be similar to what is commonly known as Calvados. We finished the bottle and went to bed at about 2300 hrs.

R.J. Morkin
M100264 Spr Morkin, R.J.

The accused declines to question the witness.

Fourth Witness - B40497 Spr Pascoe, T.A. having been duly sworn states: I, B40497 Spr Pascoe, T.A. am a member of 1 platoon 32 Cdn Fd Coy. On 25 Aug 44, just after morning parade, I was detailed to be a guard over Spr Grant, A.R., the accused, whom I recognize. Spr Grant was in his tent, asleep when I went there about twenty minutes after parade time.

T.A. Pascoe
B40497 Spr Pascoe, T.A.

The accused declines to question the witness.

R.P. 4 (c), (d), (e) and (f) have been complied with.

The accused having been duly warned under the provisions of R.P. 4 (e) declines to make a statement reserving his defences.

TAKEN BY ME THIS 29th DAY OF August 1944 AT field

In the Field
DATE 29 Aug 44

W.B. Sinclair
(W.B. Sinclair)Capt RCE

SH-112

Spr. Grant G.A.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82203 Spr Alan Roy GRANT 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44: findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn a.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for Forty (40) days.

(Sgd) ..... Judge-Advocate, if any. 3 May 45 Date awarded. (Sgd) ..... President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 57, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not committed to prison or detention barracks~~ until further orders.(1) e&o

(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding ..... Confirming Officer.

Date 9 May 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D82203 Spr. Grant R.R.	12 May 45	

ENTERED PART II ORDERS

DATE 14 May 45 PAGE 112

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 5H-112.

FIELD GENERAL COURT-MARTIAL

CFAGE (In lieu of AFA81) 40/F & R/1698 (E/44) 4/38B

REGISTERED 19 MAY 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig A.W. Connelly Comd "B" Gp CRU dated 1 May 45

ACCUSED.

(As to the trial of two or more charged jointly, see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 182 fn, KR Con 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82203	Spr	Alan Roy	GRANT	1 CERU

PROCEEDINGS REVIEWED 19 May 45 J.G. Hayman Lt.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at (locality) in England on (date(s)) 3 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference as appropriate to preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initals and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do ~~you object to~~ ..... as ~~interpreter~~? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to Sgt Gauthier E.C. as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller, ED, E.C.	HQ CRU
Member	Captain	K.D. McCord	2 CACRU
Member	Lieutenant	A.M. Davoue	2 CACRU
Judge-Advocate			
Prosecutor	Same	F.J. Hastie	1 CAGR
Defending Offr	Same	Lt. P. Newman	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dr p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made (for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressers made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fmn as RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet use RF 62; where several accused to be tried separately see RF 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(II).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*E*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*A*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Nil.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 91(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Nothing more than my offer was made
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex ..... respectively.(3)
(1. *MFB* 355 *or AFB* 2later. 2. *MFB* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. I beg for mercy
(1. *RP* 37(*C*), 46(*C*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him, ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 320, 562-566, *Overseas RO* 309, 2323, *RP* 46. *As to sentences for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused* 70(6), *p* 60, 757-759. *As to sentences consigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(2), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D-82203 Spr Alan Roy GRANT, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit. a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
AA 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he -

in the field, absented himself without leave from No. 1 Canadian Engineer Reinforcement Unit from 0830 hrs 18 Apr 1945 until surrendering himself to the Guard Commander at No. 1 Cdn Engr Rft Unit at 2240 hrs 25 April 1945.

(Total Time Absent 7 Dys 14 hrs 10 mins)

(A.J. KERR) COLONEL RCE
Commanding Officer
No. 1 Cdn Engr Rft Unit
Canadian Army (Overseas)

In the field
30 April 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(A.B. Connelly) Brig.
Comd "B" Gp
Cdn Rft Units.

In the field
1 May 1945

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22.
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets RP 87(5).
As to two or more accused charged jointly see RP 16, 109, see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D-82203	Spr	Alan Roy	GRANT	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 May 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	E.N. Miller, ED, EC. (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by CO	2 CACRU
Lieutenant (Rank.)	to be detailed by CO (Named or detailed. RP 106.)	2 CACRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd in England (Country.)

Dat. 1 May 45

A.B. Connelly
(A.B. Connelly)
(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)
Commanding "B" Gp Cdn Aft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 55 (In lieu of AFA 3)
40/P & S/1697 (8543)

Medical Officers' Certificate
K.R.(Can) para 557 D82203

I certify that I have this morning examined No. ~~(Rank)~~ Sgt. Grant, A.R. ~~(Name)~~ of #1 C.E.R.U. and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 3-5-45

Sgd [signature] (Medical Officer)

CASE OF

E-1 D-82203 Sapper GRANT, A.E., R.C.E. - No. 1 C.E.R.U.

PLEA IN MITIGATION OF SENTENCE

It is quite obvious from this man's conduct sheet why he was sent up for Court-Martial, even though he was only AWL seven days. From his Army record it is quite clear that he has been a consistent offender, as far as being AWL is concerned. There are some possible reasons why he has been a consistent offender. In the first place, he is an American citizen. He enlisted voluntarily in the Cdn Army on 23 May 40, in the 1st Bn of the Black Watch Regt. He came overseas with the regt and he was with them until the end of 43, at which time he was returned to NRTD to be sent back to Canada and possibly discharged as being overage for inf but at that time he was compulsorily transferred to the Engrs as he was a carpenter in civilian life. I may point out here that during his stay with the Black Watch, he had little opportunity to practice at his trade of carpentry. This has been quite a concern to him, as he could foresee his return to civilian life. As he had not practiced at his trade for three to four years, he realized that he would be under a definite handicap. With the Engrs, he evidently became a tradesman carpenter Gp "C" and joined the 32 Fd Coy and landed in France at the end of Jul 44. However, he didn't have much opportunity to practice at his trade but carried on his military duties until a charge of drunkenness was placed against him on 6 Sep 44. At that particular time, it was not unusual for people to drink under the stress of war and he was given quite a severe punishment considering. About this time, he had injured his knee, developed water on the knee and was in hospital in France from 16 Sep to 12 Dec 44. He returned to this country and finished his detn on 30 Dec 44. From that time on, he was given fatigue duties in the RU and was consequently "browned off", but not working at his trade. I also may state that the accused had no leave for a period of 20 months, but he was eventually given 9 days' leave from which he failed to return at its expiration. Again he returned to the unit and was given these fatigues to do in the course of which he went AWL for this period of 7 days. The accused has a cat of L-3. From his Army record, it is quite clear, although his stability is classified as 1, it should be considerably lower than that. He is married and has been on occasions worried about his family at home. I think the Court should definitely consider this man's case in the light that he be discharged as soon as possible. His use to the Army is very limited and it is no cury to sentence him to further detn. He has done his duty and his age is such that he should be returned to civilian life.

SUMMARY OF EVIDENCE

Summary of evidence in the case of D-82203 Spr Alan Roy GRANT, Royal Canadian Engineers, No. 1 Cdn Engr Rft Unit, a soldier of the Canadian Army (Overseas).

FIRST WITNESS
For the prosecution M-41539 Sgt BOWEN, W.J., RCE, of No. 1 Cdn Engr Rft Unit, having been duly sworn states:-

I, M-41539 Sgt BOWEN, W.J., am section Sgt of HQs Section of Depot Coy. On the 18th April 1945 at 0830 hrs I went to Spider 8 Rm 4, at No. 1 CERU to check on the Room Orderly. D-82203 Spr Alan Roy GRANT whom I had appointed Room Orderly was not on duty at this time. I went back at 0930 hrs 18 Apr 45 and found that he was still not there. I reported him A.W.L., to Depot Coy Orderly Room at No. 1 CERU. I went in to the room each day, up to, and including 26 Apr 45 and D-82203 Spr Alan Roy GRANT was not there.

W J Bowen
M-41539 Sgt BOWEN, W.J.

The accused declines to question this witness.

SECOND WITNESS
For the prosecution M-41514 Sgt TYRRELL, G.M., RCE, of No. 1 Cdn Engr Rft Unit, having been duly sworn states:-

I, M-41514 Sgt TYRRELL, G.M., am acting CSM for Depot Coy. I personally checked Spider 8 Room 4 at Tattoo Roll Call 18th Apr 45 and at Reveille Roll Call on 19th Apr 45, and D-82203 Spr Alan Roy GRANT was not present, and on each succeeding day up to and including 26 Apr 45, D-82203 Spr Alan Roy GRANT was not present at Reveille or Tattoo Roll Call.

G M Tyrrell
M-41514 Sgt TYRRELL, G.M.

The accused declines to question this witness.

THIRD WITNESS
For the prosecution B-28560 A/L/Sgt JAMES, A.B., of No. 1 Cdn Engr Rft Unit having been duly sworn states:-

I, B-28560 A/L/Sgt JAMES, A.B., was Guard Commander at No. 1 CERU on 25 Apr 45. At 2240 hrs 25 Apr 45 D-82203 Spr Alan Roy GRANT surrendered himself to the Guard Room at No. 1 CERU.

I put him under close arrest and put him in to Unit Detention.

A B James 4/Sgt
B-28560 A/L/Sgt JAMES, A.B.

The accused declines to question this witness.

FOURTH WITNESS
For the prosecution B-53273 Cpl McLURE, V., RCE of No. 4 Cdn Engr Bft Unit having been duly sworn states:-

I, B-53273 Cpl McLURE, V., was Cpl of the Guard at No. 1 CEMU on 25 Apr 45. I was in the Guard Room on this night when the Guard Commander B-28560 A/L/Sgt JAMES, A.B. called me in to the office and told me to take D-82203 Spr Alan Roy GRANT, who was under close arrest, to the Unit Detention Barracks under Escort. I took Spr GRANT to the Unit Detention.

Cpl V McClure
B-53273 Cpl McLURE, V.

The accused declines to question this witness.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages was taken down by me, in the presence and hearing of the accused and that Rules of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

In the Field
29 Apr 45

J Sugarman Lt R.C.C.
(J. SUGARMAN) Lt., RCE
Officer detailed to take the Summary of Evidence.

Evid
A/L/Sgt

LIST OF WITNESSES

List of witnesses in the case of D-82203 Spr Alan Roy GRANT Royal Canadian Engineers, No. 1 Cdn Engr Mft Unit, a soldier of the Canadian Army (Overseas).

FOR THE PROSECUTION

(1)	M-41539	Sgt BOWEN, W.J.	RCE	No. 1 C.E.R.U.
(2)	M-41514	Sgt TYRRELL, G.M.	RCE	No. 1 C.E.R.U.
(3)	B-28560	A/L/S JAMES, A.B.	RCE	No. 1 C.E.R.U.
(4)	B-53273	Cpl McCLURE, V.	RCE	No. 1 C.E.R.U.

LIST OF EXHIBITS

FOR THE PROSECUTION

NIL

FOR THE DEFENCE

NIL

APPLICATION FOR DEFENDING OFFICER

I desire that Lt. W.R. NEWMAN, RCE, No. 1 CERU be assigned to represent me in the event of Court Martial.

A. R. Grant
(D-82203 Spr GRANT, A.R.)

RECEIPT FOR DOCUMENTS

I, D-82203 Spr Alan Roy GRANT hereby acknowledge receipt of one copy of the charge sheet, and Summary of Evidence.

DATED THIS 30 day of April 1945

A. R. Grant
(D-82203 Spr GRANT, A.R.)

SUB FOR ARMY FORM B.496 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
D-82203	Spr	Alan Roy GRANT	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For....A.A.118(1)..... ..15..times.

For....A.A. 19..... 4 ~~[illegible]~~ 99 times.

For....A.A. 40..... ...1.. times.

For..... ..... times.

Date of first entry in Field Conduct Sheet...6 Jan 41

Date of last entry in Field Conduct Sheet...15 Mar 40

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~The accused at the present time is under any [illegible]~~.....

beginning on the.....day of.....

4. The accused has been awaiting trial on the present charges for,.....NIL.....

days in civil custody; and for....0.....days in military custody, i.e., ...NIL.....days in open arrest,....0.....days in close arrest; of which.....NIL.....days were spent in hospital.

Strike out if not applicable.

5. The present age of the accused is...44 10/12 yrs

6. The date of his...attestation.....is..20 May 40
calling up for military service

7. The service which the accused is allowed to reckon is .....4 yrs.....

8. The accused is in possession of..CVSM and Clasp.

9. (if the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date - Date of Promotion.

State the military decorations (if any held by accused.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of.....

INSTRUCTION.- If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which Acted.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
R.C.C.M.	1 Feb 45 in the field	An offense under A.A. 15(1)	80 days Detn	Granted 24 dys remissi
F.C.C.M.	2 Sep 44 in the field	An offense under A.A. Sec. 19	6 mos Detn 181 days pay FR & I 149 (b)	Granted 60 dys remissi

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

Signed this 2nd day of May 1945

(R.E.V. FRANKLEY) Major RCE
Administration Officer
No 1 Cdn Engr Bft Unit
Canadian Army (Overseas)

Gun, Battery, or Company — Corps RCE — Date of enlistment 20-5-40 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 127)

Period not reckoning towards freedom from extra fine — Sheet No. I — Signature O.C. Company, etc. — Character

OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
al sheet destroyed 20-12-40.					
1) AWL 2 days 18 hrs.		admonished	6 Jan 41		3dys Pay 149(1)(a)
(1) AWL 2 dys 17 hrs 35 mins		3 days Pay	23 Jan 41		3 dys pay 149 149(1)(a)
Drunkenness		Fined £10.00	12 Feb 41		
0		14 dys pay	13 Feb 41		
1) AWL 18½ hrs		Admonished	14 Apr 41		
1) AWL 4 dys 2½ hrs		14 dys FP plus 14 dys pay	28 Apr 41		1 dys 149(1)(a) 5 dys 149(1)(a)
1) AWL 1day 23 hrs 12 mins		7 dys C.B. plus 7 dys pay	27 Oct 41		2 dys 149(1)(a)
1) AWL 7 dys 8 hrs		27 dys F.P. plus 27 days pay	2 Dec 41		8 dys149(1)(a)

(P.T.O.)

M.F.M. 6
(A.F.B. 122)

No. [illegible]2203 Name GRANT A.R. Sqn., Battery, or Company — Corps RCE — Date of enlistment 20-5-40 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 20-11-40 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. I — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 20-12-40.					
Field		Pte		AA15(1) AWL 2 days 18 hrs.		admonished	6 Jan 41		3dys Pay 149(1)(a)
Field		Pte		AA 15(1) AWL 2 dys 17 hrs 35 mins		3 days Pay	23 Jan 41		3 dys pay 149 149(1)(a)
Field		Pte	3	AA 19 Drunkenness		Fined $10.00	12 Feb 41		
Field		Pte		AA 40		14 dys pay	13 Feb 41		
Field		Pte		AA 15(1) AWL 18¼ hrs		Admonished	14 Apr 41		1 dys 149(1)(a)
Field		Pte		AA 15(1) AWL 4 dys 2½ hrs		14 dys FP plus 14 dys pay	28Apr 41		5 dys 149(1)(a)
Field		Pte		AA 15(1) AWL 1day 23 hrs 12 mins		7 dys C.B. plus 7 dys pay	27 Oct 41		2 dys 149(1)(a)
Field		Pte		AA 15(1) AWL 7 dys 8 hrs		27 dys F.P. plus 7 days pay	2 Dec 41		8 dys 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) A.W.L. 14hrs		5 dys CB plus 5 dys pay	16 Mar 42		1 day 149(1)(a)
Field		Pte		AA 15(1)AWL 8½ hrs.		3days pay	8 Jun 42		1 day 149(1)(a)
Field		Pte	4	AA 19 Drunkenness		27 dys FP plus 27 dys Pay	12 Sep 42		
Field		Pte		AA 15(1) AWL 6¾ hrs		7 dys C.B.	26 Dec 42		1 day 149(1)(a)
Field	15 Jan 43	Pte		AA 15(1) AWL from 2300 hrs 15 Jan to 1800 hrs 26 Jan43.(10dys 19Hrs)	F.G.C.M.	80 dys Detn	1 Feb 43	F.G.C.M.	11 dys 149(1)(a) 5 dys 149(1)(a)
				Granted a remission of 24 days.					
Field	7 Jun 43	Pte		AA 15(1) AWL from 2359 hrs 7 Jun 43 to 2000 hrs 10 Jun 43 (2 dys 20 hrs 1 min)		10 dys pay	11 Jun 43		3 dys 149(1)(a)

D-82203
No.

Name GRANT A.R.

Sqn. Battery, or Company

Corps R.C.E.

Date of enlistment 20-5-40

GC Badges

Service or Proficiency Pay

3/17 MFM 6
(APB 22)
40/P&S/136 (5415)

Date of last entry in Company Conduct Sheet 20-11-40

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No 2

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Disposing with trial)	By whom awarded	Remarks
Field	16 Jan 44	Spr		AA15(1) AWL from 2200 hrs 16 Jan 44 to 1800 hrs 31 Jan 44	Sjt Curtis Doc.	14 dys Detn. Forf 14 Dys Pay FR&I 149 (1)(b)	1 Feb 44	Maj. H.F. McLachlin	Forf 15 Dys Pay FR&I 149 (1)(a)
Field	2 Mar 44	Spr		AA15(1) AWL from 2230 hrs 27 Feb 44 until appre at 2345 hrs 2 Mar 44 (Absent 4 days 21hrs 30 mins)	Doc	Forf 14 Dys Pay FR&I 149 (2)	3 Mar 44	Lt Col AS Rutherford	Forf 5 Dys Pay FR&I 149(1)(a)
Field	26 Mar 44	Spr		AA15(1)AWL from 2230 hrs 26 Mar 44 to 2000 hrs 31 Mar 44 (Absent 4 days 21 hrs 30 mins)	Doc	14 Dys F.P.	11 Apr 44	Major VEC Odlum	Forf 5 dys Pay FR&I 149(1)(a) Forf 14 days pay FR&I 149 (1)(b)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	4 Jul 44	Spr		AA 15 (1) AWL 10 hrs, 30 mins	Doc L/Cpl Morris F	14 Days C.B. 14 days pay	5 Jul 44		Forf 1 days pay FR&I 149 (1)(a) Forfeit 14 days pay under FR&I 149 (2) Total forf of 15 days pay
Field	6-9-44	Spr	5	Tried by FGCM (1)Offence under A A Sec 19. (2) An Offence under Sec 40 Found guilty of AA Sec 19		6 Mons. Det 181 days pay FR&I 149 (b)	FGCM		Forf 6 days pay FR&I 149(1)(c)(1) Total forf 187 days pay
									Granted 60 days remission of Sentence
Field	24-2-45	Spr		AA15 (1) AWL 17 days 17 hrs 15 Mins	Doc	28 days Detn 28 days Detn	15 Mar 45	Lt Col HGJ Woods	Forf 18 Days pay FR&I 149(1)(a) Forf 28 days Pay FR&I 149(1)(b)
			CERTIFIED	TRUE COPY OF ORIGINA L DOCUMENT IN MY CUSTODY		REV FRANKLEY Major RCE Admn Officer No 1 Can Engr Bft Unit Canadian Army(Overseas)			

SUB FOR ARMY FORM B.-96 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
D-82203	Spr	Alan Roy GRANT	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For....A.A.18(1)..... ..15..times.

For....A.A..19..... 4 times.

For....A.A..40..... ...1. times.

For..... ..... times.

Date of first entry in Field Conduct Sheet...6 Jan 41

Date of last entry in Field Conduct Sheet...15 Mar 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~The accused at the present time be under any [illegible]~~.....

beginning on the.....day of.....

4. The accused has been awaiting trial on the present charges for.....Nil.....

days in civil custody; and for....8.....days in military custody, i.e., ...NIL.....days in open arrest,....8.....days in close arrest; of which.....NIL.....days were spent in hospital.

Strike out if not applicable.

5. The present age of the accused is..44 10/12 yrs

6. The date of his ...attestation.....is..20 May 40
calling up for military service

7. The service which the accused is allowed to reckon is .....4 yrs.....

8. The accused is in possession of..GVSM.and.Clasp.

9. (if the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date - Date of Promotion.

In the substantive rank of ....
In the war substantive rank of ....
In the acting rank of..... .....

State the military decorations (if any held by accused.

INSTRUCTION.- If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charge upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
R.G.C.M.	1 Feb 45 in the field	An offense under A.A. 15(1)	80 days Detn	Granted 24 dys remissi
F.G.C.M.	2 Sep 44 in the field	An offense under A.A. Sec 15	6 mos Detn 181 days pay FR & I 149 (b)	Granted 60 dys remissi

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

Signed this 30th day of May 1945

(H.E.V. FRANKLAND) Major RCE
Administration Officer
No 1 Can Engr Rft Unit
Canadian Army (Overseas)

COUNTER NUMBER 43345

HOUR 16:45

OPERATOR'S INITIALS L.B.

RELIEVING OPERATOR

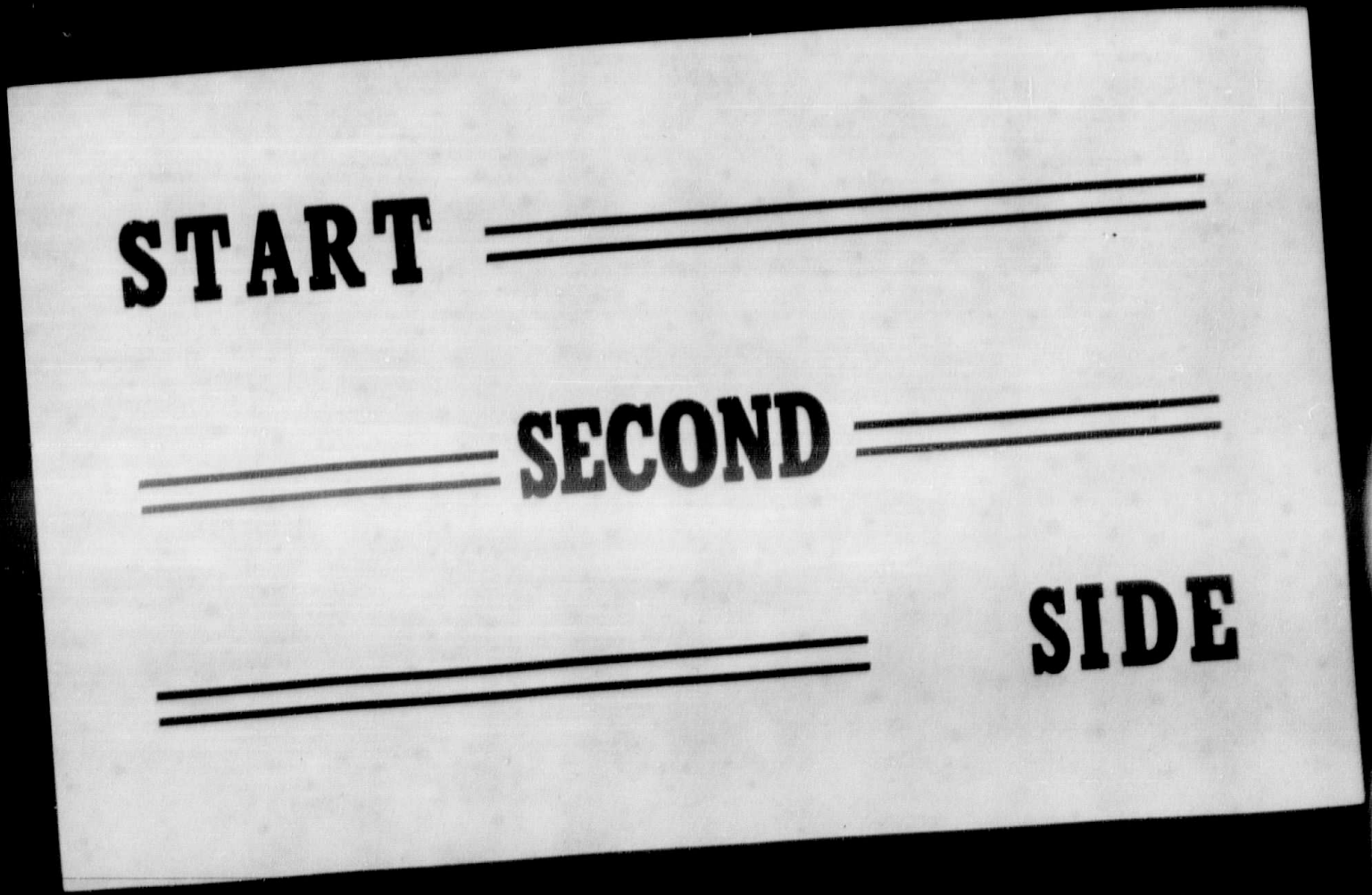
END

FIRST

SIDE


REEL
NO.
44.25

REEL NO. 44.25


START
SECOND
SIDE

ZZZ-112 Case #2

Spr. Grant A.R.

Case #1-Y-43

RECORDED AT CMHQ IN AB 160, 222-112

RECEIVED 28 OCT 1944

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AF A3) 40-1-A 8/1608 (2864)

Convened by Order of LT-COL. A.J. KERRY Comd 2 Cdn Army Tps dated 29 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns; KR Can 306, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82203	Spr	Alan Roy Grant		32 Fd. Coy., R.C.E.

PROCEEDINGS REVIEWED 23 OCT 44

JCdC H.C. Jude Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 2 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p. 4. Citations do NOT include all relevant Finn RDs. For guidance as to procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation, will be made and given a number having reference to appropriate to preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which issues are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 56.3(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans: ...~~

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans: ...~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans: No Sir.(2)

(1. RP 110. 2. If no objection, waiting member returns. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj. E.H. Wright	34 Fd. Coy., R.C.E.
Member	A/Capt. H.A. Cann	11 Fd. Pk. Coy., R.C.E.
Member	Lt. R.B. Snyder	34 Fd. Coy., R.C.E.
Judge-Advocate		
Prosecutor	Capt. W.B. Sinclair	32 Fd. Coy., R.C.E.
Defending Offr	Lt. J.W. McCammon	32 Fd. Coy., R.C.E.

Questions by President: Is the Prosecutor a lawyer? Ans: No Sir. Is the Defending Offr a lawyer? Ans: No Sir.

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused D-82203 Spr. A.R. Grant before arraignment make(s) ~~(has)~~ (no) plea ~~in bar of trial which was disallowed by the court~~ (see proceedings).(1)

(1. If a special plea is made for separate trial on one or more charges, RP 62(E), (iii), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (AP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in NB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, AP 33. If otherwise, deliver and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. JJ-47

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82203 Spr. Grant A.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd Alternative	Guilty	Not Guilty	This finding was automatic when 1st finding was "Guilty"
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of NG see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date)~~ (1) Fwd

(1. Insert sentence being served, or delete, if not applicable. See RP 45(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(F) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 6 months

(Sgd) ... Judge-Advocate, if any. 2 Sep 44 Date awarded. (Sgd) C.W. Wright Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

The finding of the court that the plea in bar of trial is not true is rejected. Finding and sentence confirmed.

~~(Initialled by person who signs for Confirming Officer)~~ (1. AA 57A. Delete if not used.)

(Sgd) ... Commanding

Date 2 Sep 44. CRE 2 Cdn Army Tps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-82203 Spr Grant A.R.	5 Sep 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing etc, to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accord see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (H); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B); and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans. ..... [5]
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 37(B) fn 5 para 3, MAML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea pending as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceding with C 2.[1]
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir [1]
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).[2] The Court is cleared, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]~~
(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes I will give evidence myself you intend to call witnesses on your behalf?
Ans. Yes Sir Are they witnesses as to character only? Ans. .....
(1. RP 155. 2. RP 40(A), see 92(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Final charge(s) being subject to confirmation, will be promulgated later.[1] ~~Or, The President announces that the accused is found Not Guilty on all charges and so he is released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans. No sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.[3]
(1. MFR 155 or MFR 298. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans. Yes sir. [2]
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or call anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(1. AA 56(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets as which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2202, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(5), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA8)
46/P&SD/1697 (2563)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 108.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D82203	Spr.		Alan Roy	GRANT	32 Cdn Fd Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 29 Aug ~~44~~ endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Major	E.H. Wright	34 Cdn Fd Coy

(Must be named. RP 106.)

MEMBERS.

Rank.	Name	Unit.
Lieutenant (Acting Captain)	H.A. Cann	11 Cdn Fd Pk Coy
One lieutenant to be detailed by O.C.		34 Cdn Fd Coy

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name	Unit.
One lieutenant to be detailed from	H.Q. R.C.E.	2 Cdn A Tps

(Named or detailed, if any. RP 106.)

~~JUDGE ADVOCATE~~

Rank.	Name	Unit.

(Must be named, if any. RP 106.)

On Active Service in the Fd

in France
(Country.)

Date 29 Aug ~~44~~

[signature] Lt Col RCE
(Signed personally. RP 105 fn 2.) (Rank.)

Commanding CRE 2 Cdn A Tps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, D82203 Spr Alan Roy Grant, Royal Canadian Engineers, on strength of 32 Canadian Field Company, a soldier of the Canadian Army Overseas, placed on active service, is charged with:-

FIRST CHARGE
AA Sec 19

DRUNKENNESS

in that he

when on active service, in France, was drunk at 0730 hrs on 25 Aug 44 on the morning parade of No 1 platoon 32 Cdn Fd Coy.

SECOND CHARGE
In the Alternative
AA Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field in France at 0730 hrs 25 Aug 44 was unfit for duty due to previous indulgence in alcoholic stimulants.

(P.J. Maggs) Maj RCE
O.C. 32 Cdn Fd Coy

In the Field
DATE 29 Aug 44.

to be tried by F.G.C.M.

29 Aug 44.

...Lt. Col. R.C.E.
C.R.E., 2 Cdn A. Tps.

E H Wright Maj
Pres.

This is to certify that I have this 2 day of Sep 1944 medically examined D82203 Spr Grant, A.R. and that he is fig. to undergo trial by Court Martial.

(Medical Officer)
RCE 2 Cdn Army Tps

Field

Date 28 Sep 1944.

Q- If he was very sick might his reaction have been similar?
A- No. They would not have.

Question by Court:
Q- Did accused complain of being ill on the morning in question?
A- No. Sir.
Q- Had he attended sick parade that morning?
A- No. Sir.
Q- What were accused's exact words to you on parade?
A- "I'm drunk Sgt."

Question by Accused:
Q- Was I on parade & did I answer my name on roll call?
A- Yes in both cases.
Q- Did you make any attempt to find out whether I was drunk or whether I was sick?
A- By the time I got through with parade you were in your bed sound asleep.
Q- Why did you not place me under close arrest immediately when you thought I was in a drunken condition?
A- Because there was a parade on & I was detailing men for the job. and knew that in the condition you were in, you were harmless.
Q- Did you come down to my tent later?
A- I did at approx. 0800 and the accused had his head covered up and all the appearances of being asleep.
Q- You made no attempt to find out whether I was asleep or not?
A- I did not.
Q- Was there a guard on my tent when you visited me at approx. 0800 hrs?
A- There were two men detailed, and one was on guard. He told me Spr. Brant was asleep.

PROCEEDINGS

E H Wright Maj Pres (1)

The accused before arraignment makes a plea in bar of trial because he was not given a copy of the charge sheet or told why he was under close arrest until 1900 hrs 27 Aug 44 (59 hrs. 30 mins.) after being placed in close arrest.)

On being questioned the accused admits that he did not request a copy of the charge at all within this period.

The court having regard to Sec 45 footnote (1) of the A.A. where it states that the charge must be forthcoming within 48 hrs and a copy given to the accused at his request — Also the fact that the 27 Aug 44 was a Sunday which made it unnecessary to bring the accused before the O.C. until the following morning despite the fact that the 48 hrs. in confinement were up at 0730 hrs. on Sunday morning disallow the plea and continue with the trial

1st Witness M-7157. Sgt. Nelson L.F. 32 Fd. Coy. R.C.E.

Having been duly sworn, states.

I called parade at 0730 hrs. 25 Aug. 1944. Spr. Grant, a member of #1 Pl. appeared on parade in an unsteady and wabbly condition. I asked him what was wrong. He stated he was drunk. He had all the appearances of being drunk. I left him for a few minutes, but he appeared unable to straighten himself up, so I sent him back to his own tent. When told to fall out and go to his tent. he went in the opposite direction, and had to be assisted to his own tent.

Questions by Prosecutor:-

Q. Was Spr. Grant required for work that day?

A. He was sir.

Q. Would he have been able to carry out this work?

A. He would not

Questions by Defence:-

Q. Did you smell liquor on the accused?

A. I did not. I wasn't close enough.

3rd Witness - M-100264 Spr. Morkin. R.J. 32 Fd. Coy. R.C.E

Having been duly sworn states.

On the evening of Aug. 24. two civilian came into our bivouac area. at approx. 2100 hrs. with a bottle of spirits. Spr. Drant + I bought the bottle. We drank the bottle and went to bed.

Question by Prosecutor:-

Q. What size bottle was it?
A- The ordinary size wine bottle.
Q- What kind of spirits were in the bottle?
A- I thought when I bought it. it was Cognac. but later found out it was Calvados.
Q- Did any one else but Spr. Drant + yourself have any of that bottle?
A- No. Sir.
Q- About what time did you go to bed?
A- About 2300 hrs.

Question by Defence:-

Q- Did you see Spr. Drant before morning parade on Aug. 25?
A- Yes. Sir.
Q- Did he appear sick to you?
A- Yes he was sick.
Q- Did you consider him still drunk?
A- I am unable to answer that question.
Q- What evidence of his sickness can you give?
A- He was throwing up. when he first got up.

Question by Court:-

Q- In your opinion was the accused fit for work that day?
A- I don't think he was too sick to work

2nd Witness:- M-7012. L/Bdr. Lamoureux. J.A. 32 Fd. Coy. R.C.E.

Having been duly sworn states.

I was on parade with "A" Pl. 32 Fd. Coy. R.C.E at 0730 hrs. 25 Aug. 1944. and saw Spr. Grant. He was unable to stand steady on parade. He was ordered to return to his own tent, and staggered off to a tent other than his own. He had to be assisted to his own tent.

Questions by Prosecution:-

Q. Could the accused have carried out his duties that morning?
A. No. Sir. Not in my opinion

Question by Defence:-

Q. Did you smell liquor on the accused?
A. No. I did not.
Q. If he were violently sick might he not have been in the same condition?
A. In my opinion. No.
Q. At what time had the tents been put up?
A. The previous evening in daylight.
Q. So it possible the accused did not know for sure where his tent was?
A. No. I hardly think so.

Question by Court:-

Q. Did Spr. Grant complain of any illness on the morning in question?
A. No. Sir.
Q. Are you his section commander?
A. Yes.
Q. Did you hear the conversation between Spr. Grant & Sgt. Nelson on parade.
A. Yes Sir.
Q. What was his reply to Sgt. Nelson?
A. "I am drunk Sgt."

Question by Prosecutor:-

Q- How do you know you were sobber on parade on the morning of Aug. 25?

A- I was able get up, get on parade, without assistance, and also fell in on parade in the usual manner. I also answered my name when the roll was called.

Q- Your definition of a drunken man, then, is an unconscious man?

A- No. Sir.

Q- Surely as long as you were conscious, and heard your name called, You could answer it?

A- Yes. Sir.

Q. ~~Could you [illegible]~~ EHW Have you a better explanation then of why you think you were sobber?

A- In my opinion my mind was clear.

Q. Why did you tell the Sgt. you were drunk?

A- It was just that I did feel so miserable that at the time I didn't think any action would be taken, I just wanted to get out of parade, as I was sick

Q- Why did you wait until you were ordered to leave parade, rather than ask permission on account of illness?

A- Because I knew that by the way the names were being called, that the parade would soon be over, and I would have a chance to leave, then.

Q- If you were doubtful as to when you were going to throw up, why did you not go to a latrine instead of to your tent?

A- I had been throwing up, and was trying to suppress the urge to throw up, as there was nothing left in my stomach to throw up.

Q- Over drinking causes people to vomit, does it not?

A- It depends on the person.

~~Q- If a person became ill in the manner it would not necessarily make him sobber?~~ Cas

Question by Court:-

Q- Why did you not report sick on morning of 27 Aug.

A- I was too sick to care whether I went to the M.O. or not.

4th Witness - 2-40997 Cpl. Pascoe T.A. 32 Fd. Coy. R.C.E.

Having been duly sworn states

After the morning parade on Aug. 25. I was detailed to guard Cpl. Grant. I went to his tent. Cpl. Grant was asleep inside.

Question by Prosecution:

Q. How long after parade was called did you go down to the tent?

A. At approx. 0750 hrs. I reported at Cpl. Grants tent as guard.

Question by Defence:

Q. Did you smell liquor on the accused?

A. No. Sir.

Q. Were you close enough to him that you could have smelled it?

A. No Sir.

Q. Was Cpl Grant sick?

A. Yes. he appeared to be sick.

Q. Was he left in a sick condition for the next 24 hours while you were my guard?

A. Yes.

5th Witness:- 2-82203 Cpl. Grant A.H. 32 Cdn. Fd. Coy R.C.E

Having been duly sworn states.

In evidence Cpl. Workin gave. I agree with. I did buy a bottle with him, we drank it, and went to bed. I had been suffering, more or less from diarrhea, and I believe that to be one of the contributing causes of my condition the next morning. I also, don't think that I was in any condition to go to work. But I do not believe, and I know that it wasn't due to drunkenness, although I do believe that what I had to drink the night before had something to do with it. I made my way out onto parade all right and fell in on parade in the usual manner, and I think my condition was due to a combination of the condition of my stomach and what I had to drink the night before.

back to Canada from there. As the P.S.O. officer there to do what he could to keep me overseas. I didn't feel as though I wanted to spend all that time over here, and be sent home at the last moment just when it appeared some thing might happen. The result was I was posted to #1 C.E.R.U. I didn't at the time, care much for the Engineers, I suppose, on account of having spent the years I did in the infantry. As a result I got into three crimes in #1 C.E.R.U. all A.W.L.'s. My reason was that I thought by doing so I might get sent back to my own unit. I was treated there, on these charges, very leniently, as they seemed to understand the way I felt. The last time I saw the C.O. of #1 C.E.R.U. he told me that I would most likely be posted to the P.E. establishment, when I had finished my training. After I had finished my training as a sapper, I asked to be paraded to the C.O. again. At the time, I told him I did not want to go on P.E. but wished to get with a more active unit. He told me that, with my age and through C.M.H.Q. orders concerning ages, I would the best he could do would be to post me to Army Troops, which was how since coming to the Engineers in the field, I have been in no trouble to speak of, outside of a few of an hours, which happened at Maidstone. Outside of that, I don't think that any fault could be found with my work and duties. I have always wanted, and still do, to have a more active part in things than I am doing. I tried about every thing possible, to get back to my original unit, or the infantry, and still do. I want to get back. I can't say that I'm happy in the Engineers, because I am not, but rather than be, out of things altogether I would prefer to be here. I think that most of the trouble I've been in, in the past year, has been due to that course of events, when I was sent from an outfit that I liked, and still would like to be with. There is nothing the matter with me physically, that I know of

Q. Do you know of any one else who has had diarrhea, and has thrown up?
A. Only two men. That I know of.

Prosecutors Closing Address:-

The evidence of two witnesses has shown that Spr. Grant appeared on parade in an unsteady condition that could not be mistaken for illness. It was by his own admission not in a fit condition for work. In my opinion he has failed to give a satisfactory explanation of why he believes he was sober. There is no evidence to show that he actually was sober. It has also been shown, that the accused had a considerable quantity of strong liquor, 8½ hrs. before parade time.

Defence Closing Address:-

Spr. Grant had previously been sick with diarrhea. This combined with the liquor, made him very ill. Under such condition, a person can very well be shaky and unsteady on their feet. A full night and a half hours had passed since he had drunk the liquor. No evidence was given that he smelled of liquor. My contention is, that Spr. Grant was sick and the evidence does not prove he was drunk.

Plea in Mitigation of Sentence by the Accused:-

I have been overseas for four years, and I know my crime what is now too good. Most of my time has been spent in the infantry. About a year ago, I was sent out of the infantry, on account of my age. I didn't want to leave, and after being sent to the 5 C.I.R.U. I had two opportunities of going back to Canada. On one of them I was detailed as a P.O.W. escort, and I was paraded, and asked to be taken off. His wish was granted. Later I was sent to N.E.T.D. for re-allocation, and could have gone

and I would welcome an opportunity to get back if possible. (7)

I hope that the court will try and understand the way I feel about being in the position I am in now, and if I thought that drinking that night would place me where I now am, I certainly wouldn't have taken any. I think that I have acted, and tried to stay with an active part of the army, and I hate to be sent out of it right at this moment. Regardless of any of these things, I do, and always did want to do my bit in this war, ~~and~~

(8) Question by the Court:-

Q- Are you a married man?
A- Yes. I have a wife in the U.S.A.
Q- Have you any children?
A- No, sir.

EXHIBIT "A"

Eff Wright Maj

M.F.B. 354
40/P & S/075

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D82203	Spr	Grant, A.R.	32 Cdn Fd Coy RCE

1. The following is a fair and true summary of the entries in the Conduct sheets ~~[illegible]~~ Regimental ~~and Squadron Battery~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~[illegible]~~ Army Act and of cases in which trial has been dispensed with.

Within last 12 months			Since enlistment		
For AA 15 (1)	4	times	AA 15 (1)	11	times
For		times	AA 19 (Drunkenness)	4	times
For		times	AA 40	1	times
For		times	Charges of Drunkenness		

~~[illegible]~~ 2 charges carried over from original sheet
3rd charge-Field 12 Feb 41
4th charge-Field 12 Sep 42

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~[illegible]~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~[illegible]~~ Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~ day of

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 44 years, ~~69~~ 73 days

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper 23 May 1940

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon 4 yrs 97 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~[illegible]~~ military decoration, or ~~[illegible]~~ military (or is in possession of or entitled to). State any ~~[illegible]~~ military decoration or reward. CVSM & Clasp

10. (If the accused is a warrant officer.) ~~[illegible]~~

11. (In the case of an officer.) [redacted] Permanent Force unit

dated ..... and in his regiment (or corps), the rank of

dated .....

12. [redacted] continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D82203 Rank SPR

Name Grant, A.R. of 12 Cdn Fd Coy RCE Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	1 Feb 43	AWL 10 days 19 hrs	60 days det	24 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this twenty ninth day of August 1944

W.B. Blair, Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

EXHIBIT "B"

No. D82203 Name Grant, A.R. Sqn., Battery, or Company Corps RCE Date of enlistment 20.5.40 O.C. Badges Service or Proficiency Pay M.F.M. & A.F.R. (AFB 122) 40/PAC/198 (19438)

Date of last entry in Company Conduct Sheet 20.11.40 and date of last drunk 2 Period not reckoning towards freedom from extra fine Sheet No. I Signature O.C. Company, etc. ????? Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 20,12,40		Admonished	6 Jan 41		3 days pay 149(1)(a)
Field		Pte		AA 15 (1) AWL 2 days 18 hrs		3 days pay	23 Jan 41		3 days pay 149(1)(a)
Field		Pte		AA 15 (1) AWL 2 days 17 hrs 35 mins		Fined $10.00	12 Feb 41		
Field		Pte		AA 19 Drunkenness		14 days pay	13 Feb 41		1 day 149(1)(a)
Field		Pte		AA 40		Admonished	14 Apr 41		5 days 149(1)(a)
Field		Pte		AA 15 (1) AWL 18 ½ hrs		14 days FP &	28 Apr 41		2 days 149(1)(a)
Field		Pte		AA 15 (1) AWL 4 days 22 hrs		14 days pay			
Field		Pte		AA 15 (1) AWL 1 day 23 hrs 12 mins		7 days CB & 7 days pay	27 Oct 41		8 days 149(1)(a)
Field		Pte		AA 15 (1) AWL 7 days 8 hrs		27 days FP & 27 days pay	2 Dec 41		

No D82203 Name Grant, A.R. Sqn. Battery or Company Corps RCE Date of enlistment 20-5-40 OC Badges Service or Proficiency Pay MFM & (AFB 122) 40/PAC/198 (19438)

Date of last entry in Company Conduct Sheet 20-11-40 and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Jan 44	Spr		AA 15(1) AWL from 2200 hrs 16 Jan 44 to 1800 hrs 31 Jan 44 (absent 14 days 18 hrs)	Sgt Curtis, Doc	14 dys det Forf 14 days pay FR &I 149 (1)(b)	1 Feb 44	Maj H F McLachlin	For 15 dys pay FR & I 149 (1)(a)
Field	2 Mar 44	Spr		AA 15(1) AWL from 2230 hrs 27 Feb 44 until app at 2345 hrs 2 Mar 44 (Absent 4 dys 1 hr 15 mins)	Doc	Forf 14 dys pay FR & I 149(2)	3 Mar 44	Lt Col A S Rutherford	Forf 5 dys pay FR &I 149 (1)(a)
Field	26 Mar 44	Spr		AA 15(1) AWL from 2230 hrs 26 Mar 44 to 2000 hrs 31 Mar 44 (Absent 4 dys 21 hrs 30 mins)	Doc	14 days FP	11 Apr 44	Maj VEC Odlum	Forf 5 dys pay FR & I 149(1)(a) Forf 14 dys pay FR & I 149(b)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award (or order dispensing with trial)	By whom awarded	Remarks
				(1)					
Field		Pte		AA 15 AWL 14 hrs		5 days CB & 5 days pay	16 Mar 42		1 day 149 (1)(a)
						3 days pay	8 Jun 42		1 day 149(1(a)
Field		Pte		AA15(1) AWL 8½ hrs		27 days FP & 27 days pay	12 Sep 42		
Field		Pte		AA 19 Drunkenness		7 days CB	26 Dec 42		5 days 149(1)(c)(1)
Field		Pte		AA 15 (1) AWL 6¾ hrs		80 days det	1 Feb 43	FGCM	
Field	15 Jan 43	Pte		AA 15 (1)AWL from 2300 hrs 15 Jan to 1800 hrs 26 Jan 43(10 days 19 hrs)	FGCM				
						Granted a remission of 24 days 10 days pay	11 Jun 43		3 days 149(1)(a)
Field	7 Jun 43	Pte		AA 15 (1) AWL from 2359 hrs 7 Jun to 2000 hrs 10 Jun 43. (2 days 20 hrs 1 min)					

Certified true copy as taken from documents in my custody

??????????????

Capt & Records Officer 5 CIRU

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award (or order dispensing with trial)	By whom awarded	Remarks
Field	4 Jul 44	Spr		AA 15(1) AWL 10 hrs, 30 mins	Doc L/Cpl Morris F	14 days CB 14 days pay	5 Jul 44	P.J. Maggs Major	Forf 1 days pay FR & I 149(1)(a) Forf 14 days pay FR & I 149(2) Total forf of 15 days pay

Certified True Copy from the Regt'l Documents in my possession

W B Sinclair

(W.B. Sinclair) Capt RCE

2 i/c 32 Cdn Fd Coy RCE

SUMMARY OF EVIDENCE

IN THE CASE OF

D82203 Spr GRANT, A.R.

32 CANADIAN FIELD COMPANY

ROYAL CANADIAN ENGINEERS

CDN ARMY (O)

First Witness - M7157 Sgt Nelson, L.F. having been duly sworn states: I, M7157 Sgt Nelson, L.F. am platoon sergeant of No 1 platoon, 32 Cdn Fd Coy. The accused D82203 Spr Grant, A.R. a member of 1 platoon, whom I recognize, was in a shaky and unsteady condition on the morning parade at 0730 hrs 25 Aug 44. I asked him what was wrong with him and he stated that he was drunk. He had all the appearances of being drunk and was in no condition to go to work to carry out the duties required of him. I told him to go to his tent and lie down and he did not seem to know where it was. He had to be assisted in order to get there.

L. Nelson
M7157 Sgt Nelson, L.F.

The accused declines to question the witness.

Second Witness - M7012 L/Sgt Lamoureux, J.A. having been duly sworn states: I, M7012 L/Sgt Lamoureux, J.A. am in charge of 1 section, 1 platoon, 32 Cdn Fd Coy. The accused whom I recognize is a member of this section. I was present on morning parade at 0730 hrs, 25 Aug 44. Spr Grant, the accused, was unable to stand steady on parade. He was ordered to return to his tent and he staggered off to a tent other than his own. He had to be assisted to his own tent.

J.A. Lamoureux
M7012 L/Sgt Lamoureux, J.A.

The accused declines to question the witness.

Third Witness - M100264 Spr Morkin, R.J. having been duly sworn states: I, M100264 Spr Morkin, R.J. am a member of 1 platoon, 32 Cdn Fd Coy. The accused, Spr Grant, whom I recognize is also a member of 1 platoon. On the 24 Aug 44 at about 2100 hrs, two civilians came into the company bivouac area to sell some liquor which they had in bottles. Spr Grant and I bought a bottle between us and we each drank some during the evening. It was about an average size wine bottle of spirits which I believed to be cognac but have since found out to be similar to what is commonly known as Calvados. We finished the bottle and went to bed at about 2300 hrs.

R.J. Morkin
M100264 Spr Morkin, R.J.

The accused declines to question the witness.

Fourth Witness - B40497 Spr Pascoe, T.A. having been duly sworn states: I, B40497 Spr Pascoe, T.A. am a member of 1 platoon 32 Cdn Fd Coy. On 25 Aug 44, just after morning parade, I was detailed to be a guard over Spr Grant, A.R., the accused, whom I recognize. Spr Grant was in his tent, asleep when I went there about twenty minutes after parade time.

T.A. Pascoe
B40497 Spr Pascoe, T.A.

The accused declines to question the witness.

R.P. 4 (c), (d), (e) and (f) have been complied with.

The accused having been duly warned under the provisions of R.P. 4 (e) declines to make a statement reserving his defences.

TAKEN BY ME THIS 29th DAY OF August 1944 AT field

In the Field
DATE 29 Aug 44

W.B. Sinclair
(W.B. Sinclair)Capt RCE

SH-112

Spr. Grant G.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82203 Spr Alan Roy GRANT 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn a.)

At present under sentence for ..... beginning on (date) ..... (1)
(If "Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B353 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B353 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

2 Years Detention for Buggery & Rape.

(Sgd) ..... Judge-Advocate, if any. Date awarded 3 May 45 (Sgd) Alex Russell President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(7), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

Date 9 May 45 (Sgd) B Thompson Brig
Commanding B Comd CRU
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D82203 Spr. Grant B.R.	12 May 45	[illegible] #Cl RCS

ENTERED PART II ORDERS
Date 14 May 45 112
Hdqrs, 1 Cdn. Engineer Spec. Brig. Base Sub-Area

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5H-112.

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of A.F.B.) 40/P & S/1690 (H. 44) 4 38B

Convening Order of Brig A.N. Connelly Comd "B" Gp CRU dated 1 May 45

ACCUSED.

(As to the trial of two or more charged jointly, see RP (5, 7), 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 320, 330.)

Regtl. No.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82203	Spr	Alan Roy	GRANT	1 CERU

PROCEEDINGS REVIEWED
19 May 45 E Seymour Lt.
HEARING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held at (place) Aldershot (country) England on (date(s)) 3 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KCs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record witness evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0932 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to Sgt Sandrucci as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 112. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.W. Miller, ED, EC.	BR CRU
Member	Captain	A.D. McCord	2 CACRU
Member	Lieutenant	A.M. Savoie	2 CACRU
Judge-Advocate			
Prosecutor	Lieut	F.J. Hastie	1 CERU
Defending Offr	Lieut	W.P. Newman	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Convr (Offr.) 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See 2nd p 3.)

A8. The accused ..... before arraignment make(s) (no) (no) plea (3)
(3. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 66, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete same and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence,* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial,* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, see Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge[s] to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D4 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D6 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to Accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....(5)
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A).* 2. *RP 44(A).* *See Notes in Part I of Schedule.*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Nothing more than they did after the last Court
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[s] as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet[s](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFR 353 or MFR 294.* 2. *MFM 6.* 3. *RP 46. KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement[s] and Conduct Sheet[s], and in mitigation of punishment?(1) Ans Nothing they did after the last Court
(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence (to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 90, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3205, 2323, MML p 60, 757-759. As to sentences consigned for civil offences by the law of England see AA 41(3), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and disperse of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
D-82203	Spr		Alan Roy	GRANT	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Miller, ED, KC.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	2 CACRU
Lieutenant	to be detailed by CO	2 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

A.B. Connelly (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Dat 1 May 45

Commanding "B" Gp Cdn Rft Units.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 2 (See Table of AFA 3) 40-P & E/1691 (8143) (Can overleaf for points and notes for use on trial.)

CHARGE SHEET

The accused D-82203 Spr Alan Roy GRANT, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit. a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
A A 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from No. 1 Canadian Engineer Reinforcement Unit from 0830 hrs 18 Apr 1945 until surrendering himself to the Guard Commander at No. 1 Cdn Engr Rft Unit at 2240 hrs 25 April 1945.

(Total Time Absent 7 Dys 14 hrs 10 mins)

(A.J. KERRY) COLONEL RCE
Commanding Officer
No. 1 Cdn Engr Rft Unit
Canadian Army (Overseas)

In the field
28 April 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(A.B. Connelly) Brig.
Comd "B" Gp
Cdn Rft Units.

In the field
1 May 1945

CASE OF

E-1 D-82203 Sapper GRANT, A.R., R.C.E. - No. 1 C.E.B.U.

PLEA IN MITIGATION OF SENTENCE

It is quite obvious from this man's conduct sheet why he was sent up for Court-Martial, even though he was only AWL seven days. From his Army record it is quite clear that he has been a consistent offender, as far as being AWL is concerned. There are some possible reasons why he has been a consistent offender. In the first place, he is an American citizen. He enlisted voluntarily in the Cdn Army on 25 May 40, in the 1st Bn of the Black Watch Regt. He came overseas with the regt and he was with them until the end of 43, at which time he was returned to NWTD to be sent back to Canada and possibly discharged as being overage for inf but at that time he was compulsorily transferred to the Engrs as he was a carpenter in civilian life. I may point out here that during his stay with the Black Watch, he had little opportunity to practice at his trade of carpentry. This has been quite a concern to him, as he could foresee his return to civilian life. As he had not practiced at his trade for three to four years, he realized that he would be under a definite handicap. With the Engrs, he evidently became a tradesman carpenter Gp "C" and joined the 32 Fd Coy and landed in France at the end of Jul 44. However, he didn't have much opportunity to practice at his trade but carried on his military duties until a charge of drunkenness was placed against him on 6 Sep 44. At that particular time, it was not unusual for people to drink under the stress of war and he was given quite a severe punishment considering. About this time, he had injured his knee, developed water on the knee and was in hospital in France from 18 Sep to 12 Dec 44. He returned to this country and finished his detn on 20 Dec 44. From that time on, he was given fatigue duties in the EU and was consequently "browned off", but not working at his traded. I also may state that the accused had no leave for a period of 20 months, but he was eventually given 9 days' leave from which he failed to return at its expiration. Again he returned to the unit and was given these fatigues to do in the course of which he went AWL for this period of 7 days. The accused has a cat of L-3. From his Army record, it is quite clear, although his stability is classified as 1, it should be considerably lower than that. He is married and has been on occasions worried about his family at home. I think the Court should definitely consider this man's case in the light that he be discharged as soon as possible. His use to the Army is very limited and it is no cure to sentence him to further detn. He has done his duty and his age is such that he should be returned to civilian life.

SUMMARY OF EVIDENCE

Summary of evidence in the case of D-82203 Spr Alan Roy GRANT, Royal Canadian Engineers, No. 1 Cdn Engr Rft Unit, a soldier of the Canadian Army (Overseas).

FIRST WITNESS
For the prosecution M-41539 Sgt BOWEN, W.J., RCE, of No. 1 Cdn Engr Rft Unit, having been duly sworn states:-

I, M-41539 Sgt BOWEN, W.J., am section Sgt of HQs Section of Depot Coy. On the 18th April 1945 at 0830 hrs I went to Spider 8 Rm 4, at No. 1 CERU to check on the Room Orderly. D-82203 Spr Alan Roy GRANT whom I had appointed Room Orderly was not on duty at this time. I went back at 0930 hrs 18 Apr 45 and found that he was still not there. I reported him A.W.L., to Depot Coy Orderly Room at No. 1 CERU. I went in to the room each day, up to, and including 26 Apr 45 and D-82203 Spr Alan Roy GRANT was not there.

W J Bowen
M-41539 Sgt BOWEN, W.J.

The accused declines to question this witness.

SECOND WITNESS
For the prosecution M-41514 Sgt TYRRELL, G.M., RCE, of No. 1 Cdn Engr Rft Unit, having been duly sworn states:-

I, M-41514 Sgt TYRRELL, G.M., am acting CSM for Depot Coy. I personally checked Spider 8 Room 4 at Tattoo Roll Call 18th Apr 45 and at Reveille Roll Call on 19th Apr 45, and D-82203 Spr Alan Roy GRANT was not present, and on each succeeding day up to and including 26 Apr 45, D-82203 Spr Alan Roy GRANT was not present at Reveille or Tattoo Roll Call.

G M Tyrrell
M-41514 Sgt TYRRELL, G.M.

The accused declines to question this witness.

THIRD WITNESS
For the prosecution B-28560 A/L/Sgt JAMES, A.B., of No. 1 Cdn Engr Rft Unit having been duly sworn states:-

I, B-28560 A/L/Sgt JAMES, A.B., was Guard Commander at No. 1 CERU on 25 Apr 45. At 2246 hrs 25 Apr 45 D-82203 Spr Alan Roy GRANT surrendered himself to the Guard Room at No. 1 CERU.

I put him under close arrest and put him in to Unit Detention.

A B James A/Sgt
B-28560 A/L/Sgt JAMES, A.B.

The accused declines to question this witness.

FOURTH WITNESS
For the prosecution

B-55275 Cpl McLURE, V., RCE of No. 1 Cdn Engr Rft Unit having been duly sworn states:-

I, B-55275 Cpl McLURE, V., was Cpl of the Guard at No. 1 CEmU on 25 Apr 45. I was in the Guard Room on this night when the Guard Commander B-28560 A/L/Sgt JAMES, A.B. called me in to the office and told me to take D-82205 Spr Alan Roy GRANT, who was under close arrest, to the Unit Detention Barracks under Escort. I took Spr GRANT to the Unit Detention.

Cpl V McClure
B-55275 Cpl McLURE, V.

The accused declines to question this witness.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages was taken down by me, in the presence and hearing of the accused and that Rules of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

In the field
29 Apr 45

J Sugarman Lt RCE
(J. SUGARMAN) Lt., RCE
Officer detailed to take the Summary of Evidence.

Cpl
A/Sgt

LIST OF WITNESSES

List of witnesses in the case of D-82203 Spr Alan Roy GRANT Royal Canadian Engineers, No. 1 Cdn Engr Rft Unit, a soldier of the Canadian Army (Overseas).

FOR THE PROSECUTION

(1)	M-41539	Sgt BOWEN, W.J.	RCE	No. 1 C.E.R.U.
(2)	M-41514	Sgt TYRRELL, G.M.	RCE	No. 1 C.E.R.U.
(3)	B-28560	A/L/S JAMES, A.B.	RCE	No. 1 C.E.R.U.
(4)	B-53273	Cpl McCLURE, V.	RCE	No. 1 C.E.R.U.

LIST OF EXHIBITS

FOR THE PROSECUTION

NIL

FOR THE DEFENCE

NIL

APPLICATION FOR DEFENDING OFFICER

I desire that Lt. W.R. NEWMAN, RCE, No. 1 CERU be assigned to represent me in the event of Court Martial.

A. R. Grant
(D-82203 Spr GRANT, A.R.)

RECEIPT FOR DOCUMENTS

I, D-82203 Spr Alan Roy GRANT hereby acknowledge receipt of one copy of the charge sheet, and Summary of Evidence.

DATED THIS 30 day of April 1945

A. R. Grant
(D-82203 Spr GRANT, A.R.)

B-32203

No. Name GRANT A.R. Sqn., Battery, or Company Corps RCE Date of enlistment 20-5-40 C.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 121)

Date of last entry in Company Conduct Sheet 20-11-40 No. and date of last drunk 2 Period not reckoning towards freedom from extra fine Sheet No. I Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (agreeing with trial)	By whom awarded	Remarks
				Original sheet destroyed 20-12-40.					
Field		Pte		AA15(1) AWL 2 days 18 hrs.		admonished	6 Jan 41		3dys Pay 149(1)(a)
Field		Pte		AA 15(1) AWL 2 dys 17 hrs 35 mins		3 days Pay	23 Jan 41		3 dys pay 149 149(1)(a)
Field		Pte	2	AA 19 Drunkenness		Fined $10.00	12 Feb 41		
Field		Pte		AA 40		14 dys pay	13 Feb 41		
Field		Pte		AA 15(1) AWL 18½ hrs		Admonished	14 Apr 41		1 dys 149(1)(a)
Field		Pte		AA 15(1) AWL 4 dys 2½ hrs		14 dys FP plus 14 dys pay	28Apr 41		5 dys 149(1)(a)
Field		Pte		AA 15(1) AWL 1day 23 hrs 12 mins		7 dys C.B. plus 7 dys pay	27 Oct 41		2 dys 149(1)(a)
Field		Pte		AA 15(1) AWL 7 dys 8 hrs		27 dys F.P. plus 7 days pay	2 Dec 41		8 dys 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						5 dys CB plus			1 day 149(1)(a)
Field		Pte		AA 15(1) A.W.L. 14hrs		5 dys pay	16 Mar 42		
						3days pay	8 Jun 42		1 day 149(1)(a)
Field		Pte		AA 15(1) AWL 8½ hrs.		27 dys FP plus			
Field		Pte	24	AA 19 Drunkenness		27 dys Pay	12 Sep 42		
						7 dys C.B.	26 Dec 42		1 day 149(1)(a)
Field		Pte		AA 15(1) AWL 6¼ hrs		60 dys Detn	1 Feb 43	F.C.C.M.	11 dys 149(1)(a)
Field	15 Jan 43	Pte		AA 15(1) AWL from 2300 hrs 15 Jan to 1800 hrs 26 Jan43.(10dys 19Hrs)					5 dys 149(1)(a)
				Granted a remission of 24 days.					
Field	7 Jun 43	Pte		AA 15(1) AWL from 2359 hrs 7 Jun 43 to 2000 hrs 10 Jun 43 (2 dys 20 hrs 1 min)		10 dys pay	11 Jun 43		3 dys 149(1)(a)

D-82203
No.

Name GRANT A.R. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 20-5-40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/156 (5415)

Date of last entry in Company Conduct Sheet 20-11-40 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Jan 44	Spr		AA15(1) AWL from 2200 hrs 16 Jan 44 to 1800 hrs 31 Jan 44	Sjt Curtis Doc.	14 dys Detn. Forf 14 Dys Pay FR&I 149 (1)(b)	1 Feb 44	Maj. H.F. McLachlin	Forf 15 Dys Pay FR&I 149 (1)(a)
Field	2 Mar 44	Spr		AA15(1) AWL from 2230 hrs 27 Feb 44 until appre at 2345 hrs 2 Mar 44 (Absent 4 days 21hrs 30 mins)	Doc	Forf 14 Dys Pay FR&I 149 (2)	3 Mar 44	Lt Col AS Rutherford	Forf 5 Dys Pay FR&I 149(1)(a)
Field	26 Mar 44	Spr		AA15(1)AWL from 2230 hrs 26 Mar 44 to 2000 hrs 31 Mar 44 (Absent 4 days 21 hrs 30 mins)	Doc	14 Dys F.P.	11 Apr 44	Major VEC Odlum	Forf 5 dys Pay FR&I 149(1)(a) Forf 14 days pay FR&I 149 (1)(c)

Place	Date of offence	Rank	Corps or formation	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial by GCM	By whom awarded	Remarks
Field	4 Jul 44	Spr		AA 15 (1) AWL 10 hrs, 30 mins	Doc L/Col Morris F	14 Days G.B. 14 days pay	5 Jul 44		Forf 1 days pay. FR&I 149 (1)(a) Forf 14 days pay under FR&I 149 (2) Total forf of 15 days pay
Field	6-9-44	Spr	5	Tried by FGCM (1)Offence under A A Sec 19. (2) An Offence under Sec 40 Found guilty of AA Sec 19		6 Mons. Det 181 days pay FR&I 149 (b)	FGCM		Forf 6 days pay FR&I 149(3)(c)(1) Total forf 187 days pay
								Granted 60 days remission of Sentence	
Field	24-2-45	Spr		AA15 (1) AWL 17 days 17 hrs 15 Mins	Doc	28 days Detn 28 days Detn	15 Mar 45	Lt Col HOJ Woods	Forf 18 Days pay FR&I 149(1)(a) Fors.28 days Pay FR&I 149(1)(b)
			CERTIFIED	TRUE COPY OF ORIGINA L DOCUMENT IN MY CUSTODY				REV PRANGLEY Major RCE Admn Officer No 1 Cdn Engr Bft Unit Canadian Army(Overseas)	

SUB FOR ARMY FORM B.496 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
D-82203	Spr	Alan Roy GRANT	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable.

State the military decorations (if any held by accused.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For....A.A.18(1)..... ..15..times.

For....A.A..19..... 4[illegible] times.

For....A.A..40..... ..1. times.

For..... ..... times.

Date of first entry in Field Conduct Sheet...[illegible] Jan 41

Date of last entry in Field Conduct Sheet...15 Mar 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~The accused at the present time to undergo [illegible]~~.....

beginning on the.....day of.....

4. The accused has been awaiting trial on the present charges for.....Nil.....

days in civil custody; and for....8.....days in military custody, i.e., ...NIL.....days in open arrest,.....8.....days in close arrest; of which.....NIL.....days were spent in hospital.

5. The present age of the accused is..44 10/12 yrs

6. The date of his...attestation.....is..20 May 40
calling up for military service

7. The service which the accused is allowed to reckon is .....4 yrs.....

8. The accused is in possession of..GVSM and Clasp.

9. (if the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date - Date of Promotion.

In the substantive rank of ....
In the war substantive rank of ....
In the acting rank of..... .....

INSTRUCTION.- If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

STATEMENT OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
R.C.C.M.	1 Feb 45 in the field	An offense under A.A. 15(1)	80 days Detn	Granted 24 dys remissi
F.G.C.M.	2 Sep 44 in the field	An offense under A.A. Sec. 19	6 mos Detn 181 days pay FR & I 149 (b)	Granted 60 dys remissi

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

Signed this 30th day of March 1945.

(H.E.V. FRANKLIN) Major RCE
Administration Officer
No 1 Cdn Engr Bft Unit
Canadian Army (Overseas)

Medical Officers' Certificate
K.R.(Con) para 557

I certify that I have this morning examined No. [illegible] (Rank) [illegible] (Name) of [illegible] and in my opinion he is fit to undergo trial by Court Martial.

Station Field

Date 1-5-15

Sig. [illegible] (Medical Officer)

Y 413

PTE. GRANT, AR.

Y 43.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A."

Order convening the Court

F. Gilmour Major Pres

On Active Service, this 29 day of January, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial: * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

* ~~I am unable to appoint~~

~~(1) Three Officers to form the Court.)~~

~~(2) A Field Officer as President.)~~

~~(3) Three Officers having more than one year's~~

~~xxxxxx~~

~~for the following reasons, namely:-)~~

143

In my opinion, military exigencies, namely, the dispersion of units, and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistant with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule.

16 Feb 43

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	HQ 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Major to be appointed by O.C. - R de Mais		R de Mais
Lieut to be appointed by O.C. Calg Highrs		Calg Highrs
WAITING MEMBER		
Lieut to be appointed by O.C. R.H.C.		R.H.C.

*Signed. E. Kanetz, Lt. Col

A/Comd 5 Cdn Inf Bde

Commanding

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D.82203, Pte., Alan Roy GRANT, 1st Battalion, The Black Watch (RHR) of Canada	Absenting himself without leave, in that he, in the field, absented himself without leave from 2300 hrs 15 Jan 43 till 1800 hrs on 26 Jan 43. Sec.15(1) Army Act.	Guilty	Guilty Eighty days detention J.F. Gilmour Maj 2 Cdn Inf Bde	) confirm GHW COMD. 5 CDN. INF. BDE.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) D Caulfield, Lt-Col (Signed) J.F. Gilmour Maj RCA
COMD. 5 CDN. INF. BDE.
Commanding *Convening Officer (e)* *President*

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendations to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the First day of February '43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) JJR.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 1st day of February 1943.
J.F. Gilmour Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*f*) on page 26a M.M.L. 1940.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~ GHW

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 3 day of Feb 1943.
G.H. Wheeler Brig
COMD. 5 CDN. INF. BDE.
Confirming Officer.

Promulgated and extracts taken in the case of D 72203 Pte Grant A.R.

(*a*) (Dated) 3 Feb 43 (Signed) D.B. Birkett, Lieut

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. D-82203 Pte. Alan Roy GRANT, 1st Battalion ~~Bn~~ The Black Watch (RHR) of Canada, a soldier of the Canadian Army, Overseas, is charged with.

FIRST CHARGE
Sec. 15 (1)
Army Act

Absenting himself without leave,

in that he,

in the Field, absented himself without leave from 2300 hrs 15 Jan 43 till 1800 hrs on 26 Jan 43.

28 Jan 43.

S. Cauter Lt Col
Officer Commanding,
1st Bn The Black Watch
(RHR) of Canada

JAN 30 1943

To be tried by FGCM

A/ S. Cauter, Lt Col
COMD. 5 CDN. INF BDE.

B2 7/1

MEDICAL OFFICER'S REPORT

I certify that No. D-82203 PTE. GRANT, A. R.

of 1 R.H.C. is in a satisfactory state of health,

and fit to undergo Trial by Court martial.

J. McCleod Capt.
Medical Officer

~~BA~~ HG

Station 1 R. H. C.

Date 1 Feb 43.

The accused admits that he was medically examined the morning of Feb. 1st 1943
H Gilmour
Maj
Pres.

M. F. B. 246
20M—3-40 (4392)
H.Q. 1772-29 480

CHARGE SHEET

The accused, No. D-62203 Pte. Alan Roy GRANT, 1st Battalion ~~En~~ The Black Watch (RHR) of Canada, a soldier of the Canadian Army, Overseas, is charged with.

FIRST CHARGE
Sec. 15 (1)
Army Act

Absenting himself without leave,

in that he,

in the Field, absented himself without leave from 2300 hrs 15 Jan 43 till 1800 hrs on 26 Jan 43.

28 Jan 43.

Officer Commanding,
1st Bn The Black Watch
(RHR) of Canada

JAN 30 1943

To be tried by FGCM

A/ COMD. 5 CDN. INF. BDE.

"I wish a defending Officer. "

"I desire the services of Lieut. Chambers, if he is available.".

IN THE FIELD

28 Jan 1943

C S Grant Pte.
D-82208
1st Bn The Black Watch
(RHR) of Canada.

MEDICAL OFFICER'S REPORT

I certify that No. D-82203 PTE. GRANT, A. R.

of 1 R.H.C. is in a satisfactory state of health,

and fit to undergo Trial by Court martial.

J. McCleod Capt.
Medical Officer

Station 1 R. H. C.

Date 1 Feb 43.

The accused admits that he was medically examined the morning of Feb. 1st 1943
F. Gilmour
Maj. Pres.

M. F. B. 246
20M.—3-40 (4228)
H.Q. 1772-39 480

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 1st day of February 1943 by order of Lt. Col. S. A. Cantlie

A/Commanding 5. Cdn. Inf. Bde

dated the 29 day of January 1943.

President.

Major F. J. Gilmour. H.Q. 2 Cdn Div.

Members.

Major W. ~~[illegible]~~ Lavigne R. de Mais

Lieut J. A. P. Noad R.H.C.

Trial of* D 82203 Pte. Alan Roy, ~~Judge Advocate~~ Grant 1st Bn. The Black Watch (R.H.R.) of Canada

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that _____ is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† ~~[illegible]~~ Lieut C. L. Stewart I.R.H.C.

Counsel‡ or defending officer† Lieut E.E. Chambers I.R.H.C.

At 10.30 o'clock the Trial commences.

The order convening the Court is read, and is marked "G" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q[illegible] Wt. [illegible] 40,000 [illegible] 2/40. K. & H. [illegible] Forms A 9[illegible]

B

The President, members ~~and judge advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 9 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Guilty" has been recorded with.

~~*[The Court having been reopened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D.82203 Pte Alan Roy Grant
is found guilty of the charge

†The summary (or abstract) of evidence is read, marked "G"
signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

yes

Answer. The accused in mitigation of punishment says :—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

I have been with the regiment since we came to England. I have been unhappy in the regiment for the last 6 or 7 months. Last June I was to have been transferred to the American army. I am a citizen of the U.S. The day I was to go I was paraded by my C.O. & refused. I had applied for the transfer but when the time I got allowed I did not want to leave the friends I had made in the Company so refused to

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

transfer. Then the Dieppe show came & my Company went but I was left behind. All the friends I had made in the Company are gone & I was still left here.

P.T.O.

DD

shortly after Dieppe I was called for another interview with my C.O. he asked me how I felt about it + I told him I was dissatisfied + would like to get a transfer to the American Army again. He told me it was not possible as the day for filing applications had passed. Letters from home are to the effect my wife is in poor health so I was generally unhappy + dissatisfied + just had to do something. I did not intend to stay away so long but kept putting off my return until finally I decided it was not doing me any good to stay away so I came back.

Do you wish to give evidence yourself or to call any witnesses as to character? yes.

Question to the accused.

Answer.

Evidence as to character

~~D82~~ D 82328 L/Cpl. T.C. Pilkington of the R.H.C. - duly sworn states:

I have known the accused 1½ years. He has been in my section the last 4 mos. He always did his duty as a soldier in a soldierly manner. Always willing to follow any orders given to him. He never fell out of any duties

R.P. 83 (b) complied with

[illegible]

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~ [illegible]

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Lieut C. L. Stewart is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes. 27B 2+6 + Cert copy of MFM 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H + I, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes.

Cross-examined by the accused: — No. does not wish to.

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir.

The Court is closed for the consideration of the sentence.

F Gilmour
Major
Pres

F

Sentence.

The Court sentence the accused to undergo detention Sentence.
for 80 days.

J Fitzmaurice.
Maj
Pres.

(Substitute for A.F.B. [illegible])
[illegible] 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED.

No. D-82203 NAME Pte. Grant, A.R. UNIT 1st Bn The Black Watch (RHR) of Canada

AGE 42 MARRIED OR SINGLE married No. of Dependants one

DATE OF ARRESTING 20 May 1940

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL none MILITARY 6 MORTGAGE - DEBT 6

[illegible] OF PROMOTIONS, APPOINTMENTS AND CONFIRMATIONS [illegible]

n-a

[illegible] TRUE COPY OF [illegible] 6 MUST ACCOMPANY THIS FORM

[signature] Capt.
([illegible] Records)

1st Bn The Black Watch (RHR) of Canada Unit

Dated at
This 1st day of Feb 1943
(To be dated and signed as of date of trial)

H
[illegible]

THIRD WITNESS FOR THE PROSECUTION - Cont'd

The accused declines to cross examine.

I R.M.P. Cpl.

The accused, having been duly cautioned in accordance with R.P. 4 (E) says:

"I imagine the best thing for me to say nothing at this time".

The accused does not wish to call witnesses in his defence at this point."

Certified that R.P. 4 complied with.

"In the Field"

28 Jan 43.

Lieut.
Officer detailed to take Summary.

SUMMARY OF EVIDENCE

In the case of No. D-82203 Pte Alan Roy GRANT, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army, Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION - D-82328 L/Cpl. Pilkington, T.C., 1st Bn The Black Watch (RHR) of Canda, sworn, states:-

"On 15 Jan 43, I was Coy Orderly Sgt. I called the roll at 2300 hrs. The accused, Pte. Grant, whom I recognize, failed to answer his name."

The accused declines to cross examine.

Pilkington T.C. L/Cpl.
1 R.H.C.

SECOND WITNESS FOR THE PROSECUTION - D-82030 L/Cpl. Herd, W.R.W. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

"At 1800 hrs 26 Jan 43, I was Guard Commander, Pte. Grant reported to me at thattime."

Examined by Officer taking the Summary

Q.1. At what time exactly did Pte. Grant report to you on 26 Jan 43?
A.1. Just after 1800 hrs.

The accused declines to cross examine.

[signature] L/Cpl.
1 R.H.C.

THIRD WITNESS FOR THE PROSECUTION - D-71745 Cpl. Thompson, T. 1st Bn The Black Watch (RHR) of Canada, sworn, states:-

"From 16 Jan. 43 to 26 Jan 43, I was acting Platoon Sgt. of 14 Platoon. The accused, Pte. Grant, whom I recognize, is a member of my platoon. At 0715 hrs on 16 Jan 43, I attended breakfast parade, Pte. Grant was absent. Idid not see him again until 1700 hrs 26 Jan 43.

I wish to retract my statement that I saw Pte Grant at 1700 hrs on 26 Jan and state that after his absence I first saw Pte Grant in custody on breakfast parade on 29 Jan 43

No. D82203 Name Grant, A.R. Sqn., Battery, or Company — Corps 1 RHC — Date of enlistment 20 MAY 40 G.C. Badges — Service or Proficiency Pay — M.F.M. 5

Date of last entry in Company Conduct Sheet: n/a — No. and date of last drunk: n/a — Period not reckoning towards freedom from extra fine: n/a — Sheet No. 1 — Signature O.C. Company, etc.: BR Ritchie — Character: Poor

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Cases dealing with time)	By whom awarded	Remarks
Aldershot N.S.	20/7/40	Pte	1	1. AA Sec 15(1) that he was drunk in a public place in Kentville. (2) Creating a disturbance by arguing + swearing in a public place in Kentville	Cpl. Hoar, W.A. Pte. W.P. Morrison	4 days CB	22/7/40	A.C. Evans (Major)	
Halifax N.S.	2/8/40	Pte	2	(1) Conduct to the prejudice of good order and military discipline in that he, at Halifax on 6/8/40 was drunk (2) Absent properly dressed (3) Did cause a disturbance (4) Did damage property [illegible] in YMCA Hostel		Stoppage of pay, 2nd [illegible] for damage to property $1.75 - 72 hrs detention	12/8/40	Lt. A.J. Hughes	
Aldershot RHC	14 Nov 40	Pte	6	(1) AA Sec 15(1) absent A.W.L. from 0 hrs on 14 Nov 40 to 1st appellant on parade 20 Nov 40 (2) AA Sec 40 Conduct to the prejudice of good order and military discipline in that he caused a disturbance (3) AA Sec 10(1) Striking a N.C.O. (4) AA Sec 40 Conduct using obscene language	Sgt. [illegible] RM; Cpl. Poor Corps; Pte Mangan H.; Cpl. Poor Corps; A/Cpl Ess, F.	14 days detention	20 Nov 40	Lt. Hebbron Major	10 days pay 7.81 = 78.10; 4 days pay 7.81 = 31.24; Forfeits 14 days pay 109.34; Total 21 days pay

No. D82203 Name Grant, A.R. Sqn., Battery, or Company B Corps 1 R H C — Date of enlistment 20 May 40 G.C. Badges — Service or Proficiency Pay — M.F.M. 5

Date of last entry in Company Conduct Sheet — No. and date of last drunk 12.2.41 — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Cases dealing with time)	By whom awarded	Remarks
Aldershot	12 Apr 41	Pte		AA 15 (1) WOAS AWL from 2230 hrs 12 Apr 41 to 1700 hrs 13 Apr 41 absent 18½ hrs	D81177 Cpl Hepburn, G.M.	7 days CB	14 Apr 41	HM Jaques Major	Forfeits 1 days pay for absence 7.81 + 90 (4)
Aldershot	2 Apr 41	Pte		WOAS AWL from 1400 hrs 21 Apr 41 to 1615 hrs 23 Apr 41 (AA Sec 15(1)) (in close arrest awaiting trial)	D81037 Cpl Frost, S.H.	14 days F.P.	28 Apr 41	Lt. H Watson major	Forfeits 5 days pay 7.81 + 39.05 (a) Forfeits 7 days pay 7.81 + 54.67 (b)
Stone Cross	11/7/41	Pte		AA 15(1) WOAS AWL from 2300 hrs 10 Jul 41 to 0100 hrs 11 Jul 41	D81037 Cpl Frost, S.H. D81103 Pte Deegan, C.N.	2 days CB	11/7/41	BR. Ritchie Capt.	Total Forf 21 days Pay

No. D82203 Name Grant, A R Sqn., Battery, or Company C Corps 1 R H C — Date of enlistment 20-5-40 G.C. Badges — Service or Proficiency Pay — M.F.M. 5

Date of last entry in Company Conduct Sheet — No. and date of last drunk 3 12.2.41 — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Cases dealing with time)	By whom awarded	Remarks
Field	12/3/42	Pte		WOAS AWL from 2359 hrs 12 Mar 42 to 1400 hrs 13 Mar 42 (absent 14 hrs 1 min) AA 15(1)	D81012 Sgt Morrison, R.E.	5 days CB Forfeiture 5 days pay 7.81 + 39.05 (a)	16 Mar 42	BR. Ritchie Capt.	Forfeits 1 day pay 7.81 + 7.81 (a) Total Forf 6 days pay
Field	16/4/42	Pte		WOAS Neglect to the prejudice of good order + military discipline in that he lost A.S. Respirator the property of the Crown. AA Sec 40	CQMS Williamson J.R.	14 days CB + Stoppage of 7 for the Respirator	25 Apr 42	Capt Rawlings	Please order stoppage of 7 days to replace Respirator
Field	5/6/42	Pte		WOAS AWL from 1700 hrs 5/6/42 to 0130 hrs 6/6/42 (absent 8 hrs 30 mins) AA 15(1)	Capt Fulton CSM Rhoades, F.	Awarded 3 days	6.6.42	BR. Ritchie major	Forfeits 1 days pay for absence Total Forf 4 days pay

Place	Date of offence	Rank	Corps of Regiment etc	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	9 Jan 41	Pte		AD Soc 15(1) W.O.A.S. AWL from 0900 hrs 3 Jan 41 to 0300 hrs 6 Jan 41	L/Cpl Brew - 4/Gd S/H Lieut Gpl	10 days CB	6 Jan 41	Maj Jaques Mayor	Forfeits 3 days pay
Brighton	16 Jan 41	Pte		AA 15(1) WOAS AWL from 0600 hrs 16 Jan 41 to 2335 hrs 18 Jan 41	Cpl. Brooks L/Cpl. Williamson Chn Ass. Cpts	7 days C.B. Fined 3 days Pay	23 Jan 41	W.M. Jaques Mayor	Forfeits 3 days Pay 3 K's 3 (1)(a)
Brighton	12 Feb 41	Pte	3	AA 40. WOAS. Conduct to the prejudice of good order and military discipline in that he did not carry out the duty given him by his Section Commander. AA 19 (1) WOAS Drunkenness 3rd offence AA 40 Conduct to the prejudice of good order and military discipline in that he was unshaven during "stand-to" at 0630 hrs 13 Feb 41	D81103 Sgt Deigan, C.J. D81177 L/Cpl Hepburn, G.M.	Fined £10.00 for drunkenness 3rd offence Fined 14 days Pay 14 days C.B.	14 Feb 41	W.M. Jaques mayor	Fined £10.00 for drunkenness Fined 14 days Pay
Inverdown	25 Aug 41	Pte		AA 40. WOAS Conduct to the prejudice of good order & Military discipline in that he lost his Steel Helmet on or about 25 Aug 41	D81776 C&MS. Williamson J.S.	5 days CB	19 Sep 41	K.G. Backader Lt.-Col.	
Stone Cross	23 Oct 41	Pte		WOAS AWL from 2359 hrs 23 Oct 41 to 2312 hrs 25 Oct 41 (about 1 day 23 hrs 47 mins) AA 15-(1)	D81012 Cpl Morrison, R.A. D81177 Cpl Hepburn G.	7 days C.B. Fined 7 days pay	27 Oct 41	H.M. Jaques Mayor	Forfeits 2 days pay by 3 K's 3 (1)(a) Total forf. 9 days pay
Stone Cross	14 Nov 41	Pte		WOAS AWL from 2359 hrs 14 Nov 41 to 0800 hrs 22 Nov 41 AA Sec 15 (1)	D81103 Sgt Deigan, C.J. D81347 L/Cpl Gilbert, F.A. Documentary	27 days F.P. & forf. of 27 days pay & Sgt Douglas H. Reimbursement of £27-4 (escort expenses).	2 Dec 41	K.G. Blackader Lt. Col.	Forfeits 8 days pay by 3 K's 3 (1)(a) as awarded Forfeits 27 days by 3 K's 3 (1)(a) (1) Total forf. 35 days pay
London	9 Sept 42	Pte	4	4.9.42 OFFENCE WOAS was drunk & disorderly when arrested by the C.P.C. at Regents Palace Hotel, Piccadilly Circus London at about 2342 hrs on the 9 Sep 42.	L/Cpl McCutcheon C.P.C. L/Cpl Baker C.P.C.	27 days F.P. 27 days pay	12 Sep 42	R.B. Panther Lt.-Col.	Forf. 27 days pay by 3 K's 3 1 (1) (b)
Field 2 Cdn Div.	4/11/42	Pte		AA 40 WOAS did urinate against the entrance to a saloon bar of a public House.	L/Cpl Brookbank L/Cpl Sammond.	5 dys C.B.	12/11/42	B.R. Ritchie major	
Field	24 Dec 42	Pte		AA Sec 15 WOAS AWL from 0815 hrs 24 Dec 42 until 2500 hrs 24 Dec 42 (about 63¼ hrs)	D/Sgt Godfrey, J.C. D/Sgt Villington J.C.	7 days, CB	26 Dec 42	B.R. Ritchie major	Forfeits 1 day pay 3 K's 3 1 (1) (a)

Certified true copy of original
MFM [illegible]
[illegible] Capt Adjt


CAO-1-14 A117189 Pte Grant, B.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.117189 Pte Bryce Alexander GRANT

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	NOT GUILTY	GUILTY	EXCEPT THAT PERIOD OF ABSENCE COMMENCED AT 2359 HRS 17 MAY 46 AND CONTINUED TILL 1030 HRS 21 MAY 46 A TOTAL OF 3 DAYS 10 HRS AND 31 MINS.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of sixty (60) days.

(Sgd) ..... 30 MAY 46 (Sgd) T.S. Rowland Lt.Col.
Judge Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I subject the sentence to remit to undergo detention for a period of 9 only (9) days and I confirm the finding, and the sentence as so remitted.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

(Sgd) ..... Brig
Date 11 June 46 Commanding 4 CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A-117189 Pte Grant B.A.	12 June 46	J.W. Ethan D.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AR 149 CRO-1-104

RECEIVED JUL 2 - 1946 JAG BRANCH C.M.H.Q.

CFA96 (In lieu of AFA96) 40/F & B/1698 (1944) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. T.J. Rutherford CBE MD Comd CRU dated 29 May 46

ACCUSED.

(As to the trial of two or more charged jointly: see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any: see AA 182, 183, fns, KR Con 308, 326, 326.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.117189	Pte	Bryce Alexander	GRANT	4(Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED

2 Jul 46 C.H. Tait Maj

PROCEEDINGS OF TRIAL.

Held at CRU in (country) ..... on (date(s)) 30 May 46

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 34, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 62 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to W 58158 Set Rinsted, RA as shorthand writer? Ans ~~.....~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. WOODROW CBE ED	1 Cdn Rep Dep
Member	Capt	G W PARKS	1 Cdn Rep Dep
Member	Lieut	M J KIDDY	1 Cdn Rep Dep
~~Judge Advocate~~			
Prosecutor	MAJOR	DHC ROSE	1 Cdn Rep Dep
Defending Offr	LIEUT	FA WESSEL	1 Cdn Rep Dep

Questions by President: Is the Prosecutor a lawyer? Ans ..... Is the Defending Offr a lawyer? Ans ..... (2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 28 (B) and fn 2 were not followed. See 21 p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~no~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded (see Notes. For forms of record see references in fns to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrn p 2. When more than one Charge Sheet: see RP 62; when several accused to be tried separately see RP 71(C), and run separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-86; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement(5)? Ans. .....
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under this same party only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR.(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1) Evidence attached
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The ~~Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) ~~The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the~~ ..... charge(s), and allowed on the ..... charge(s), ~~and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 71 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: ~~Do you wish to give evidence yourself as a witness, make a statement, or do neither?~~ Do you intend to call witnesses on your behalf?
Ans. ~~YES SIR.~~ GIVE EVIDENCE SIR. Ans. NO SIR. CHARACTER CERTIFICATES ONLY.

Are they witnesses as to character only? Ans. YES SIR.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*C*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 40(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*m*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. AA 54(3) (*b*). *RP* 45, 120(*A*). 2. AA 54(3). *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *AFM* 6. 3. *RP* 46, *KR Can* 338. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Defending Officer plea in mitigation attached.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*B*), *KR Can* 308, 330, 563-566, *Overseas RD* 309, 2323, *MML p* 66, 757-759. *As to sentences consecutive to those awarded by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to reviews by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs as book of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit "B"

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
A.117189	Pte	Grant E A	1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. 15(1)	times	9 times
For A.A. 40	times	1 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused

2. The accused has not been previously convicted, or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence

beginning on the

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 9 days in military custody, making a total of 9 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs 4 mos

attestation paper

6. The date of his attestation specified in his record of service is 26 Jan 43

attestation paper

7. The service which the accused is allowed to reckon towards pension for the

8. The accused is entitled to deferred pay or gratuity in respect of

and

9. The accused is entitled to reckon

for the purpose of determining his

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or award*). 1 VSM & Clasp.

11. (If the accused was a warrant officer) The accused has been an efficient officer and has held the rank of

12. (In the case of an officer) The accused holds or has held the rank of

and in his regiment (or corps or department) the rank of

and

He entered the War on 9 Jul 40

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A.117189 Rank Pte Name Grant B A of 1 Cdn Repat Depot Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F [illegible] M	25-7-45	A.A. 15(1) CEE	60 days detn	

CEE

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of May 1946

C.E. Ennis, Lieut RCA
Legal Officer
4 Wing 1 Cdn Repat Depot

~~In the rank of~~ CEE ~~and promotion~~

Date of Promotion

In the rank of years

In the rank of years

In the rank of years

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraphs concerned amended accordingly.)

CFA95 (In lieu of AFAS)
40/PAS/1027 (2008)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-117189	Pte		Bryce Alexander	GRANT	4 (Gen Rft) Wing 1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 May 46 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Lt.-Col	C.E. Woodrow, OBE, ED	HQ CRU
	(Must be named. RP 106.)	*(Unit.)*

MEMBERS.

Rank.	Name	Unit.
Captain	to be detailed from	1 Cdn Repat Depot
Lieut	to be detailed from	1 Cdn Repat Depot
	(Named or detailed. RP 106.)	*(Unit.)*

~~WAITING MEMBER.~~

Rank.	Name	Unit.
	(Named or detailed, if any. RP 106.)	*(Unit.)*

~~JUDGE-ADVOCATE.~~

Rank.	Name	Unit.
	(Must be named, if any. RP 106.)	*(Unit.)*

On Active Service in the Fd

in England *(Country.)*

[signature] *(Signed personally. RP 105 or 2.)* (T.J. Rutherford) Brigadier *(Rank.)*

Date 29 May 46

Commanding Canadian Repatriation Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

TRIAL OF

A.117189 Pte Bryce Alexander GRANT -- 4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROSECUTION

Sir I would like to submit to the court a certified true copy of a Record of the Declaration of a Court of Inquiry which refers to the accused and states that he illegally absented himself from No. 4 (Gen Rft) Wing, 1 Cdn Repat Depot at 1515 hrs on the 8 of April 1946.

RECORD OF A DECLARATION OF A COURT OF INQUIRY MARKED EXHIBIT 1 BY THE COURT

I also have a certificate in accordance with PC.8797 signed by Captain Stinson, DAPM, CMHQ referring to the accused and shows the termination of his absence as 1030 hrs on the 21 May 46 and was wearing civilian clothes.

CERTIFICATE MARKED EXHIBIT 2 BY THE COURT

PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS FOR THE DEFENCE

A.110646 Cpl YOUNGSON, A.R. - 4 (Gen Rft) Wing, 1 Cdn Repat Depot, sworn, states:-

Q. How are you employed at 4 (Gen Rft) Wing, 1 Cdn Repat Depot?
A. I am employed as Regimental Police Corporal.

Q. How long have you been employed in your present capacity?
A. For the last year sir.

Q. Do you know the accused person in this case?
A. Yes sir.

Q. Will you tell the court when you last saw him in camp?
A. The last date I remember seeing the accused was on the 11 of April, I seen him later than that but I am not sure of the exact date.

Q. You seen him in camp on the 11th April 46?
A. Yes sir.

Q. Was it normal for you to see him in camp at that time?
A. Yes he used to come and see the RP's quite frequently, nearly every day.

Q. What period are you referring to?
A. From the 4 April 46 to the 11th Apr 46.

Q. You saw him in camp after that date?
A. Yes sir.

Q. You don't know for sure the exact date?
A. No sir.

CROSS-EXAMINED

Q. At what time of the day did you see him?
A. It was between two and three o'clock in the afternoon.

Q. Did he speak to you at that time?
A. Yes sir.

Q. In what connection?
A. He was in our hut.

Q. It was not in connection with military matters?

FIRST WITNESS FOR THE DEFENCE (CONT'D)

A. No sir, we were just talking in a friendly fashion.

Q. You saw him after that?
A. Yes sir.

Q. He was in the habit of dropping in?
A. Yes sir.

Q. Why did he do that?
A. He knew everyone in there and he would come in to press his clothes.

Q. Did you ever see him during parade hours?
A. No sir.

Q. What parades do they have at 4 (Gen Rft) Wing, 1 Repat?
A. One in the morning and two in the afternoon.

Q. Tattoo roll call at night?
A. I think so sir.

Q. How do you know it was the 11th of April that you saw this man in camp?
A. I was on duty that day.

Q. How did you fix that date, you are on duty on other days as well?
A. I have a pretty good memory sir. I remember seeing him at that time, it was about a week after he got out of the guard room.

Q. Out of the guard room?
A. Yes, he was released.

Q. What day was that?
A. On the 4th sir.

Q. What was he in there for?
A. A little matter of AWL sir.

Q. You don't remember any otherdate that you saw him there?
A. I seen him after that date but I am not sure of the exact date.

Q. You know what he is charged with?
A. Absence without leave sir.

Q. You know he was arrested in London wearing civilian clothes?
A. No sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(2).

SECOND WITNESS FOR THE DEFENCE

H.46302 Sgt WORBY, A.M. - CM Sgt for RE&D No. 4 (Gen Rft) Wing 1 Cdn Repat Depot, sworn, states:-

Q. What is your employment at 4 Wing, 1 Repat?
A. I work as CM Sgt for RE&D and am in charge of kit stores.

Q. You are in charge of kit stores?
A. Yes sir.

Q. Do you know the accused sitting on my left?
A. Yes sir, I have known him for a good long time.

Q. Do you remember the occasion on which the accused was confined at 4 (Gen Rft) Wing, 1 Repat?
A. I can remember the occasion but not the date.

SECOND WITNESS FOR THE DEFENCE (CONT'D)

Q. The date of his release as stated in evidence previously was the 4 April. Do you remember a draft leaving 4 Wing on the 17 of April?
A. I remember a draft being formed up and I found it had left on the 17, I don't remember the exact date.

Q. You have proven to your own satisfaction that it was the 17th that draft left?
A. Yes sir.

Q. Do you remember seeing the accused in camp between those two dates, the 4 April and the 17 April?
A. I saw the accused in camp on the 12, 11 and 10th, those three days I do know I saw him in camp.

Q. At what time of day did you see him?
A. In the afternoon on those three days.

Q. Were you aware that the accused was a member of a draft being formed up to leave camp on the 17th?
A. I remembered he was going to Canada and I said to him "I thought you would be on this draft."

Q. You knew he was to be on that draft?
A. Yes I know that.

Q. Did he tell you at that time that he was reporting on parades with members of that draft?
A. No sir, he did not.

CROSS-EXAMINED

Q. When you said to him, "I thought you would be on this draft" what did he say?
A. He said he thought he was but he had not been warned.

Q. He said he had not been warned?
A. Yes sir.

Q. Where did you see him?
A. In the centre of the road between the QM store and the Regimental Police.

Q. It was not in the line of duty?
A. No sir, I just knew him.

Q. You saw him on the 10th, 11th and 12th of April?
A. Yes sir.

Q. How do you know that?
A. Because the 12th was a Friday and in the afternoon I spoke to the Major about him and I said that I thought he was afraid to see the major about not being on draft and the major said place him under arrest when you see him. My first duty Saturday morning was to see if I could find this lad. I went to the drafts to see if he was there, I didn't know which hut he slept in. The officer said if you can find the boy bring him in and we will put him on draft. I went back to my office.

QUESTIONS BY THE COURT

Q. You are sure that the dates your talking about was a Friday the 12th of April?
A. Yes sir.

Q. What was the last time on that date that you saw him?
A. The middle of the afternoon.

Q. What time, put it more particularly?

SECOND WITNESS FOR THE DEFENCE (CONT'D)

A. Between three and four o'clock.

Q. You were told the next day by an officer the next time you saw him to put him under arrest?
A. Yes sir.

Q. You were told on the 13th?
A. The night of the 12th in my own quarters.

Q. Since that time you have never seen him?
A. Not until he came back under close arrest.

RE-EXAMINED

Q. Were you not told by the officer in charge of the draft that if you brought the accused back he would be placed on draft?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 93(3).

THIRD WITNESS FOR THE DEFENCE

The accused, sworn, states:-

Q. Will you tell the court where you were on the 6 April 40 at 1315 hours, which is the time from which you are charged with being absent without leave?
A. I was at the [illegible] canteen until close to one o'clock. From there I proceeded to the Post Office and then went up to the hut.

Q. Were you not supposed to be on parade at that particular time?
A. Yes.

Q. What particular parade did you miss?
A. Muster parade.

Q. You missed muster parade by a misjudgement of time?
A. Yes sir.

Q. Did you leave camp that afternoon?
A. No sir, I didn't.

Q. Did you know at that time that you had missed muster parade?
A. They told us Saturday but it slipped my mind at the time and I found it out at the hut that muster parade had been called.

Q. You missed muster parade?
A. Yes sir.

Q. Were you on a draft at that time?
A. Yes sir.

Q. Canada Draft?
A. Yes sir.

Q. Were you reporting on parade?
A. I was sir.

Q. With whom?
A. I was going on with our hut.

Q. With the other men of your hut?
A. Yes sir.

Q. They were all on Canada draft?
A. Yes sir.

THIRD WITNESS FOR THE DEFENCE (CONT'D)

Q. You continued going on parade with the draft until what date?
A. I was going on parade with the draft until the 16th the day before the draft left.

Q. Were you absent without leave during any of that time as you are charged?
A. No sir.

Q. You are charged with absence without leave from the 8 April until the 21 of May, were you absent during any of that time?
A. No sir, none at all, I left on the 17 April.

Q. You admit being absent after the 17th of April?
A. Yes sir.

CROSS-EXAMINED

Q. You missed a muster parade on the 8 April 46?
A. Yes sir.

Q. You went on all other parades and answered your names on tattoo roll call up until the 17 of May?
A. There was one more muster parade, never any tattoo roll call any night in the hut I was in.

Q. No more muster parades?
A. One muster parade.

Q. Never any at 1400 hrs or 9 o'clock in the morning?
A. One at noon, 1315 hours.

Q. You attended all these parades?
A. My name was not called I had been marked AWL.

Q. You didn't go up and ask anybody about your name most being on the roll?
A. I asked the hut Corporal.

Q. You didn't know about being AWL all this time?
A. I found that out at the guard room.

Q. When they didn't call your name you went to the Cpl?
A. Yes sir.

Q. You told him they were not calling your name?
A. I don't know sir.

Q. Was he on the P.A.?
A. No sir, on the draft.

Q. You admit you were absent from the 17 April or the 17 of May?
A. 17th April sir.

QUESTIONS BY THE COURT

Q. What were you doing on the 21 of May in London in civilian clothes when you were arrested?
A. I was arrested in the uniform I am in now.

Q. The evidence says you were not?
A. I was arrested in uniform by the SIS.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

ADDRESS BY THE DEFENDING OFFICER

All I have to say is that the object of the defence is to prove that the man was in camp until the 17th of April which I think has been accomplished. The reason his name had not been called on parade is that he had been marked AWL at the muster parade and it seems that the unit made no effort to ascertain whether he was in camp or not, they marked him AWL and seemed to forget him.

ADDRESS BY THE PROSECUTING OFFICER

I would suggest that when a man is charged with being A.W.L. even if it is only five minutes late on parade he is still AWL in fact. While we have no evidence to the fact that this man's name was called on parade it may be true that it was not. The onus rests on him to see somebody about it and have his name put on the roll. If he attends parades and doesn't have his name called out I would suggest that man is AWL for the whole period.

THE COURT IS CLOSED TO CONSIDER IT'S FINDING

THE COURT RE-OPENS

PLEA OF MITIGATION BY THE DEFENDING OFFICER

The accused volunteered for Active Service in Jan 43, just two days after his 18th birthday. He came overseas in April 44 but due to an L-3 category he was withheld from action but as we can see he volunteered as soon as he could with a view of going into action. On his last summary trial where his C.O. told him he would be returned to Canada as soon as possible. He asked if it was possible for him to be held in this country for a short while to straighten out personal difficulties. He was told,no you will go back to Canada at once. He doesn't want me to go into it in detail but the gist of the matter is that there is an illegal child born of a woman he had known and he didn't know whether the child was his or not. The C.O. was not interested in this matter but the man wanted to know definitely whether it was his child or not, if it was his he wanted custody of the child and see that it was brought up properly, it was with that idea in view that he went absent. He has since learned that is is not his child and wants to return to Canada as soon as the Army sees fit to send him home.

TRIAL OF

A.117189 Pte Bryce Alexander GRANT -- 4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROSECUTION

Sir I would like to submit to the court a certified true copy of a Record of the Declaration of a Court of Inquiry which refers to the accused and states that he illegally absented himself from No. 4 (Gen Rft) Wing, 1 Cdn Repat Depot at 1315 hrs on the 8 of April 1946.

RECORD OF A DECLARATION OF A COURT OF INQUIRY MARKED EXHIBIT 1 BY THE COURT

I also have a certificate in accordance with PC.8797 signed by Captain Stinson, DAPM, CMH4 referring to the accused and shows the termination of his absence as 1030 hrs on the 21 May 46 and was wearing civilian clothes.

CERTIFICATE MARKED EXHIBIT 2 BY THE COURT

PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS FOR THE DEFENCE

A.110846 Cpl YOUNGSON, A.R. - 4 (Gen Rft) Wing, 1 Cdn Repat Depot, sworn, states:-

Q. How are you employed at 4 (Gen Rft) Wing, 1 Cdn Repat Depot?
A. I am employed as Regimental Police Corporal.

Q. How long have you been employed in your present capacity?
A. For the last year sir.

Q. Do you know the accused person in this case?
A. Yes sir.

Q. Will you tell the court when you last saw him in camp?
A. The last date I remember seeing the accused was on the 11 of April, I seen him later than that but I am not sure of the exact date.

Q. You seen him in camp on the 11th April 46?
A. Yes sir.

Q. Was it normal for you to see him in camp at that time?
A. Yes he used to come and see the RP's quite frequently, nearly every day.

Q. What period are you referring to?
A. From the 4 April 46 to the 11th Apr 46.

Q. You saw him in camp after that date?
A. Yes sir.

Q. You don't know for sure the exact date?
A. No sir.

CROSS-EXAMINED

Q. At what time of the day did you see him?
A. It was between two and three o'clock in the afternoon.

Q. Did he speak to you at that time?
A. Yes sir.

Q. In what connection?
A. He was in our hut.

Q. It was not in connection with military matters?

FIRST WITNESS FOR THE DEFENCE (CONT'D)

A. No sir, we were just talking in a friendly fashion.

Q. You saw him after that?
A. Yes sir.

Q. He was in the habit of dropping in?
A. Yes sir.

Q. Why did he do that?
A. He knew everyone in there and he would come in to press his clothes.

Q. Did you ever see him during parade hours?
A. No sir.

Q. What parades do they have at 4 (Gen Rft) Wing, 1 Repat?
A. One in the morning and two in the afternoon.

Q. Tattoo roll call at night?
A. I think so sir.

Q. How do you know it was the 11th of April that you saw this man in camp?
A. I was on duty that day.

Q. How did you fix that date, you are on duty on other days as well?
A. I have a pretty good memory sir. I remember seeing him at that time, it was about a week after he got out of the guard room.

Q. Out of the guard room?
A. Yes, he was released.

Q. What day was that?
A. On the 4th sir.

Q. What was he in there for?
A. A little matter of AWL sir.

Q. You don't remember any otherdate that you saw him there?
A. I seen him after that date but I am not sure of the exact date.

Q. You know what he is charged with?
A. Absence without leave sir.

Q. You know he was arrested in London wearing civilian clothes?
A. No sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS FOR THE DEFENCE

H.46308 Sgt WORBY, A.M. - QM Sgt for RW&D No. 4 (Gen Rft) Wing 1 Cdn Repat Depot, sworn, states:-

Q. What is your employment at 4 Wing, 1 Repat?
A. I work as QM Sgt for RW&D and am in charge of kit stores.

Q. You are in charge of kit stores? [redacted]
A. Yes sir.

Q. Do you know the accused sitting on my left?
A. Yes sir, I have known him for a good long time.

Q. Do you remember the occasion on which the accused was confined at 4 (Gen Rft) Wing, 1 Repat?
A. I can remember the occasion but not the date.

SECOND WITNESS FOR THE DEFENCE (CONT'D)

Q. The date of his release as stated in evidence previously was the 4 April. Do you remember a draft leaving 4 Wing on the 17 of April?
A. I remember a draft being formed up and I found it had left on the 17, I don't remember the exact date.

Q. You have proven to your own satisfaction that it was the 17th that draft left?
A. Yes sir.

Q. Do you remember seeing the accused in camp between those two dates, the 4 April and the 17 April?
A. I saw the accused in camp on the 12, 11 and 10th, those three days I do know I saw him in camp.

Q. At what time of day did you see him?
A. In the afternoon on those three days.

Q. Were you aware that the accused was a member of a draft being formed up to leave camp on the 17th?
A. I remembered he was going to Canada and I said to him "I thought you would be on this draft."

Q. You knew he was to be on that draft?
A. Yes I knew that.

Q. Did he tell you at that time that he was reporting on parades with members of that draft?
A. No sir, he did not.

CROSS-EXAMINED

Q. When you said to him, "I thought you would be on this draft?" what did he say?
A. He said he thought he was but he had not been warned.

Q. He said he had not been warned?
A. Yes sir.

Q. Where did you see him?
A. In the centre of the road between the AF store and the Regimental Police.

Q. It was not in the line of duty?
A. No sir, I just knew him.

Q. You saw him on the 10th, 11th and 12th of April?
A. Yes sir.

Q. How do you know that?
A. Because the 12th was a Friday and in the afternoon I spoke to the Major about him and I said that I thought he was afraid to see the major about not being on draft and the major said place him under arrest when you see him. My first duty Saturday morning was to see if I could find this lad. I went to the drafts to see if he was there, I didn't know which hut he slept in. The officer said if you can find the boy bring him in and we will put him on draft. I went back to my office.

QUESTIONS BY THE COURT

Q. You are sure that the dates your talking about was a Friday the 12th of April?
A. Yes sir.

Q. What was the last time on that date that you saw him?
A. The middle of the afternoon.

Q. What time, put it more particularly?

SECOND WITNESS FOR THE DEFENCE (CONT'D)

A. Between three and four o'clock.

Q. You were told the next day by an officer the next time you saw him to put him under arrest?
A. Yes sir.

Q. You were told on the 13th?
A. The night of the 12th in my own quarters.

Q. Since that time you have never seen him?
A. Not until he came back under close arrest.

RE-EXAMINED

Q. Were you not told by the officer in charge of the draft that if you brought the accused back he would be placed on draft?
A. Yes sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS FOR THE DEFENCE

The accused, sworn, states:-

Q. Will you tell the court where you were on the 8 April 46 at 1315 hours, which is the time from which you are charged with being absent without leave?
A. I was at the N.A.A.F.I canteen until close to one o'clock. From there I proceeded to the Post Office and then went up to the hut.

Q. Were you not supposed to be on parade at that particular time?
A. Yes.

Q. What particular parade did you miss?
A. Muster parade.

Q. You missed muster parade by a misjudgement of time?
A. Yes sir.

Q. Did you leave camp that afternoon?
A. No sir, I didn't.

Q. Did you know at that time that you had missed muster parade?
A. They told us Saturday but it slipped my mind at the time and I found it out at the hut that muster parade had been called.

Q. You missed muster parade?
A. Yes sir.

Q. Were you on a draft at that time?
A. Yes sir.

Q. Canada Draft?
A. Yes sir.

Q. Were you reporting on parade?
A. I was sir.

Q. With whom?
A. I was going on with our hut.

Q. With the other men of your hut?
A. Yes sir.

Q. They were all on Canada draft?
A. Yes sir.

THIRD WITNESS FOR THE DEFENCE (CONT'D)

Q. You continued going on parade with the draft until what date?
A. I was going on parade with the draft until the 16th the day before the draft left.

Q. Were you absent without leave during any of that time as you are charged?
A. No sir.

Q. You are charged with absence without leave from the 8 April until the 21 of May, were you absent during any of that time?
A. No sir, none at all, I left on the 17 April.

Q. You admit being absent after the 17th of April?
A. Yes sir.

CROSS-EXAMINED

Q. You missed a muster parade on the 8 April 46?
A. Yes sir.

Q. You went on all other parades and answered your name on tattoo roll call up until the 17 of May?
A. There was one more muster parade, never any tattoo roll call any night in the hut I was in.

Q. No more muster parades?
A. One muster parade.

Q. Never any at 1400 hrs or 2 o'clock in the morning?
A. One at noon, 1315 hours.

Q. You attended all these parades?
A. My name was not called I had been marked AWL.

Q. You didn't go up and ask anybody about your name not being on the roll?
A. I asked the hut Corporal.

Q. You didn't know about being AWL all this time?
A. I found that out at the guard room.

Q. When they didn't call your name you went to the Cpl?
A. Yes sir.

Q. You told him they were not calling your name?
A. I don't know sir.

Q. was he on the P.A.?
A. No sir, on the draft.

Q. You admit you were absent from the 17 April or the 17 of May?
A. 17th April sir.

QUESTIONS BY THE COURT

Q. What were you doing on the 21 of May in London in civilian clothes when you were arrested?
A. I was arrested in the uniform I am in now.

Q. The evidence says you were not?
A. I was arrested in uniform by the SIS.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 85(B).

ADDRESS BY THE DEFENDING OFFICER

All I have to say is that the object of the defence is to prove that the man was in camp until the 17th of April which I think has been accomplished. The reason his name had not been called on parade is that he had been marked AWL at the master parade and it seems that the unit made no effort to ascertain whether he was in camp or not, they marked him AWL and seemed to forget him.

ADDRESS BY THE PROSECUTING OFFICER

I would suggest that when a man is charged with being A.W.L. even if it is only five minutes late on parade he is still A.W.L. in fact. While we have no evidence to the fact that this man's name was called on parade it may be true that it was not. The onus rests on him to see somebody about it and have his name put on the roll. If he attends parades and doesn't have his name called out I would suggest that man is AWL for the whole period.

THE COURT IS CLOSED TO CONSIDER IT'S FINDING

THE COURT RE-OPENS

PLEA OF MITIGATION BY THE DEFENDING OFFICER

The accused volunteered for Active Service in Jan 43, just two days after his 18th birthday. He came overseas in April 44 but due to an L-3 category he was withheld from action but as we can see he volunteered as soon as he could with a view of going into action. On his last summary trial where his C.O. told him he would be returned to Canada as soon as possible. He asked if it was possible for him to be held in this country for a short while to straighten out personal difficulties. He was told, no you will go back to Canada at once. He doesn't want me to go into it in detail but the gist of the matter is that there is an illegal child born of a woman he had known and he didn't know whether the child was his or not. The C.O. was not interested in this matter but the man wanted to know definitely whether it was his child or not, if it was his he wanted custody of the child and see that it was brought up properly, it was with that idea in view that he went absent. He has since learned that is is not his child and wants to return to Canada as soon as the Army sees fit to send him home.

Appendix "A"

Ex Relief 1
[illegible]

22

RECORD of the Declaration of a Court of Inquiry assembled at 0900 hrs on the 4th day of May 1946, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A 117189 Pte GRANT, B.A.

DECLARATION

The Court declare that No. A 117189 Pte GRANT, B.A.
No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot
illegally absented himself without leave from No 4 (Gen Rft) Wing, 1 Cdn Repat Depot at 1315 hrs on the 8th day of April 1946, that he is still so absent, and that on the 8th April 1946 he was deficient, and that he is still deficient of the following articles :— SEE EXHIBIT "A"

ARTICLES	VALUE	ARTICLES	VALUE

Capt R.C.O. O'Hagan, CIC President

Lt A.J. Macdonald, CIC Member

Member

Signed at No 4 (Gen Rft) Wing
No 1 Cdn Repat Depot

this 4th day of May 1946

Signature of Commanding Officer C.W. Barclay, Major A/OC

Certified true copy A J Macdonald Lt.
Signature of Officer having custody of original record

3/60B MFB 375-AFB 115
40/P&S/392 (8703)

SUMMARY OF EVIDENCE

in the case of,

A.117189 Pte Bryce Alexander GRANT, CIC., on strength No 4 (Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Can Army Overseas.

"I produce the following documents, pursuant to Overseas Routine Order No 5352, which have been read over and shown to the Accused, and are attached hereto as Exhibits:"

(1) Certified True Copy of the Declaration of a Court of Inquiry which declares that A.117189 Pte Grant B A absented himself without leave from 1315 hrs 6 Apr 46. (Marked Exhibit "A")

(2) Certificate in Accordance with P.C. 2797 of 10 Apr 42 signed by Capt R J Stinson in London on 22 May 46 which declares that A.117189 Pte Grant B A was arrested at London at 1030 hrs 21 May 46. (Marked Exhibit "B")

C.E. Ennis
(C.E. Ennis) Lieut RCA.,
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say, or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one (1) page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

C.E. Ennis
(C.E. Ennis) Lieut RCA.,
Officer detailed to take the Summary of Evidence.

Field

15 MAY 46.

THE CASE OF A.117189 Pte Bryce Alexander GRANT, CIC

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Cert True Copy of the Declaration of a Court of Inquiry concerning the absence without leave of A.117189 Pte Grant B A. (Marked Exhibit "A")

(b) Cert in accordance with P.C. 2797 of 10 Apr 42 concerning the arrest of A.117189 Pte Grant B A. (Marked Exhibit "B")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

B A Grant.....
(A.117189 Pte Grant B A)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my Trial.

I desire the services of.....
if he is available.

B A Grant.....
(A.117189 Pte Grant B A)

Signed in the Field

This 17 day of MAY 1946.

Cdn

CHARGE SHEET

The Accused, A.117169 Pte Bryce Alexander GRANT, CIC., on strength No 4 (Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE

SECTION 15(1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 1315 hrs 8 Apr 46 until apprehended at London at 1030 hrs 21 May 46.

Absent: 42 days 21 hrs 15 mins.

A/Officer Commanding,
No 4 (Gen Rft) Wing,
~~No 1 Cdn Repat Depot~~
(Lorne Scots)
Cdn Army Overseas.

Field
25 MAY 46

IN THE FIELD
29 May 46

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(R.J. Rutherford), Brigadier
Commanding
Canadian Repatriation Units.

MEDICAL OFFICERS REPORT

(KR (Can) 557)

This is to certify that I have this morning medically examined

No. A-117189 RANK Pte. Name GRANT B A

and that in my opinion he is (fit) ~~(unfit)~~

to undergo trial by Court-Martial.

Station No 3 C.M.P. & D.B.

Date 30 MAY 46

Capt.
(JR WARISH) RCAMC
Medical Officer
No 3 Cdn Mil Pris & Detn Bks.

Exhibit "C"

No. A117189 Name GRANT, B.A. Sqn. Battery, or Company Corps CIC Date of enlistment 26Jan43 GC Recipes Service Proficiency Pay 3/17 MFM 6 (AFB 122) 49/P&S 238 (7010)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		AA 15(1)		3 days C.B.	6Mar44		Forf 4 D.P.
Field		"		AA 15(1) and AA 40		28 days F.P.	13-10-44		Forf 29 D.P.
Field 26	Oct 44	"		AA 15(1)		21 days F.P.	2-11-44		Forf 13 D.P.
Field 17	Feb 45	"		AA 15(1)		7 days F.P.	19-2-45		Forf 9 D.P.
Field 24	Jun 45	"		AA 15(1)		60 days detn	25 Jul 45	F.G.C.M.	Forf 91 D.P. Stopp: 0-11-6
Field 10	Mar 45	"		AA 15(1)		7 days C.B.	12 Mar 45		Forf 2 D.P.
Field		"		AA 15(1)		5 days F.P.	24 Mar 45		Forf 6 D.P.

-to page 2-

Place	Date of offence	Rank	Charge of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		AA 15(1)		3 days pay	5 Jan 46		Forf 1 L.P.
Field	7 Feb 46	"		AA 15(1)		28 days detn	11 Feb 46		Forf 57 L.P.
Field	11 Mar 46	"		AA 15(1)		14 days detn	22 Mar 46		Forf 25 L.P.

Certified true extract from original document held in my possession

2 May 46 (P.G. RIVERS) Lieut, RCAC
Officer having custody
of original document.

Exhibit "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2897 of 10 Apr 42.

I certify that No. A-117189 Rank. Pte. Name Grant, B.A. Regiment 2

Unit No. 1 Cdn. Repat. Depot, No. 4 Wing Was arrested at London (Place)

at 1030 (Hour) on 21-May-46 (date) and that at the time of his arrest, he was wearing (~~Uniform~~/Civilian Clothes) Signature of Provost Marshal, Assistant Provost Marshal, or other Officer of the Commanding officer of the portion of His Majesty's Forces or the officer, Warrant Officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army) into whose custody the above named person was taken on arrest. (Strike out part not applicable.)

J.W. Johnson Capt.
D.A.P.M. C.M.H.Q.

London
22-May-46

50-113

#6 - Grant 13.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-117189 Pte Bryce Alexander GRANT - CIC - 4 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44. Findings on alternative charges see MML p 483 fn 4 para 2, RP 44. Special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

R At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of Sixty (60) days and to be put under stoppages of pay until he has made good £0-11-6 the expenses of his return to his unit

(Sgd) ..... 25 Jul 45 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 63. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) Sgd

(1. AA 57A. Delete if not used.)

Date 27 Jul 45 (Sgd) Jameson Lt Col

Commanding 11 Cond - 13 Cdn Inf Trg Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

A-117189 Pte Bryce Alexander Grant 30/7/45 E Finnegan Lt-Col

DO #176 a/4 Aug 45 OC Dep Bn

4 Cdn Inf Trg Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150 150 143

RECEIVED 10 AUG 1945 C.M.H.Q.

FIELD GENERAL COURT-MARTIAL (AFAAS (In lieu of AFAA): 40.3 & B/1888 (16144)) 4/38B

Convened by Orders of Colonel J A Wilson ED T/Comd 13 CITB dated 25 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-117189	Pte	Bryce Alexander	GRANT	CIC 4 CITR

PROCEEDINGS REVIEWED W Hayes

J. Rutherglen Capt

10 Aug 45

PROCEEDINGS OF TRIAL.

THE PRESIDENT OFFICER, JAG BRANCH, C.M.H.Q. England

on (date(s)) 25 JUL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant fns RPs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to abbreviation or preceding paras number herein. See back of Convening Order, CF 895, for oaths and instrs on how to proceed addresses, evidence etc, which means are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94-103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), assessed is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The ~~Interpreter is sworn.~~(1) Do you object to C 7211 2 Sgt 1 Bde Commander as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N.O.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs ~~under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQCRA
Member	CAPT	W A MASTERS	11 CDN REPAT DEP
Member	LIEUT	P M T SHAIMSHIRE	4 CITR
~~Judge-Advocate~~			
Prosecutor	LIEUT	L BARRIÈRE	4 CITR
Defending Offr	LIEUT	J A VEZINA	4 CITR

Questions by President: Is the Prosecutor a lawyer? Ans N.A. Is the Defending Offr a lawyer? Ans N.A. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned seperately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accussed is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dif p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea

.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 128), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or in case of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N.E. ? / R (5)
(1. RP 27(B). 2. RP 27(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete where or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing the paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if on his interest, be given before the finding. See RP 46(A) fn 5, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 112(B). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (a), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. N.E. - SIM
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Reserved Offr. (NOTE A")(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences, see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR (Can 308, 330, 563-566, Overseas 80 109, 2323, MML p 80, 757-758. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(2), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, 7ns, KR Can 308, 328, 330.)

ACCUSED.

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname	Unit
A-117189	Pte		Bryce Alexander	GRANT	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~xxx~~ committed the offence(~~x~~) set forth in the Charge Sheet(~~x~~) attached and on (date) 23 Jul 45 endorsed by me, (~~xxxxxxxxxxxxxxxxxx~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~x~~) should be tried by an ordinary General Court-Martial; (~~xxxxxxxxxxxxxxxxx

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: A117189 VL (Rank)

Grant B.A. (Name) of Hwing and in my opinion he is

fit to undergo trial by Court Martial.

Station 4 C.I.T.R.

Date 25 July 1945

SGD A Beaumont Capt (Medical Offr)

Re: Bryce Alexander ~~Bayce~~ Grant Pte. A 117189

Mr President + Members of the Court.

You are called upon to punish a man who has decided to go absent as he was actually sitting in the train which was to take him back to camp in due time. This statement goes to prove the character of the accused Pte Grant joined the army voluntarily as he was 19 - and now after three years service he has only been found guilty of a few negligible offences if one considers his age.

I would also like to bring up to your attention the fact that Grant was quite unhappy to be posted to a French Canadian unit as he could not ~~stand~~ speak French. You must agree that a man of his age would less apt to overcome such handicaps.

EXHIBIT "A"

LAST ORDER
No 161
18 Jul 45

4 CANADIAN INFANTRY TRAINING REGIMENT
DAILY ORDERS PART II
issued by
COLONEL R.G. CLARK D.S.O. COMMANDING OFFICER

THIS ORDER
No 162
19 Jul 45

SECTION " B " OTHER RANKS

9 ABSENT WITHOUT LEAVE

9 A AWL from 2359 hours 24 Jun 45. Still AWL at 2359 hours 16 Jul 45 (22nd day)

A117189 Pte Grant D.A. (CIC)

(signed) K.J.C.Ridley Capt
for Major I C Administration.
4 Cdn Inf Trg Regt

Certified true extract

20 Jul 45

J.R. Mathieu Lt
(J.R.MATHIEU)
Officer having custody of original

EXHIBIT "C"

Expense Voucher Ro—

Ref: KR & O (Can) 539

Reg No. A117189 Rank Pte Name Grant B.A. Unit # 4 CITR.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London to Pulborough.

Date	Particulars	Amount		
18 July 45	Escorts return fare from LONDON To Pulborough.		7.	8.
	Prisoners single fare to LONDON From			
	Prisoners fare from London. to Pulborough		3.	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0.	11	6.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R.R. Harrison Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

CMHQ 100-55
S/483 (6762)

CERTIFICATE IN ACCORDANCE WITH F.C. 2797 of 10 Apr 45. EXHIBIT "B"

I CERTIFY THAT NO. A-117189 Rank Pte. Name Grant B.A.

Unit No.4.C.I.T.B. Was arrested at London (Place)

at 0425 (Hour) on 1867945 (Date) and that at the time of his arrest he was wearing (Military uniform) or (~~Civilian clothes~~). Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of H is Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

R.E.Birch

.....CAPT.

D.A.P.M. C.M.H.Q.

(R.E.Birch)

Lon 600
18-July-45

SUMMARY OF EVIDENCE

In the case of A-117189 Pte Grant B.A. of the Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness For the Prosecution.

Lieut P. Chapdelaine, of the Canadian Infantry Corps, on strength of 4 Canadian Infantry Training Regiment, having been duly sworn, states as follows:

"I produce the following documents, pursuant to ORO 5352 which have been read over and shown to the accused and which are attached hereto as exhibits:

(a) Certified true extract from 4 CITR DO Part II No 152 dated 19 Jul 45. This is to show the start of A.W.L. Produced and marked Exhibit "A".

(b) Certificate in accordance with PC 8997 of 10 Apr 42 signed by Captain R.E.Biron of the Canadian Provost Corps. This is to show the dismissal of A.W.L. Produced and marked Exhibit "B".

(c) CMHQ Form 100:55 signed by Captain R.P.Harrison of the Canadian Provost Corps, showing cost of transportation of accused and escorts from London to Pulborough. Produced and marked Exhibit "C".

The accused declines to cross examine this witness.

P. Chapdelaine Lieut
(P. Chapdelaine)

The accused was then cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence".

The accused declines to make any statement and reserves his defense.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c) (d) (e) & (f) have been duly complied with.

IN THE FIELD
20 July 45

J. R. Matthieu Lieut
(J. R. MATTHIEU)
Officer detailed to take the Summary of Evidence.

EXA
My

CHARGE SHEET

The accused A-117189 Private, Bryce Alexander GRANT of the Canadian Infantry Corps, on the strength of 4 Canadian Infantry Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
ARMY ACT
Sec 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, did absent himself without leave from 8259 hours on 24th of June 1945 until apprehended by Canadian Provost Corps in London at 0425 hours on the 18th day of July 1945, thereby incurring an expense to the public for cost of return to his unit in the sum of 11 shillings and six pence.

(Total absence: 24 days 4 hours 26 minutes.)

IN THE FIELD
20 July 45

[illegible] Colonel
Commander
No 4 Cdn Inf Trg Regt.

To be tried by Field General Court Martial.

IN THE FIELD
23 Jul 45

(J A Wilson) Col
Temporary Comd
13 Can Inf Trg Bde

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A117789	Pte	Grant BA	4 CITR

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, R.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preminence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA sec 15 (1)	6 times	7 times
For AA sec 15 (2)	times	1 times
For AA sec 40	1 times	1 times
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, or

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or the accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and eight days in military custody, making a total of eight days of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 20 years

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 26 Jan 45

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years 82 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 82days service.

9. The accused is entitled to reckon 2 years 82 days service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award~~ is in possession of or entitled to (*state any military decoration or reward*)). CVSM & CLASP

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

(*[illegible]) Wt.[illegible] 75,000 12/40 A.A.S.W.[illegible] Gp.[illegible]

EXB

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A117789 Rank Pte Name Grant BA of 4 CITH Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 day of July 45

J. R. Mathieu
officer having custody of regtl books

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years.

In the rank of years

In the rank of years.

In the rank of

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph(s) concerned amended accordingly.)

MISCELLANEOUS

In the case of No A117789 Rank Pte Name Grant B.A.
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING REGIMENT, a Soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. Lieut P.Chapdelaine, of The Cdn Inf Corps, on strength of 4 C.I.T.R.
2. ....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENCE

1. Nil, of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

H.R.Harrison - H.C.I.T.R.

if he is available.

In the Field

B.A.Grant

20 day of Jul 1945.

LIST OF EXHIBITS

" A " Certified true extract from 4 CITR DO Part II NO 168 dated 19 Jul 45
" B " Certificate in accordance with PC 2797 signed by Capt WE Birch dated 18 Jul 45
" C " CMHQ Form 100:55 Expense voucher signed by Capt H.P.Harrison dated 18 Jul 45

IN THE FIELD
20 Jul 45

No. A117789 Name GRANT B.A. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 26 Jan 45 | Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7808)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Nov 43	Tpr		AA 15 (1) AWL 1 day 7 hrs 15 mins	Sgt Ramsay	7 days CB	24 Nov 43	Lt C.Thom	Forf 2 days pay
"	26 Nov 43	"		AA 15 (2) Failing to appear at place of parade appointed by CO	Tpr Marshall Capt Robb	7 days CB 28 days FP	29 Nov 43 13 Oct 44	Capt Nettlton L.Col Coleman	" 29 days pay
"	10 Oct 44	Pte		AA 40 being in improper possession AA 15 (1) AWL 6 hrs 10 mins	Sgt Moor Cpl Massier	21 days FP	2 Nov 44	L.Col Coleman	" 22 days pay
"	25 Oct 44	"		1)AA 15 (1) AWL 8 hrs 30 mins 2)AA 15 (1) AWL 1 day 8 hrs 30 mins	Cpl Albert Cpl Drummond	7 days CB	24 Jan 45	Capt Foxe	" 1 " "
	26 Oct 44	"		AA 15 (1) AWL 24 hrs	Cpl Earl	7 days FP	20 Feb 45	LCol MacMillan	" 9 " "
"	22 Jan 45	"		AA 15 (1) AWL 2 days					
"	17 Feb 45	"			Cpl Lemmager	7 days CB	12 Mar 45	R.Dudman Maj	" " "
"	10 Mar 45	"		AA 15 (1) AWL 1 day 8 hrs 45 mins					

(OVER)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial to be held	By whom awarded	Remarks
Field	23 Mar 45	Pten		AA 15 (1) AWL 6 hrs 46 mins	Doc	5 days FP 5 days Pay	24 Mar 45	Maj Thorne	Forf 6 days pay

Certified true Copy

dated.....45

J.R. Mathieu Lt

(J.R.Mathieu) Officer having custody of original

COUNTER NUMBER 433454

HOUR 17.00

OPERATOR'S INITIALS L.B.

RELIEVING OPERATOR E.M.

FF-103

SGT GRANT C.L.

FF/103 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 27th day of May, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 5 Canadian Armoured Divison, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[illegible]~~ } ROGS

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[illegible]~~ —

*(1. ~~[illegible]~~

*(2. ~~[illegible]~~

*(3. ~~[illegible]~~ } ROGS

~~[illegible]~~

~~[illegible]~~

President Entered
[signature] 14 Jan 43

President.

Rank.	Name.	Regiment.
Major	H.E. Brown	17 Cdn Fd Regt

Members.

Rank.	Name.	Regiment.
Capt.	J.P. Gilmour	8 Cdn Army Fd Regt
Lieut.	D.M. Nichol	4 Cdn A Tk Regt
Lieut.	Waiting Member E. Finningly	5 Cdn Lt AA Regt
Capt.	Judge Advocate G.M. Morrison	HQ 5 Cdn Armd Div

*Signed R.O.G. Morton
~~(R.O.G. Morton)~~ Brig
Commanding CRA 5 Cdn Armd Div
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

2

2

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.15080 Sgt. Charles, Lewis GRANT 5 Cdn Lt AA Regt	First Charge Sec. 40 AA WHILE ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.	Not Guilty	Not Guilty. H.E.Brown - Major RCA 29 May 43	Noted O'Sheaton Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 30 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) R.O.G. Morton (R.O.G. Morton) Brig — *Commanding* CRA 5 Cdn Armd Div — *Convening Officer* (*e*)

(Signed) H.E.Brown - Major RCA 17 3d Regt. R.C.A — *President.* G.Mellorrison Capt. judge advocate

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

31

I certify that the above Court assembled on the 29th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court and Judge Advocate
2. The witnesses and Shorthand writer
*(3. ~~The interpreter~~) H.E.B.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 29th day of May 19 43

G.Mellorrison Capt. judge advocate

H.E.Brown - Major RCA
President of the Court Martial.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 H.E.B.
President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation.

*~~I direct that the [illegible] named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 3rd day of June 1943.

R.O.G. Morton Brig
Confirming Officer.
CRA 5 CDN ARMD DIV

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.L. 40113—401 300-6 Kiel P. St. C. Ltd.

MEDICAL OFFICER'S REPORT

I certify that No. B-15080 Sgt Grant, C.L.,
of 5 Lt AA Regt RCA is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer
5 Cdn Lt AA Regt RCA.

Station In the Field

Date 29 May 43.

M. F. B. 246

CHARGE SHEET

H.E. Crerar Lieut-Gen
President F.G.C.M.
29 May 43
3

The accused No.B.15080 Sgt.GRANT,Charles,Lewis, 41 Cdn Lt AA Bty., 5 Cdn Lt AA Regt RCA., a soldier of the Cdn Army Overseas is charged with:

FIRST CHARGE:
SEC 40 AA

While on Active Service:

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE;

in that he in the field on 24 May 43, so negligently handled a rifle as to cause it to be discharged, thereby wounding No.C.9619 Gnr. Bannon,R.S.

In the Field.
26 May 43.

S.L. Higgs

(S.L. Higgs)Lt.Col.,
Commanding Officer,
5 Cdn Lt AA Regt RCA.

To be tried by Field General Court-Martial.

In the Field
27 May 43

R.O.G. Morton

(R.O.G. Morton) Brig
CRA 5 Cdn Armd Div

Trial of [illegible] Charles Leslie WEST, 5 Can Lt Aa Regt RCA.
5 Can Army Div.

Held in the field in England this 26th day of May 1945.

PRESIDENT
Major E.J. Brown — 17 Can Fd Regt RCA

COUNSEL
Captain J.F. Gilmour — 5 Can Army Aa Regt RCA
Lieut. D.M. Nichol — 5 Can A Tk Regt RCA

JUDGE ADVOCATE
Captain G.M. Morrison — 5 Can Armd Div

CONVENING OFFICER (CONFIRMING AUTHORITY)
Brig. T.I. Rudkin — 5 Can Armd Bde
Lieut. Col. Gatherall — 10 Can Fd Regt RCA
Lieut. Col. Platt — 5 Can A Tk Regt RCA
Lieut. Col. [illegible] — 5 Can Lt Aa Regt RCA
Lieut. Col. Meadus — 5 Can Armd Regt
Lieut. Col. [illegible] — 5 Can Armd Regt RCA
Lieut. Col. [illegible] — 5 Can Armd Div Sigs
Lieut. Col. [illegible] — 5 Can Army Fd Regt RCA

PROSECUTOR
Captain D.L. Harrison — 5 Can Lt Aa Regt RCA

DEFENDING OFFICER
Major [illegible] — 5 Can Lt Aa Regt RCA

The President produces the Convening Order, Charge Sheet and Summary of Evidence.

The President in closed Court, reads the Convening Order and the Charge Sheet to the Members, and the Court is then duly constituted, that it is properly convened and constituted, that the accused is amenable to Military Law, and that the charge discloses an offence.

The accused is brought before the Court, and at 1300 hours, the trial commences.

The prosecuting officer produces a medical certificate under R.A. (Can.) 22(2) that the accused is fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

President to accused:

Q. 1 Do you object to Acting Cpl D.V. MacMaster, CMSC, HQ 5 Can Armd Div acting as shorthand writer?

A. 1 No, sir.

The shorthand writer is duly sworn.

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused.

President to accused:

Q. 2 Do you object to be tried by a as President or by any of the officers whose names you have heard read over?

A. 2 No, sir.

The President, Members, Judge Advocate and officers under instruction are duly sworn.

The Charge Sheet is signed by the President.

The charge is read to the accused and he is asked as the charge is read whether he pleads guilty or not guilty. He pleads as follows:

First Charge - Not Guilty.

President to accused

Q. 3 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient time for preparing your defence?

A. 3 No, sir.

P R O S E C U T I O N

The Prosecutor declines to make an opening address.

1st Witness, Capt J. Mitchell, RCAMC att 5 Cdn Lt AA Regt RCA, having been duly sworn is examined by the Prosecutor:

Q. 4 On the morning of 24 May you were acting in the capacity of MO in the 5 Lt AA Regt?

A. 4 Yes, sir.

Q. 5 You were called to a barrack room to attend to a gunner who had received a gun shot wound?

A. 5 Yes, sir.

Q. 6 Will you tell the Court what you know about this affair?

A. 6 On the morning of the 24 May, I was called to see a gunner who had been shot. I arrived at the barrack room and found the gunner lying on the floor. One of the men had applied first aid and stopped the haemorrage. I examined the gunner and found a wound in the right side of the chest, going through the upper end of the right arm resulting in a combined communated fracture of the right humerus at or above the surgical neck. I removed the first aid dressing and applied a shell dressing, treated for shock with blankets and gave him some morphia. A while later he was removed to the station MTR at Sydd Camp and from there to the Royal Victoria Hospital.

Q. 7 Was Gnr Bannon the man who was injured?

A. 7 Yes, sir.

No cross examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

2nd Witness, B15342 Gnr J.W. Dow, 41 Lt AA Bty, 5 Cdn Lt AA Regt RCA, having been duly sworn is examined by the Prosecutor:

Q. 8 On the morning of 24 May as a member of "B" tp, you were in your quarters at the time an accident occurred to Gnr Bannon?

A. 8 Yes, sir.

Q. 9 Will you tell the Court what happened?

A. 9 At the time, the troop returned from the firing range and were engaged in cleaning their rifles when the accused came in the room and asked if anyone knew just exactly how the cartridge was extracted from the rifle. There was some controversy about that question and my rifle was used to demonstrate. I had just finished cleaning my rifle and the bolt was on the bed. Gnr Buchanan handed the bolt to the accused who assembled it. The accused said "If I had a round, I could demonstrate more clearly whereupon I gave him a round. I was

A. standing on the right of the accused and Gnr Buchanan on the left. The bolt was pulled back twice while I was watching and I proceeded to remove the 2 by 4 from the rifle through and wind it up. During this time the accused continued to demonstrate to Gnr Buchanan. At this time the rifle discharged. Looking in the direction the rifle was pointing I saw Gnr Bannon walk towards the accused and myself saying he was shot. I might say that the accused was holding the rifle at the point of balance with his left hand and the muzzle was held low pointing towards the corner of the room while his right hand worked the bolt.

Cross Examination by the Defending Officer

Q. 10 Was the rifle moving about the room during the demonstration?
A. 10 No, sir, it was not.

Q. 11 How was the accused dressed?
A. 11 He was wearing coveralls, steel helmet and his web.

Q. 12 Was he in battle order or just skeleton web?
A. 12 Skeleton web.

Re-examination

By the Judge Advocate

Q. 13 Was this a regular period of instruction?
A. 13 No, sir, it was not. We had just returned from Eglin Camp Ranges.

Q. 14 It was just an informal instruction?
A. 14 Yes, sir.

Q. 15 How many of you were standing around the accused?
A. 15 Just the two of us, Gnr Buchanan and myself.

Q. 16 Gnr Bannon was not in the discussion?
A. 16 He had been in the discussion but was on his bed.

Q. 17 How far?
A. 17 Around 8 feet.

Q. 18 What type of rifle was this?
A. 18 The new Lee Enfield No.4 Mark 1.

Q. 19 Where did you get the round you gave the accused?
A. 19 The round Gnr found the night before in front of the Garrison Mess.

Q. 20 By yourself?
A. 20 Yes, sir.

Q. 21 In whose hands was the rifle when it was discharged?
A. 21 In the accused's hands.

By the Court

Q. 22 Was Gnr Bannon's bed in the corner of the room?
A. 22 It was the second bed from the corner.

Q. 23 About how far from the corner?
A. 23 Not very far for there were beds right up to the corner. There were men sitting on some of the beds.

Q. 24 Gnr Bannon was sitting on one of these beds?
A. 24 Yes, sir.

Q. 25 The beds you refer to, were they a bed or blankets on the floor?
A. 25 They were blankets and mattresses on the floor.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

3rd Witness, P50631 Gnr R.C. Buchanan, 41 Lt AA Bty, 5 Cdn LAA Regt RCA, having been duly sworn is examined by the Prosecutor:

Q. 27 On the morning of 24 May, you were at Lydd Camp and whilst in your quarters of "B" tp, an accident involving a gun shot wound occurred in which Gnr Bannon was injured?
A. 27 Yes, sir.

Q. 28 Will you tell the Court just what happened?
A. 28 The accused was giving me a demonstration on the ejector of the rifle and showing me ~~how it worked~~ and how it ejected the cartridge. The accused asked for a round and one was given to him. The accused took the cartridge and placed it in the rifle. He pushed in the bolt and opened it slowly again. The cartridge did not eject. I asked him how it was that it had not worked and he replied that it had not been pulled back far ~~enough. He~~ then closed the bolt again and the round went off.

Cross Examination by the Defending Officer

Q. 29 Did the rifle discharge immediately the bolt was closed?
A. 29 Yes, sir.

No re-examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

4th Witness, C101172 Gnr R.D. Carswell, 41 Lt AA Bty, 5 Cdn LAA Regt RCA having been duly sworn is examined by the Prosecutor:

Q. 30 On the morning of 24 May you were at Lydd Camp?
A. 30 Yes, sir.

Q. 31 As a member of "B" tp you were in your quarters when an accident occurred involving Gnr Bannon?
A. 31 Yes, sir.

Q. 32 Will you tell us what happened?
A. 32 We came back from the ranges and went to our barracks to clean our rifles. As I did not have a rifle, I went to the barracks. I came back into our quarters and was sitting on my blankets. I had been talking when I heard the report of a rifle and saw Gnr Bannon stagger to the centre of the floor and heard him say that he had been shot. Someone said "Get the MO", so I left and got him.

Q. 33 Was Gnr Bannon bending over when he was shot?
A. 33 I was not looking at him.

Q. 34 You did not see him at all?
A. 34 No, sir, I was paying no attention to him until he said he had been shot.

No cross examination.

In the opinion of the Court and of the Judge Advocate it is not necessary to comply with R.P. 83(B).

5th Witness, B15014 Gnr W. Webb, 41 Lt AA Bty, 5 Cdn LtAA Regt RCA, having been duly sworn is examined by the Prosecutor:

Q. 35 On the morning of 24 May, you were in "B" Tp quarters in camp at Lydd when an accident occurred involving Gnr Bannon. Will you tell the Court what happened?

A. 35 I was standing in front of my bed cleaning my rifle when suddenly there was an explosion. I looked up and saw Gnr Bannon suddenly straighten up and say he had been shot. He walked to the centre of the floor and laid down on a gas cape. That is all I know.

Cross Examination by the Defending Officer

Q. 36 Were you aware of the presence of the accused in the barrack room?
A. 36 Yes, sir.

Q. 37 Did you hear the accused's question "How many men know how the ejector mechanism on the rifle works?"
A. 37 Yes, sir.

Q. 38 ~~Where was he standing?~~
A. 38 A couple of beds away from me sir.

Q. 39 Did you see the accused carrying out a demonstration with a rifle?
A. 39 I know he was demonstrating how it worked but I could not actually say I was watching him.

Q. 40 If you did not see him, how did you know he was there?
A. 40 I did not see him carry out the demonstration but I saw him there. I was not paying any attention to him.

Q. 41 Can you place yourself in this room in the position in which you believe the accused to be during his demonstration?
A. 41 No, sir, I am afraid that I cannot.

Q. 42 Did you know where Gnr Bannon was standing?
A. 42 Between me and the accused, sir.

Q. 43 How soon before the shot did he arrive at the point between yourself and the accused?
A. 43 He was there all the time. I do not remember him leaving the room.

Q. 44 Does you [illegible] of the presence of Gnr Bannon than having seen him?
A. 44 I know he was there.

Q. 45 How was the accused dressed?
A. 45 He had skeleton ~~set~~ on and I believe he was wearing a steel helmet.

No re-examination.

By the Judge Advocate

Q. 46 Are you familiar with the ejector mechanism of a rifle?
A. 46 Yes, sir.

Q. 47 You have received instructions on that?
A. 47 Yes, sir.

Q. 48 Did you know whether Gnrs Dow and Buchanan had ever received instruction before on this?
A. 48 I could not say, sir.

Q. 49 Have you been with the unit very long?
A. 49 Yes, sir.

Q. 50 How long?
A. 50 About 2 years.

Q. 51 You had rifles all that time?
A. 51 Yes, sir.

Q. 52 Did you know personally why this should go off?

18 A. 53 No, sir.

By the Court

Q. 53? Was Dow talking or lying on the blankets when he was shot?
A. 53 He was leaning over, I think.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with P.F. 53(b).

The prosecution is closed.

The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross examination or that he may, if he wishes, make an unsworn statement, upon which he cannot be cross examined.

(Accused to be warned)

Q. 54 Do you apply to give evidence yourself as a witness?
A. 54 Yes, sir.

Q. 55 Do you intend to call any other witness in your defence?
A. 55 No, sir.

Q. 56 Are you ready to proceed?
A. 56 Yes, sir.

DEFENCE

The Defending Officer declines to make an opening address.

1st Witness, Richard Cut Charles Lewis CLUTT, [illegible] 2nd Bn Regt RCA. Having been duly sworn is examined by the Defending Officer:

Q. 57 Will you give the Court an account of what happened on the morning of 24 May?
A. 57 On the morning in question, we were at tyfl and we had come back in from the ranges. In our unit there are a lot of recruits who have not been with us only a short time. Now the men had bolted out their rifles and were cleaning them in the ablution room. The room in question is a long affair about this size and there were about 30 men in the room, rifle cleaning utilities. The beds of which they speak were palliasses. They were in front of Dow and Buchanan's beds which are along the right side and in about the centre of the room. I was in this room inspecting some of these rifles when it suddenly occurred to me that all the men who were on the ranges that morning know how the rounds were ejected. From my question, a short discussion ensued and there was quite a conversation on the ejector and extractor of the No 4 Mark 1 Lee Enfield rifle. I walked over to Dow's bed where he was sitting cleaning his rifle and I showed the men in the room, the screw in the slot which acts as the ejector. Most of the men took my word for it but Dow and Buchanan seemed to be in doubt. I then took the bolt of Dow's rifle and assembled it. At that time I was standing at the foot of Dow's bed which would be about 4 feet from the wall. I showed the two of them how the action worked. Dow seemed to grasp the idea while Buchanan still argued the point. I then made the remark that if I had a round I could show him more clearly. I was given a round. He moved then in between Dow and Buchanan's beds, Buchanan about 3 feet from the wall, then myself, and then Dow. I was holding the rifle, at this time, pointing to the corner of the room and as far as I can recollect, while the men were in front of the beds, there were none in the corner where the rifle was pointing. The round was put in the rifle, I closed the bolt, lifted the bolt back once while leaving the round in the magazine not far enough out for the extractor to work. I then grasped the rifle but Buchanan made a remark that

A. 67. Doing such a fine job as storeman he was ambitious and wanted to add a gun to his three stripes. This he did after a good deal of hard work on his part for during the day he was, of a necessity, in the stores and had to get practice in gun drill and knowledge of guns almost entirely on his own. He mastered this subject just as he mastered all other subjects and soon became a very capable LAA instructor. He was promoted to Sgt and became a detachment commander and is today considered one of the best detachment commanders in his bty. He has always been above average in his smartness of appearance, his manner and his dress and I believe he is an example of a smart soldier as well as a very capable and willing instructor.

No Cross examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with S.P. 63(B).

The Defence is closed.

The closing address of the Prosecutor is recorded on a separate sheet, marked "X" and attached to the proceedings.

The closing address of the Defending Officer is recorded on a separate sheet, marked "Y" and attached to the proceedings.

The closing address of the Judge Advocate is recorded on a separate sheet, marked "Z" and attached to the proceedings.

The Court is now closed to consider the finding.

The Court being re-opened the accused is again brought before it and a finding of 'Not Guilty' is announced and the accused is released.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 29th day of May, 1941.

G.W. Morrison Captain
Judge Advocate

"X" Gmm.

ADDRESS BY THE PROSECUTOR

In summing up this case, the evidence for the prosecution, produced so far, shows that the demonstration was made at Lydd Camp on the morning of 24 May in a barrack room. It was made possibly because of the fact that nothing else was available, with a live round.

The evidence shows that by accident, someone walked in the line of fire of the rifle and the evidence also shows that the rifle apparently fired itself. The trigger was not pulled by the Sgt. That also appears to be purely accidental. So far as the prosecution is concerned, negligence was due to the fact that someone walked across the path of the rifle while the accused was not looking and speaking for the prosecution that appears to be the only negligent thing which occurred.

"Y" Gmm.

ADDRESS BY THE DEFENCE OFFICER

In opening, I would first like to dwell shortly on the service of the accused which constitutes 10 years service--7 years in the NPAM prior to the outbreak of war and 3 years with the Active Force. Four years of the seven which he served in the NPAM was carried out with the infantry, the first winter of which the accused carried the rank of Sgt. He has been overseas since the arrival of 5 Cdn Armd Div, one year and eight months ago.

The entry of this NCO into a barrack room at Lydd practice camp was prompted by zeal and enthusiasm. He was not sent there but chose in his line of duty as instructor to assure himself that the weapons were receiving the proper care. Being an instructor and being aware that there were several men in that unit who were newcomers from Canada who were likely unused to the No 4 Mark 1 rifle, he decided to take the opportunity of finding out what knowledge they may have of one of the more intricate parts of its mechanism. The answers were not altogether satisfactory and having in mind the military watchword that one minutes demonstration is worth a thousand words of explaining and whilst the matter was uppermost in his mind's mind, he proceeded with enthusiasm to make his demonstration. This demonstration took place during an hour of duty shortly before dinner. The prosecution suggests that perhaps the use of a live round should have been considered but may I remind the court that the use of live ammunition for training or demonstration is rather a practice in the army today. Live ammunition in battle schools and training in the use of grenades are a regular habit. The defence feels also that some responsibility rests with the others as well as with the individual handling the firearms, that is a man should not step in the path of a rifle whether loaded or unloaded.

The charge against the accused is one of negligence. I have sought a dictionary definition of the word. I quote "habitual neglect" and neglect is defined as "not to care for". At no time in the record of service of this NCO has there been any suggestion of neglect or carelessness, in fact there is no reference of any kind of his behaviour or misdemeanour in his records. I have seen one of his records, one of the official records, stating that as an NCO he is considered very capable.

It is the contention of the defence that the unfortunate accident, I say again accident, which word has been used by the prosecution and also by the court that this trial was due to zeal and enthusiasm on the part of an efficient soldier and the defence is of the firm conviction that it was pure accident. The defence submits that this case be dismissed on the grounds that there is no evidence to show negligence.

"Z" Group

SUMMARY OF EVIDENCE IN THE CASE OF

B.15080, Sgt. GRANT, Charles Lewis,

41 Cdn Lt AA Bty

5 Cdn Lt A A Regt R.C.A.

The accused demands that all evidence be taken under oath.

First Witness: B.15342 Gnr.Dow,J.H. 41 Cdn Lt AA Bty
having been duly sworn states:-

After coming back from Rifle Range at Lydd Camp on the morning on the 24th of May 1943, we went to our barrack room to clean our rifles. Sgt. Grant came into the room and asked anyone in the room how the cartridge was ejected from the rifle. Some controversy enused as to how the cartridge was ejected from the rifle. At this time I was cleaning my rifle along with others in the room. My rifle was used to demonstrate just how the cartridge was ejected from fifle. Gnr.Buchanan and myself were with Sgt.Grant. Sgt.Grant said,"If I had a round I could show you". I gave Sgt.Grant a round I had picked up outside the Garrison Theatre the night before and at that time was on the window sill. The round was eased back once or twice but still remained under the extractor, which Sgt. Grant pointed out to us. Iwas standing on the right of Sgt. Grant during the demonstration. I commenced to wind up my pull through while Sgt. Grant was demonstrating to Gnr.Buchanan. It was during that time that the rifle discharged. I did not see what caused the rifle to discharge. When I heard the shot, I looked in the direction the rifle was pointing. The next thing I saw was Gnr. Bannon walking towards Sgt. Grant, Gnr.Buchanan and myself. He said,"I've been shot, get a doctor".

Questions by the accused:

Q.1: Can you recall where we were standing in the room?
A.1: We were standing between my folded blankets and Gnr. Buchanan's about the centre of the room along the right wall

Q.2: How close to the wall would it be?
A.2: About four feet.

Q.3: Was the rifle waving around the room or was it pointed in one direction?
A.3: No, it was held pointing low towards the corner of the room

Q.4: Do you recall how I was holding the rifle when the shot was fired?
A.4: No, I was not looking at that time.

Q.5: How was I holding the rifle before you looked away?
A.5: The left hand held the rifle at the point of balance, right hand being on the bolt head.

Q.6: Do you recall how I was dressed?
A.6: Yes, you had coveralls on with web equipment and steel helmet.

Second Witness: F.86621 Gnr.Buchanan 41 Cdn Lt AA Bty.
Having been duly sworn states:-

After coming back from Rifle Range at Lydd Camp on the morning of the 24th of May 1943, we went to our barrack room to clean our rifles. Sgt. Grant was giving us a demonstration on the ejector of the rifle, to show Gnr. Dow and myself how it would eject a cartridge. Sgt.Grant asked for a round, the round was picked from the window and passed to Sgt. Grant. Sgt. Grant took the round and placed it in the rifle, then shoved the bolt home and eased the bolt back slowly extracting the round from the chamber. Then I said to Sgt. Grant that the round did not eject, and he pointed out that he had not brought the bolt far enough for the ejector to work on the round. Sgt. Grant closed the bolt again and the round went off. Then I looked up and saw Gnr.Bannon holding his arm, he said to Sgt. Grant, "I believe you hit me" Sgt. Grant went to Bannon's assistance.

Questions by the accused:

Q.7: Can you recall where we were standing in the room?
A.7: I was standing between the two folded blanket rolls about a foot from the wall and you were standing in front of me, Gnr.Dow was standing next to you, facing me.

Q.8: Was the rifle waving around the room or was it pointed in one direction?
A.8: The rifle was held steady, pointing towards the corner of the room.

Q.9: Did the round go off immediately I closed the bolt?
A.9: Yes.

Q.10: Do you recall how I was dressed?
A.10: Yes, you had coveralls on and skelton web with steil helmet.

Third Witness C.101172 Gnr.Carswell R.D. 41 Cdn Lt AA Bty.
having been duly sworn states:

After coming back from Rifle Range at Lydd Camp on themorning 24th of May 1943, we went to our barrack room and as I did not have a rifle, I went to the wash room first and came out and sat down on my blankets; I started talking to Gnr.Bannon. I was facing towardsthe centre of the room, suddenly I heard a shot and saw Gnr.Bannon stagger across to the centre of the room. He said, "I've been shot", someone said," Get the M.O."and I left the room to find the M.O.

Questions by the accused:

Q.11: Did you see a group examining a rifle at the next bed to yours?
A.11: Yes, I noticed the group but I did not pay any attention to what they were doing.

Q.12: Do you recall how I was dressed that morning?
A.12: Yes, you were dressed in coveralls, skelton web and steel helmet.

25

Fourth Witness B.150144 Gnr.Webb, W. 41 Cdn Lt AA Bty.
having been duly sworn states:

After coming back from Rifle Range at Lydd Camp on the morning of the 24th May 1943, we went to our barrack room to clean our rifles. I was in the barrack room cleaning my rifle at the time, when I heard a shot very close. I looked up and saw Gnr.Bannon straighten up, he said, "I've been shot". Gnr.Bannon walked to the centre of the room and lay down on a gas cape.

Questions by the accused:

Q.13: Did you hear me ask the question,"how many men knew where the ejector was on the rifle"?
A.13: Yes,I did.

Q.14: Did you see me demontrating the action to Gnr.Dow and Gnr.Buchanan?
A.14: Yes, I saw you showing the boys how the ejector worked but I was cleaning my rifle at the time and didn't pay any attention, as I knew the action.

Q.15: Where were you standing when the shot was fired?
A.15: I was standing in front of my folded blankets about four feet from the wall.

Q.16: Do you know where Gnr.Bannon was?
A.16: He was leaning over his blankets, his back to the group.

Q.17: Do you recall how I was dressed?
A.17: Yes, you were dressed in coveralls, skelton web, and steel helmet.

Q.18: Did you at anytime see me move the rifle around the room?
A.18: No.

Rules of Procedure 4(C),(d),and (e) have been duly complied with.

Taken down by me in the Field this twenty-sixth day of May 1943 in the presence of the accused.

George G.R. Harris

(G.G.R.HARRIS)Capt.
41 Cdn Lt AA Battery RCA.

I respectfully request to have Major W.R.R. Bradely to represent me at my forthcoming trial by Field General Court Martial.

Charles L. Grant
(C.L. Grant), Sgt.

LIST OF WITNESSES

For Prosecution

1. Captain J. Mitchell
   Medical Officer
   R. H. Q.
   5 Cdn Lt AA Regt RCA.

2. B.15342 Gnr. Dow, J.H.
   41 Cdn Lt AA Bty RCA
   5 Cdn Lt AA Regt RCA

3. F.86621 Gnr. Buchanan, R.O.
   41 Cdn Lt AA Bty RCA
   5 Cdn Lt AA Regt RCA

4. C.101172 Gnr. Carswell, R.D.
   41 Cdn Lt AA Bty RCA
   5 Cdn Lt AA Regt RCA

5. B.15014 Gnr. Webb, W.
   41 Cdn Lt AA Bty RCA
   5 Cdn Lt AA Regt RCA.

For Defence

N I L.

42-125

P6 - Grant E

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-55584 Pte Edward GRANT - CIC - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 86, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Thirty (30) days and ~~to be given no less than~~ stoppages of ½ to forfeit all ordinary pay for Sixty (60) days.

(Sgd) ..... Judge-Advocate, if any. 24 Feb 45 Date awarded. (Sgd) John Musson President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be uttered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 3.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(*)~~
(*. AA 57A. Delete if not used.)

Date 5 Mar 45 (Sgd) B. Ware Lt. Col.
Commanding 3 Cdn Inf Trg Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F55584 Private Edward GRANT	Promulgated 7 Mar 45 Extracts taken DO 5th d/3 Mar 45	(E.T. Stewart) Capt Adjutant No 3 Cdn Inf Depot Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 42-125

RECEIVED 16 MAR 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL (In lieu of AF B.213) 40/F & B/1088 (H-44) 4/388

Convened by Order of Colonel C B Ware DSO Temp Comd 13 CITB dated 22 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-55584		Edward	GRANT	CIC 3 CITR

PROCEEDINGS REVIEWED 10 Mar 45
[illegible] Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 24 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(1), accused is (are) amenable to military law, and each charge discloses an offence.(2)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
~~The Interpreter is sworn.(1)~~ Do you object to F/S 2313 Sgt J.S. Nicholls as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 102. 2. If no objection, waiting member retires. RP 103(1). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.A. Mercer RCIC	NDHQ
Member	Capt	J.B. Hughes	3 Cdn Inf Bde
Member	Lieut	G.W.T. Rhee	3 Cdn Inf Bde
Judge-Advocate			
Prosecutor	Lieut	R.C. Byers	3 C JJR
Defending Offr	Lieut	A.C. Low	3 C JJR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See fn p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea. (2)
(2. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 18, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 80(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or ~~which show~~ provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex R, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 553. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 46 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (a), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans accused elected to make statement himself & objected
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents ~~refer~~ to the accused, because (i) they purport to be signed in the manner required by AA 24(3)(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Have nothing to say (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(2), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 108, 330, 563-566, Overseas 80 109, 1103, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F.55584 Private Edward GRANT, Cape Breton Highlanders of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15 (1) Army Act

in that he,

In the Field, absented himself without leave from 0800 hours 2 January 1945 until apprehended in London by the Canadian Provost Corps at 2300 hours 17 February 1945. Total absence 46 days 15 hours.

(S.W. Thomson) Colonel,
Commander,
3 Cdn Inf Trg Regt.

IN THE FIELD
20 February 1945

To be tried by Field General Court Martial.

(C B Ware) Col
Temporary Comd
13 Cdn Inf Trg Bde

In the Field
22 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50. RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-55584	Pte		Edward	GRANT	CIC 3 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~jointly~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Feb 45 endorsed by me, ~~[illegible]~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~[illegible]~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E M MILLER, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	3 CACRU
Lieutenant	to be detailed by Commanding Officer	3 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	~~[illegible]~~	

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

C B Ware
(Signed personally. RP 105 fn 2.)

Colonel
(Rank.)

Dat. 22 Feb 45

(C B Ware)
~~[illegible]~~ Temporary Comd, 13 Cdn Inf Trg Bde
(A) Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 9E (In lieu of AFA 3) 40/P & S/1697 (8148)

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate. 4C/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. F5558.4

Pt Grant E of 3.C.I.T.R.

and in my opinion, he is fit to undergo trial by Court Martial.

Station Field

Date 24-2-43 (Sgd.) J B Crane Capt
(Medical Officer)

(Canadian Reinforcement units Routine Order No. 3, para 27, d/6 Jan 42)

CASE OF

F-55584 Pte. GRANT, E. 3 CITR

STATEMENT OF ACCUSED

I am 35 years of age, single, and grade 11 education. I helped my father run a hotel before I enlisted, a temperance hotel. I enlisted 15 July 1940 in the Cape Breton Highlanders. I came over with them in 1940 as Coy Clerk in "A" Coy. I was reboarded to Category "C.1" because of a broken foot in 1940. I was sent to 5 CDRU (AD). I was there until it was disbanded in Feb 1943. I then went to 7 CIRU until it disbanded in March 1944. While there I was in charge of "A" Coy quarter stores as well as Coy Clerk. "A" Coy was reception Coy and the QM came from the field and after a few days went to another company and the staff was always changing so I was placed in charge as there was nobody there except a few category men. I had to sign for all stores. I was never in trouble over my job. I was reboarded in March 1944 and given L.4 which was for old "C.1" of broken foot before I enlisted. When unit was disbanded I was sent to CTS as a batman. I did not ask to be one, I was told I had to go. After 6 weeks I paraded to the Colonel to be returned to my unit as I did not like being a batman. When I got to 4 CIRU I was hut orderly for a few weeks and was then sent to 3 Cdn Reallocation Unit, 21 Army Gp. I was sent from Reallocation Unit as my category was too low for a Field Unit. I was returned to 4 CIRU and a week later sent to H. "D" Gp as a clerk. I stayed there until end of Sep 1944 and left because I did not get along with the CSM. I had no trouble with my job, and got along alright otherwise. I came back to 4 CIRU and was put on fatigues and sent to 2 Cdn Tobacco Depot and got along alright there until I was replaced by CWAC personnel. I was sent back to 4 CIRU and put on sanitary fatigue and the week before I went absent was put in QM stores. I was fed up with being pushed around ever since I have been in the army. The only reason I was fed up and could not be satisfied in employment for my work was - Nine of the men in the unit were categorized at the same time and all the others have been returned to Canada but I have been kept because I was a clerk but instead of working as a clerk I have been on fatigues.

NO CROSS EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 86(D).

STATEMENT BY DEFENDING OFFICER.

Sir, I was at HQ "D" Gp, CRU, at the time the accused worked there as a clerk. Any connection I had with him I found his work as a clerk to be satisfactory and I feel that something should be done to see that he is suitably employed or returned to Canada. This man is a qualified clerk Gp "C" and has grade 11 education.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F.55584 Private Edward GRANT, Cape Breton Highlanders of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken on oath:

FIRST WITNESS

For the Prosecution

Capt E.T. Stewart, General List, on the strength of No 3 Cdn Inf Trg Regt., an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Captain E.T. Stewart and am Adjutant of No 3 Cdn Inf Depot Bn., I hereby present marked Exhibit "A" Certified true copy of a Court of Inquiry held in the field on the 2 Feb 45, which shows that the accused F.55584 Private Grant, E., whom I now recognize, illegally absented himself without leave from 3 Cdn Inf Trg Regt at 0800 hours on the 2 January 1945 and was still absent on 2 February 1945 and was deficient in kit in the amount of £5-8-3½. I present marked Exhibit "B" Certificate in Accordance with P.C. 2797 of 10 Apr 42 dated 18 Feb 45 which shows that the accused was apprehended in London at 2300 hours 17 February 1945.

E.T. Stewart Capt
(E.T. Stewart) Capt.

The accused declines to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), and (f) have been complied with.

W.J. Aslin Lieut.
(W.J. Aslin) Lieut.
Officer Detailed to Take Summary

IN THE FIELD
20 February 1945

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 2 nd day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-55574 Pte. Grant, E (C.B.H.)

DECLARATION

The Court declare that No. F-55574 Pte. Grant, E

illegally absented himself without leave from 3 Cdn. Inf. Trg. Regt. at 0700 hrs on the 2 nd day of January 45 that he is still so absent, and that on the 2 nd February 45 he was deficient, and that he is still deficient of the following articles :—

ARTICLES		VALUE		ARTICLES	VALUE
Anklets Web	0	4	6	3 4	
Blouses B.D.	1	3	6	17 7½	
Drawers Woollen	0	#	11	# 0	
Jersey Pullover	0	#	0	6 0	
Shirts Angola		1#	2	13 7	
Socks Pr	0	1	#	1 3	
Trousers B.D.	1	4	1	1# 1	
Vests Woollen		10	9	# 0	
Dressing P.F.		1	1	9½	
Shorts Gym		3	10	2 10	
Vests Cotton		3	2	2 4	
Net Camf Helmet			#	#	
GRAND TOTAL	5	#	3½	4 2 6	

Capt. E.B. Stewart (R.H.C) President

Lieut. D.H. Co wnie (R.H.C) Member

Lieut. L Brosso S.D. & G.H Member

Signed at In the Field

this 7th day of Feb 1945

Signature of Commanding Officer (A.N. Young) Lt.-Col.

Certified true copy E.B. Stewart Capt
Signature of Officer having custody of original record

3/608 MFB 375-AFB 115 40/P&S/292 (6610)

CERTIFICATE IN ACCORDANCE WITH A.C.I. 479 of 10 APR 43

I hereby certify that No. F-55584 Rank Pte Name Grant.E.

of No.3.C.I.T.R. (CHU) was arrested at LONDON Place

2300 (Hour) on 17-Feb-45 (date) and that at the time of his arrest he was wearing (Military Uniform) ~~or xxxxxxxxxxxxxxxxxx~~, Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer of the Corps/Unit Officer in charge of the portion of His Majesty's Forces of the Officer, Warrant Officer or non-commissioned Officer in charge of the Detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
18-Feb-45

(R.E.Birch), Capt.
D.A.P.M. CMHQ.

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.(O)) 3D/11

.....20 February.....194.5

I, No. F.55584 Pte. Grant, E. (Name), wish to have
(Rank)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of ANY OFFICER.

if he is available. (Sgd.) Grant

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
F.55584	Pte.	GRANT, Edward	3 Cdn Inf Trg Regt.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15(1) 5 times.

~~For~~ ~~times~~

~~For~~ ~~times~~

~~For~~ ~~times~~

Date of first entry in Field Conduct Sheet 20 Oct 42

Date of last entry in Field Conduct Sheet 9 Oct 44

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

~~3. The accused at the present time is under sentence for [illegible] beginning on the day of~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 6 days in military custody, i.e., NIL days in open arrest, 6 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 35

6. The date of attestation is 15 Jul 40

7. The service which the accused is allowed to reckon is 4 years 7 months

8. The accused is in possession of‡ Nil

‡State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—~~

Date of Promotion.

In the substantive rank of

In the war substantive rank of

In the acting rank of

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*20072) Wt.53722/3701 $2,000 8/44 A.& E.W.Ltd. Gp.699

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of February 1945

[illegible] Lt.
a/adj 3C.I.D.B.

LIST OF WITNESSES

In the case of F.55584 Pte Grant, E., Cape Breton Highlanders of Canada, on the strength of No 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1.	Capt E.T. Stewart	No 3 Cdn Inf Trg Regt

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of F.55584 Pte. Grant, E., Cape Breton Highlanders of Canada, on the strength of No 3 Cdn Inf Trg Regt.

EXHIBIT "A" - Certified true copy of a Court of Inquiry held in the field 2 Feb 45.

EXHIBIT "B" - Certificate in Accordance with P.C. 2797 of 10 Apr 42 dated 18 Feb 45

20 February 1945

This is to acknowledge that I have received free of charge, the following papers in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Exhibits
1 List of Witnesses

Grant

F.55584 Pte Grant, E.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Oct 44	Pte		WOAS Sec 15 AWL from 2145 hrs 27 Oct 44 to 2300 hrs 27 Oct 44 (Thirty minutes)	Sterling T P	Fine 8 days pay FR 1/149 (2)	28 Oct 44	Major J A McGregor	
Field	25 Sept 44	Pte		AA Sec 15 WOAS AWL from 1000 hrs 25 Sept 44 to 0800 hrs 30 Sept 44 (4 days 22 hrs)	Strumentary	5 days pay FR 1/149 (2)	9 Oct 44	Lt Col Christensen	Fine 5 days pay FR 1/149 (2)
				Certified True Copy 20 Feb 45					
				W. Alin H. Wadj 3 C.I.D.B.					
				Officer Having Custody of Regimental Books					

No. F55584 Name Grant E. Squ, Battery, or Company — Corps CIC Date of enlistment 15 Jul. 40 GC Badges Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/F&S/136 (5413)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No One Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Notes of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 20 Oct 42		Pte.		WOAS, AWL 2030 hrs. 15 Oct. 42 to 2200 hrs. 15 Oct. 42 (1 hr. 30 min)		14 days CB 14 days pay		DO 78/42	
Field 28 May 44		Pte.		WOAS, AWL 2245 hrs. 28 May 44 to 2000 hrs. 29 May 44 (21 hr. 15 min)	6 pl. Hanna	10 days F.P. Forf. 10 days pay FR#1, 149 (1)(c)	31 May 44	N. M. Stafford	Forf. 1 day pay FR#1, 149 (1)(c)
Burnham 27 Oct 44		Pte		WOAS, Sec. 15 (1) AA, AWL from 2145 hrs. 27 Oct. 44 to 2300 hrs. 27 Oct. 44 - 1 hr. 15	Lt. Carling T. F.	Forf. 8 day pay FR#1, 149 (2)	28 Oct 44	Maj. J. A. McFadyen	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Oct 44	Pte		WOAS [illegible] AWL from 2145 hrs 2 Oct 44 to 2300 hrs 2 Oct 44 (Chris Sanders)	[illegible] T.P.	[illegible] 8 days pay FRT/148 (2)	[illegible] 44	[illegible] Ledger	
Field	[illegible]	Pte		AA [illegible] WOAS AWL from 1000 hrs 25 Sep 44 to 1800 hrs 30 Sep 44 (9 days 2 hrs)	Documentary	5 days pay FRT/149 (2)	[illegible] 44	[illegible] Christensen	[illegible] 5 days pay FRT/149 [illegible]
				Certified True Copy 20 Feb 45 [illegible] Adj 3 C.I.D.B. Officer Having Custody of Regimental Records					

MMM-133

PFC GRANT G

RECORDED AT CMHQ IN AB 160.

MMM-133 A [illegible]

RECEIVED 5 JUN 1944 JAG BRANCH C.M.H.Q.

Correspondence to be PINNED here.

Army Form A.3.

G151

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

23 MAY 1944 ECHELON

A.

Order convening the Court.

On Active Service, this Thirtieth day of April, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or as of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint :—~~

~~*(1. Three Officers to form the Court.)~~ RE 3

~~*(2. A Field Officer as President.)~~ RE 3

~~for the following reasons, namely :—]~~

PROCEEDINGS REVIEWED 8 June 44.

R. Beauvillé Capt.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

76

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	J O Millard	West NSR

Members.

Rank.	Name.	Regiment.
Captain	F L Corcoran	Carlt & York R
Lieut	W J Bambrick	RCCS(Carlt & York)

*Signed [signature] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

G151

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C42588 Pte Germain GRANT, R 22e R	First Charge Sec 9(2) AA	not Guilty	Not Guilty 10 May 44 [signature] Maj	Confirmed 13 May 44 [signature] Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] Brigadier (Signed) [signature] Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the First, Third and Tenth day of May 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction) [illegible]

were duly sworn.

*Omit if not applicable.

Signed this Tenth day of May 19 44

[signature] Maj
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be inserted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] A.& S.W.Ltd. Gp.495

A

Army Form A 9.

**All printed, matter not applicable to the particular Court being held, should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at [illegible] on the 1st day of May 1944 by order of Brigadier J.P.E. Bernatchy

Commanding 3 Cdn Inf Bde

dated the 30th day of April 1944

President.

Major J.D. Millard West N.S.R.

Members.

Capt F.L. Corcoran Coast Yard R

Lt. D.J. Bambrick RCCS (att Coast Yard R)

~~Judge Advocate~~ [illegible]

Trial of*

642588 Pte Germain Grant, Royal 22e Regiment.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

Jay { ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt P.A. Trembley

Jay ~~Counsel for~~ defending officer† Lt J. Girolami

At 0920 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* no

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible]

B

The President, members ~~and judge-advocate~~ are duly sworn. Jay

~~The following officers under instruction are duly sworn.~~ Jay

Jay { Question by the Court to the accused
Do you object to E 4567 Pte GUAY, E. as interpreter?
Answer
No.
Interpreter sworn under interpreter oath in M.M.L.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

not guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~ Jay

---

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

[illegible]

Medical Officer's Certificate

I certify that I have this morning examined NO. E42588.....

Rank Pte.... Name.. GRANT G..... of Royal 22nd Regiment....

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Lasthe field.....

Date 3 mar. 1944.....

W. E. Wood Capt
(Medical Officer)

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. 642588

Rank Pte. Name GRANT G. of Coral 22nd Dept.

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Section In the

Date 10th May 1944.

J Brook Capt
(Medical Officer)

MEDICAL OFFICER's CERTIFICATE

[illegible] that I have this morning examined No C.42588

Pte [illegible] GRANT G. of Royal 22° Regt.

in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

on In the Field

1st May 1944

Jay

W E Ortoes capt

(Medical Officer)

B 2

CHARGE SHEET

The accused C.42588 Private Germain GRANT a soldier of Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:

1st Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER,

in that he,

In the Field,
At about 2200 hrs, 14 Mar 44, did not return to his platoon when ordered to do so by Captain Come Simard Royal 22e Regiment.

J.G. Charlebois
(J.G. CHARLEBOIS) Major,
T/Commanding Royal 22e Regiment

In the Fi ld,
2 Apr 44

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL "

E. Bernatchez
(J.P.E. BERNATCHEZ) Brigadier,
Comdg 3 Cdn Inf Bde

In the Field
30 Apr 44

C

*Instruction. (See R. P. 39 (A).) Question.

Proceedings on Plea of Not Guilty.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. Nil

~~The prosecutor makes an opening address, hands in a written address which is read, marked~~ , signed by the President, and attached ~~to the proceedings.~~ Exhibit

The prosecutor proceeds to call witnesses.

First witness for prosecution. E41904 Sgt Lepage S.P.

being duly sworn, is examined by the prosecutor.

On the 14th March, at approx 1800 hrs, we had an "O Group" by the platoon cmdr. saying that we were going to attack Kinghird. Pte Grant was present. When we left to attack, Pte Grant was with the section with the platoon cmdr. I was with another section on the right. At approx 0300 hrs, 15 Mar 44, I received the order to retreat. Grant was not with me, and I saw him again only around 0400 hrs. at the platoon billets.

Question by court — Do you know if the accused Pte Grant was with his section when they moved forward to the attack

Ans. I do not know because I was with another section.

Second witness

Capt. J.H.G. Simard

(Not presently available. Court requires his evidence and is adjourned until such time as Capt Simard can be available

[illegible] maj.

Court re-forms 3 May 44 at 0930 hrs, same members of Court being present.

C2

Second Witness. Capt. (now Lieut.) J. H. C. Simard, R22eR having been duly sworn, states.

On the 14th Mar. 44, the coy. which I was commanding at the time, was attacking an enemy outpost called Kingbird. At about 2200 hrs I left my coy. H.Q. and went forward to contact Lt. Charbois who was platoon comdr. of No. 8 platoon. On my way I met Pte. Grant. I asked him where he was going and he told me that he was going back. I asked him if he had permission, or had been ordered to go back. He answered "No", so I ordered him to go back to his platoon.

Cross examination by the Defence.

Question. At what time did the attack take place?
Ans. At about 1845 hrs.
Question. Do you know if the accused took part in the attack?
Ans. He was with his platoon at the time. I know that from spoke
Question. At what time did you order the withdrawal of the coy.?
Ans. At about 0200 hrs. 15 Mar. 44.
Question. In what physical condition was the accused when you spoke to him?
Ans. I cannot say in exactly what condition he was - to my impression was that he should be with his platoon.
Question. When you ordered him to return, did he go in that direction?
Ans. I cannot say.
Question by court. Do you know the name of Pte. Grant's section comdr. on the 14th Mar. 44?
Ans. I am not sure about that.
Question by defence. At what time did you meet Grant?
Ans. At about 2210 or 2215 hrs.
Question by court. Are you certain that it was Pte. Grant to whom you were speaking, and how did you recognize him in the darkness?
Ans. I asked him who he was, and he told me he was Grant.
Ques. by pros. When you went to Lt. Charbois' platoon, how long did you stay with it?
Ans. About 2 hrs.
Ques. by pros. While you were there, did you see anyone to see Grant return. (objection by defence, overruled by court.)
Ans. No.
Ques. by defence. ~~Could you say that~~ Were you in a position to see everyone that came into the platoon area?
Ans. No.

Third Witness. D132475 Pte. Pelletier P.E. R22eR.

Having been duly sworn, states:

When the attack started, Pte. Grant was present, and that was the last time I saw him until I saw him in the billets.

Examination by pros.

Ques. Was Pte Grant with you when the platoon returned?

Ans. No.

Ques. ~~Was he with the platoon prior to returning?~~ Coy

(Objection by defense. Sustained by court)

Ques. Did you return with the platoon?

Ans. No. Because we returned in different groups.

Ques. What group did you return with?

Ans. ~~There were Pte Brunson~~ Coy The special group.

Ques. Was anybody missing from that group?

Ans. Nobody was missing.

Ques. Do you know whether Pte. Grant returned with any group?

Ans. No, I do not know, because I was not interested.

Cross-examination

Ques. When Capt Simard visited your position, was the accused present?

Ans. I don't remember.

Ques. At what time did you see Capt. Simard?

Ans. I can't testify as to the time.

Ques. Was it before, or after, the attack?

Ans. It was after.

Ques by court. At what time did you leave the forward position?

Ans. I do not know the time.

Court adjourned 1030 hrs 3 May for purpose of permitting prosecution to obtain further evidence.

Court reassembled 10 May 44 at 0845 hrs. Present, the same members as on adjournment.

[signature]

Prosecution informs the court that no further evidence is available.

The Court closes for consideration of the evidence as to whether or not there is sufficient evidence to put the accused on his defense.

The Court reopens and the President informs the accused that he is found Not Guilty of the charge or there is not sufficient evidence to put him on his defense.

D

The prosecution is closed.

Court is closed to consider the evidence of the prosecution. Court is required and the finding of not guilty announced to the accused.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer.

Question. Do you intend to call any other witness in your defence ?

Answer.

Question. Is he a witness as to character only ? *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the ~~finding~~ evidence.

The Court find that the accused is not guilty of the charge. Finding is announced in open court and the accused is discharged.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental sense, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prisoner must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

SUMMARY OF EVIDENCE

In the case of C.42588 Private G GRANT a soldier of "A" Coy, Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness: Captain J.H.C. Simard, Royal 22e Regiment.

For the prosecution.

A writen statement purporting to be signed by the witness is read over to the accused.

A statement marked Exibit "A" is attached to the Summary.

The accused does not require the attendance of the witness for cross-examination.

H. Pelletier Capt
Officer taking Summary

2nd Witness: E.41904 Sgt. Lepage J.P., Royal 22e Regiment.

For the prosecution.

A writen statement purporting to be signed by the witness is read over to the accused.

A statement marked Exibit "B" is attached to the Summary.

The accused does not require the attendance of the witness for cross-examination.

H. Pelletier Capt
Officer taking Summary

3rd Witness: D.132475 Pte. Pelletier P.E., Royal 22e Regiment.

For the prosecution.

A writen statement purporting to be signed by the witness is read over to the accused.

A statement marked Exibit "C" is attached to the Summary.

The accused does not require the attendance of the witness for cross-examination.

H. Pelletier Capt
Officer taking Summary

COURT OF INQUIRY

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defense.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

In the Field
2 Apr 44

K T Calvert
Officer taking Summary

LIST OF WITNESSES FOR THE PROSECUTION
in the case of

C.42588 Private Grant G., Royal 22e Regiment.

FOR THE PROSECUTION

Capt. J.H.C. Simard
E.41904 Sgt. Lepage J.P.
D.132475 Pte. Pelletier P.E.

FOR THE DEFENSE

N I L

List of Exibit

Exibit "A" Statement by Capt J.H.C. Simard
Exibit "B" Statement by E.41904 Sgt. Lepage J.P.
Exibit "C" Statement by D.132475 Pte. Pelletier P.E.

I hereby ackowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I futhermore ackowledge receipt of a true copy of a Charge Sheet upon which I am being brought into Court Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of Lieut Leclerc

if he is available

Grant G. Pte

In the Field
2 Apr 44.

EXHIBIT "A"

Captain J.H.G.Simard, Royal 22e Regiment.

" I am Oficer Commanding, "A" coy R.22eR.
On the night of the 14 March 1944, my company was attacking an enemy outpost called "Kingbird".At about 2200 hrs, I left my HQ and went forward to contact Lieut Charlebois, the comd of no 8 pl. On my way back I met C.42588 Pte Grant G. who was coming back from his pl(no 8 pl) which was still in a forward position, in close promixity to the enemy. I asked him if he had obtain permission to return, he answered "No". I ordered him back to his platoon.

J.H.G. Simard Capt

EXHIBIT "B"

E.410904 Sgt Lepage J.P. Royal 22e Regiment.

" I am PL.Sgt of no 8 pl. My PL Comd held an "O" group on the evening of Mar 14, at about 1800 hrs at which time we were told the PL would attack enemy position known as "Kingbird". C.42588 Pte Grant G. was present at that "O" group. At about 0300 hrs on the 15 MAR 44, having been ordered to retire from the "Kingbird" area (enemy outpost) I did so with the balance of my PL. C.42588 Pte Grant G. was not with me when I withdrew. The next time I saw him was at about 0400 hrs in the platoon billet."

J. Lepage Sgt

EXHIBIT "C"

D.132473 Pte Pelletier P.E. Royal 22e Regiment.

" I am a soldier of No 8 pl in "A" coy R.22eR. as No 1 on the 2" mortar. On the 14 Mar 44 I proceeded to the "Kingbird" outpost with the HQ of my pl and was put on the telephone by the pl comd . We left this forward position to return at about 0200 hrs on the 15 Mar 44. C.42588 Pte Grant G. did not return with us and was not with us prior to returning. The last time I saw him was at about 2330 hrs 14 Mar 44 when the CO Capt Simard visited our position. The pl comd returned in two groups and C.42588 Pte Grant G. was not with our group."

P.E. Pelletier Pte

5K-82

Pte. Grant, G.)

RECORDED AT G.C.S. IN A3 169 5K-82

CP A66 (1) (to item of AFW3)
40/P/38 & 1948 (47)(1)
4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col P. Savard Comd RCASC Army Tps dated 23 Apr 45 First Cdn Army

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B37637	Pte	George James	GRANT	1 Cdn C.W. Hqs

REF 5 JUN 1945 2nd Army

PROCEEDINGS REVIEWED

REVIEWING OFFICER. J.A. 12 June 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 25 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for CCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 465, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 15.25 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~an interpreter~~ ? Ans

The Interpreter is sworn.(1) Do you object to ~~a shorthand writer~~ ? Ans

~~The shorthand writer is sworn.(2)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If an objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, ~~Judge-Advocate, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs composing the Court, etc:

President	MAJOR	H.D.G. CURRIE, RCE	HQ FIRST CDN ARMY
Member	CAPT	J.P. ROWLAND, RCASC	1 Cdn Army Gp Coy RCASC
Member	LIEUT	G.M.H. HODGES RCASC	FIRST CDN ARMY DEFLOY (CMP)
~~Judge-Advocate~~			
Prosecutor	CAPT	R. SCHWOB, CIC	FIRST CDN ARMY HQ DEF COY (KMR)
Defending Offr	CAPT	W. POLLON, C INT C	HQ FIRST CDN ARMY

Questions by President: Is the Prosecutor a lawyer ? Ans NO. Is the Defending Offr a lawyer ? Ans YES (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cum Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B37637 Pte George James GRANT before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), (3)), or as to the jurisdiction of the Court (RP 34, 35(A), (1)), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(unanimously)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B37637 Pte George James GRANT

Charge. (Insert "alternative" where applicable.)	Plea. (See Instr; p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st CHARGE	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 152, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ Beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(F) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for 60 days.

(Sgd) Judge-Advocate, if any. 25 Apr 45 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(2)b fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sentence back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation must be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I do not confirm the finding(s) and sentence for the reasons stated in the attached minute marked~~ (if any) A or B. Delete if not used.

(Sgd) P. Savard Lt-Col

Date 6 May 45 Commanding HQ RCASC Army Tps First Cdn Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B37637 Pte Grant, J.G.	20 May 45	(C.E. DOGS) Capt for OC 1 CDN CW LAB

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without assthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*B*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans YES (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty on ~~the~~ charge(s). The accused is (~~are~~) so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 52 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans .....

Do you intend to call witnesses on your behalf?

Ans .....

Are they witnesses as to character only? Ans .....

(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(E).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes - One witness as to character.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, but only dealing with character. (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to compulsion assigned for civil offences by the law of England see AA 45(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.37637	Pte	Pte	George James	Grant	1 Cdn CW Lab

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Apr 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior [illegible])~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint a Judge-Advocate to cast the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	H.D.G. CURRIE	HQ First Cdn Army	RCE
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Captain	J.P. ROWLAND	First Cdn Army Car Coy	RCASC
Lieutant	G.M.H. HODGES	First Cdn Army Def Coy	CIC
(Rank.)	(Named or detailed. RP 106.)		(Unit.)

WAITING MEMBER.

Captain	R.S. BROWN	Adm HQ First Cdn Army	Gen List
(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)		(Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed personally, RP 105 (n 2.)) (P. Savard) Lt-Col (Rank.)

Date 23 Apr 45

Commanding CRASC Army Tps, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/F & S/1697 (6142)

(See overleaf for oaths and notes for use on trial.)

25 Apr 45

I hereby certify that I have examined the under mentioned soldier this date and that he is fit/~~unfit~~ to undergo trial by FGCM.

B37637 Pte GRANT, G.J.

Montemur/Capt
25 Apr 45

Ex A
[illegible]

CHARGE SHEET

The Accused, B-37637 Pte George James GRANT, No. 1 Cdn CW Lab, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 19
Army Act

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the RAP HQ First Cdn Army at 2315 hrs on 8 Apr 45 was drunk.

In the Field
In Holland
12 Apr 45

C Bridges Capt
(C. BRIDGES) Capt
A/OC 1 Cdn CW Lab

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
In Holland
23 Apr 45

P Savard
(P. Savard) Lt-Col
CRASC Army Tps
First Cdn Army

B-2

25 APR 45

Sworn Statement by B 37637 Pte GRANT GEORGE JAMES ON PLEA OF GUILT

To start with just after I came over to this country I had trouble with my wife, just after Christmas time through correspondence we became reconciled and I then awaited my leave. I went on leave in March and while on leave made proper reconciliation with my wife but at that time she had not received her dependents allowance which I had started in Jan. This time my wife was very pressed for money while at home I asked for an extension of leave in London & was told to make the proper application through my unit. On return I made the application through the proper channels which came back for a statement in my hand writing, this was refused again I had in the meantime made further investigation about her dep. allowance and I was told that it would go through in Jan. then papers came back stating it would start in Feb. in the meantime I had signed an allotment of one hundred dollars to my wife out of my deferred pay which I was all I could sign, ~~I had~~ money started to go to my wife after the incident which involved this charge. I had gone to the town of Gra this night and purchased 2 bottles of creme de Cognac. from R.A.F. Chaps, my chum & I had these bottles to drink between. My last memory was in the Cafe and my first memory the next morning was in the R.P. Hut. I was worried about my wife while I was drinking. Normally I can hold my drinks but this night I went over the wire and apparently had too much to drink. In the army I have a pretty bad record and since coming with the C.W. Bat have tried to mend my ways as I like the unit I did not wish to cause any trouble as it would only reflect on my crime sheet again. That night I drank approx. 5 pts of bee and one bottle of creme de Cognac. I had letters from my wife to the effect that my home might be broken up again abou one week before I made my mistake. I have one child three years old.

Question. How long was the dependents allowance started for.
ans. For about 18 months.

Character Witness Capt C. Bridges A/oc 1 Cdn. C.W. Bat.

sworn states:-

Question Capt. Bridges would you tell the court your capacity at the C.W.B.

ans. I serve as Adj and in the absence of the OC. have acted in his Capacity. I have been Adj for 4 yrs.

Question Tell the Court briefly what you know about Pte Grant & how he has acted in the C.W. Bat.

Ans. Pte Grant joined the C.W. Bat [illegible] he came

With rather a dirty Conduct sheet and I had a talk with him to the effect that I hoped he would not give any trouble because in a small unit we did not want anyone around who could not behave themselves. Pte Grant did on one occasion use his M.C. for his own use without permission I did give him a talking to & I believes that he would do what he was told from then on & give no more trouble. Pte Grant has always been a very hard worker even while under open arrest he has done a good many jobs & has been very keen to make himself useful at the unit. In addition to that Pte Grant has had a certain amount of domestic trouble, he came to me about it, I tried to help him but compassionate leave could not be granted. He is in my estimation a man that has to be kept busy & I have never found any mean streak in him.

(Question 3) Do you know anything about the restoration of Pte Grants Dep. Allowance.

Pte Grant at one time had proceedings started for a divorce but later reconsidered this with his wife and reconciliation was made, naturally the Dep. Allowance was stopped & due to no fault of Pte Grants it has taken more time then it should have to start again and I know that has caused him a good deal of worry in support of his wife

(Question 4) Do you know any dates in regard to the starting up of the dep. allowance.

No but I believe a letter was held up at C.M.H.Q and a second one was sent to start the Dep. Allowance & then the results of the first started it going. this caused an approx. 2 months delay.

Ex B

Summary of Evidence

Summary of Evidence in the case of No B 37637 Pte Grant G. J. 1 Cdn. C.W. Laboratory CAO, charged with striking his superior officer [AA Sec 8(1)], charged with using threatening and obscene language to his superior officer [AA Sec 8(2)], charged with disobeying a lawful command given by his superior officer [AA Sec 9(2)], charged with resisting an escort [AA Sec 10(3)], charged with drunkenness [AA Sec 19].

By direction of the Officer Commanding, the evidence is taken on oath.

First Witness Capt W.D.P Cavanaugh 4 Coy Cdn Dental Corp. sworn states:—

At approximately 2315 hrs 8 Apr 45, in the wash room between dental clinic and RAP, HQ First Cdn Army, the following incident occurred. I was standing near the doorway of the washroom, when the door was flung violently open, knocking me backwards across the room. Pte Grant G. J. after opening the door in this manner, dashed into the room in a dishevelled and excited state, wildly demanding the Sod damn M.O. I told him to quiet down and before I could say any more he had struck me a glancing blow on the shoulder. I seized him, and opened the door and called the Provosts who had just entered the hallway. The Provosts forcibly took the man towards the RAP office. Capt Cavanaugh states that during this time he was in his shirt sleeves with no insignia of rank showing.

The accused declines to cross-examine this witness.

Cavanaugh Capt

Second Witness Capt J. G. Middleboro RCAMC. M.O. HQ First Cdn Army sworn states:—

On the night of 8 Apr 45 at approximately 2315 hrs I was attending to the injuries sustained by two soldiers in the RAP, HQ FCA (Main) when the accused was brought in by a chum of his, the guard on the main gate, and a medical corporal from signals RAP. I requested them to have the accused sit on a chair, to wait until

the chair to the floor. I then assisted him back to the chair but he wished to speak to the M.O. concerning his wound. The M.O. was busy at the moment with two other patients of more serious nature. so I asked him to wait a moment. The accused rushed from the chair to the M.O's desk and demanded to speak to him about his face. The M.O ordered him to sit down. He refused to sit down. He made several threats using profanity. He went with his chum out of the RAP. Ten minutes later I saw the accused wrestling with his escort in the room adjoining the RAP. The accused returned to the RAP and rushed at the M.O. catching him by the front of his tunic. The M.O ordered him to be quiet and sit down. He refused and left the RAP with the escort. The M.O. then phoned the Provost and walked over to camp office to contact them. About 15 minutes later I saw the accused with the Provost outside the RAP building. The accused returned to the building accompanied by the Provost The M.O instructed the Provost what to do with the accused.

Cross examined by the accused

Q. at the time of the incident would you swear that I was drunk?

A. The accused was definitely under the influence of liquor and couldn't be held responsible for his actions

B. T. Haynes Lpl

Fourth Witness No G 53763 L/Cpl Connors J.A., 11 Cdn Pro. Coy Cdn Prov Corp. swain states:-

I am G 53763 L/Cpl Connors J.A 11 Cdn Prov Coy Cdn Prov Corp On night of 8 Apr 45 at approximately 2315 hrs I was summoned by Capt Middleboro to the RAP HQ First Cdn Army Main to place Pte Grant under arrest. Accompanied by L/Cpl Ross J.J of 11 Cdn Pro Coy we went to the RAP and placed Pte Grant under arrest. We escorted him out of the RAP, while struggling with him outside to get him into the jeep, he broke away and entered the RAP again. After a struggle in the RAP we got him into the jeep and turned him over to the R.P. at main HQ with instructions that he was to be held under close arrest.

Cross examined by the accused

Q at this time would you say that I was drunk and not

I was through with the other two injured men, but he refused to sit down and began to wrestle with the men who had brought him in. I then ordered him to sit down in the chair and he refused. The accused again started to become violent with his escort and one of the injured men was knocked out of his chair. I phoned for the Provost to come for him after I had determined that his lip was cut and asked his escort to have him returned to the RAP, the following morning for treatment. The accused objected to this and demanded treatment immediately. I tried to reason with him and explain that it was impossible to treat him in his present condition. He then became violent towards me seized the front of my tunic, and said "I don't give a God damn if you are a capt or a major I am going to poke you". At this point I left for the camp orderly room to call out the guard as the Provost had not arrived. I then returned to the RAP and found the accused arguing with the dental officer Capt W.D.P. Cavanaugh in a threatening manner. In a few minutes the Provost arrived and removed the accused. Cpl Haynes was a witness, while carrying out his duties in the RAP.

Cross examined by the accused.

Q. As the unit medical officer would you say that I was of a drunken mind at the time of the incident, not knowing what I was doing?

A. I believe you were under the influence of alcohol but it is impossible for me to state whether you knew what you were doing or not.

[signature] Capt.
R.C.A.M.C.

Third Witness B90920 Cpl Haynes B.T. CIC Medical Orderly RAP HQ First Cdn Army Main, sworn states:-

On 8 Apr 45 at approximately 2330 hrs in the RAP HQ First Cdn Army Main. I arrived in the RAP at the same time as the accused and his escort I assisted the accused to a chair and then turned to get some cotton to dress his wound. I heard a commotion behind me and turned to see the accused had slide from

(over)

knowing what I was doing at the time of the incident?
A. I would say that Pte Grant was under the influence of liquor.

J.H. Cormons Lt Pte

Fifth Witness No F 88333 Pte Wilson R. 1 CASC, attached to 1 Cdn C.W. Laboratory sworn states:-

I No F88333 Pte Wilson R 1 Cdn C.W Laboratory on the night of 8 Apr 45, Pte Grant and I were at a dance at Grave and we were drinking. When we left there Pte Grant was drunk. He may have gone out first but I dont remember. Later we became separated. A few minutes later I saw Pte Grant involved in a fight I went in to break it up and as I did break it up somebody I dont know grabbed me from behind. The second fellow hit me. Pte Grant's lip was cut in this fight. The two of us went to the RAP We were both strongly under the influence of liquor and after arriving at the RAP I dont remember much

The accused declines to cross examine this witness.

R Wilson

The accused was cautioned as follows:-
Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence
A I want to make a statement
Q In oath or not on oath?
A On oath

The accused sworn states:-
On the night of this incident my friend Pte Wilson R and I had been drinking quite heavily. After we had left the Capt in Grave I cannot recall any incidents from time said until awakening in the morning in the R.P. hut at our camp

A.J. Grant

I certify that the foregoing Summary of Evidence, consisting of five pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) and (G) (13) have been complied with

In the field
11 Apr 45

R.S. Brown Capt
1 Cdn C.W. Laboratory

COPY

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B37637 Pte Grant G.J. 1 Cdn CW Laboratory CAO, charged with striking his superior officer (AA Sec 8(1)), charged with using threatening and obscene language to his superior officer (AA Sec 8(2)), charged with disobeying a lawful command given by his superior officer (AA Sec 9(2)), charged with resisting an escort (AA Sec 10(3)), charged with drunkeness (AA Sec 19).

By direction of the Officer Commanding, the evidence is taken on oath.

First Witness Capt W.D.P. Cavanaugh 4 Coy Cdn Dental Corps sworn states:-

At approximately 2315 hrs 8 Apr 45, in the wash room between dental clinic and RAP, HQ First Cdn Army, the following incident occurred. I was standing near the doorway of the washroom, when the door was flung violently open, knocking me backwards across the room. Pte Grant G.J. after opening the door in this manner, dashed into the room in a dishevelled and excited state, wildly demanding the God damn M.O. I told him to quiet down and before I could say any more he had struck me a glancing blow on the shoulder. I seized him, and opened the door and called the Provosts who had just entered the hallway. The Provosts forcibly took the man towards the RAP office. Capt Cavanaugh states that during this time he was in his shirt sleeves with no insignia of rank showing.

The accused declines to cross-examine this witness.

(SGD) W.D.P. CAVANAUGH Capt

Second Witness Capt J.G. Middlebro RCAMC, MO HQ First Cdn Army sworn states:-

On the night of 8 Apr 45 at approximately 2315 hrs I was attending to the injuries sustained by two soldiers in the RAP, HQ FCA(Main) when the accused was brought in by a chum of his, the guard on the main gate, and a medical corporal from signals RAP. I requested them to have the accused sit on a chair to wait until I was through with the other two injured men, but he refused to sit down and began to wrestle with the men who had brought him in. I then ordered him to sit down in the chair and he refused. The accused again started to become violent with his escort and one of the injured men was knocked out of his chair. I phoned for the Provost to come for him after I had determined that his lip was cut and asked his escort to have him returned to the RAP the following morning for treatment. The accused objected to this and demanded treatment immediately. I tried to reason with him and explain that it was impossible to treat him in his present condition. He then became violent towards me seized the front of my tunic, and said "I don't give a God damn if you are a capt or a major I am going to poke you". At this point I left for the camp orderly room to call out the guard as the Provost had not arrived. I then returned to the RAP and found the accused arguing with the dental officer Capt W.D.P. Cavanaugh in a threatening manner. In a few minutes the Provost arrived and removed the accused. Cpl Haynes was a witness while carrying out his duties in the RAP.

Cross-examined by the accused.

Q. As the unit medical officer would you say that I was of a drunken mind at the time of the incident, not knowing what I was doing?

A. I believe you were under the influence of alcohol but it is impossible for me to state whether you knew what you were doing or not.

(SGD) J.G. MIDDLEBRO Capt RCAMC

Third Witness B90920 Cpl Haynes B.T. CIC Medical Orderly RAP HQ First Cdn Army Main, sworn states:-

On 8 Apr 45 at approximately 2330 hrs in the RAP HQ First Cdn Army Main I arrived in the RAP at the same time as the accused and his escort. I assisted the accused to a chair and then turned to get some cotton to dress his wound. I heard a commotion behind me and turned to see the accused had slid from the chair to the floor. I then assisted him back to the chair but he wished to speak to the MO concerning his wound. The MO was busy at the moment with two other patients of more serious nature so I asked him to wait a moment. The accused rushed from the chair to the MO's desk and demanded to speak to him about his face. The MO ordered him to sit down. He refused to sit down. He made several threats using profanity. He went with his chum out of the RAP. Ten minutes later I saw the accused wrestling with his escort in the room adjoining the RAP. The accused returned to the RAP and rushed at the MO, catching him by the front of his tunic. The MO ordered him to be quiet and sit down. He refused and left the RAP with the escort. The MO then phoned the Provost and walked over to Camp Office to contact them. About 15 minutes later I saw the accused with the Provost, outside the RAP building. The accused returned to the building accompanied by the Provost. The MO instructed the Provost what to do with the accused.

Cross examined by the accused.
Q. At the time of the incident would you swear that I was drunk?
A. The accused was definitely under the influence of liquor and couldn't be held responsible for his actions.

(SGD) B.T. Haynes Cpl.

Fourth Witness No. G53763 L/Cpl Connors J.A., 11 Cdn Pro Coy Cdn Prov Corps sworn states:-

I am G53763 L/Cpl Connors J.A. 11 Cdn Prov Coy Cdn Prov Corps. On night of 8 Apr 45 at approximately 2315 hrs I was summoned by Capt Middlebro to the RAP HQ First Cdn Army Main to place Pte Grant under arrest. Accompanied by L/Cpl Ross JJ of 11 Cdn Pro Coy we went to the RAP and placed Pte Grant under arrest. We escorted him out of the RAP, while struggling with him outside to get him into the jeep, he broke away and entered the RAP again. After a struggle in the RAP we got him into the jeep and turned him over to the RP at Main HQ with instructions that he was to be held under close arrest.

Cross examined by the accused.
Q. At this time would you say that I was drunk and not knowing what I was doing at the time of the incident?
A. I would say that Pte Grant was under the influence of liquor.

(SGD) J.A. CONNORS L/Cpl

Fifth Witness No. F88333 Pte Wilson R. RCASC, attached to 1 Cdn CW Laboratory sworn states:-

I No F88333 Pte Wilson R 1 Cdn CW Laboratory on the night of 8 Apr 45, Pte Grant and I were at a dance at Grave and we were drinking. When we left there Pte Grant was drunk. He may have gone out first but I don't remember. Later we became separated. A few minutes later I saw Pte Grant involved in a fight. I went in to break it up and as I did break it up somebody I don't know grabbed me from behind. The second fellow hit me. Pte Grant's lip was cut in this fight. The two of us went to the RAP. We

were both strongly under the influence of liquor and after arriving at the RAP I don't remember much.

The accused declines to cross examine this witness.

(SGD) R WILSON

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I want to make a statement.

Q. On oath or not on oath?

A. On oath.

The accused sworn states:-

On the night of this incident my friend Pte Wilson R and I had been drinking quite heavily. After we had left the Cafe in Grave I cannot recall any incidents from time said until awakening in the morning in the RP hut at our camp.

(SGD) G.J. GRANT

I certify that the foregoing Summary of Evidence, consisting of five pages, was taken down by me in the presence of the accused and that RP 4(C), (D), (E), (F) and (G)(13) have been complied with.

(SGD) RS BROWN Capt
1 Cdn CW Laboratory

In the field
11 Apr 45

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B37637	Private	George James GRANT	1 Cdn CW Lab

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AWL Sec.15(1) AA	5 times.
For	Sec.19A.A. drunkenness	2 times.
For	Disobeying lawful command given by superior officer	2 times.
For	Sec.40 A.A. improperly dressed	1 times.

Date of first entry in Field Conduct Sheet 18 Jan 41

Date of last entry in Field Conduct Sheet 14 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused has not previously been convicted by a court martial or a civil court.~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 4 days in military custody, *i.e.*, 3 days in open arrest, 1 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 28

6. The date of his attestation is 23 Apr 40

7. The service which the accused is allowed to reckon is

8. The accused is in possession of† 1939-43 Star CVSM and Clasp

†State the military decorations (if any) held by accused.

9. ~~(If the accused is a warrant officer or N.C.O.).~~ The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	NA	NA
In the war substantive rank of	NA	NA
In the acting rank of	NA	NA

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(81114) W1,861/0,000 500,000 4/45 A.R.W.Ltd. Gp.698 Forms/B.296(War)/1
(81458) W1,228/0,1473 90,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	29 Mar 41 England	Sec.15(1) While in arrest AWL from 1730 hrs 31 Jan 41 to 1255 6 Mar 41.	180 days det.	Remitted to 80 days det.
FGCM	15 Jan 43 Field	(1) Sec 15(1) A.A. (2) Sec 24(2) A.A.	75 days det.	
Brantford Petty Sessions	18 Mar 43 Brantford England.	Larceny.	3 months hard labour at H.M. Prison Wormwood Scrubbs.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12th day of April 1945

C Burridge Capt

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2965)

No. B37637 Name Grant, G.J. Sqn., Battery, or Company — Corps R.C.A.S.C. Date of enlistment 23 Apr 40 G.C. Badge — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 14 Dec 44 — No. and date of last drunk 28 Jan 44 — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Granted 9 days PL to UK with allowance in lieu of rations, proceeding on 5 Mar 45 and returning 16 Mar 45 (Pt.II Order No.12 d/31 Mar 45)					
				I hereby certify that this is a true and correct extract from the regimental books in my custody.					
				(LB MACPHERSON) Major OC 1 CDN CW LAB					

(P.T.O.)

No. B37637 Name GRANT, G.J. Sqn., Battery, or Company — Corps R.C.A.S.C. Date of enlistment 23 Apr 40 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet 21 Dec 42 — No. and date of last drunk 13 Aug 41 — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		(1) Sec 15(1) A.A. (2) Sec 24(2) A.A.		75 days Det to run concurrent with sentence of 14 days Det awarded 21 Dec 42	15 Jan 43	F.G.C.M. ???? (initials not legible)	Forf 4 days pay FR&I 149 (1)c Forf 75 dys pay FR&I 149 (1)c Forf 8 days pay FR&I 149 (1)c(1) Total Forf 89 days pay
Field		Pte		Charged at Brantford Petty Sessions with larceny		3 months hard labour at H.M. Prison Wormwood Scrubbs	18 Mar 43	Civil Award. ???? (initials not legible)	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6 Aug	43	Pte	Sec 15AA(1) 14 days 23 hrs 45 min	Cpl Collister Sgt Mahoney	28 days F.P.	6 Aug 43	Lt-Col J.G. Bisson	Forf pay 15 days 149(1)(a) 28 days 149(1)(c)(ii)
Field	9 Sep	43		Sec 40 A.A. an act to the etc. in that he did while on Regt'l guard render himself incapable of duty by consumption of Alcoholic beverages on 6 Sep 43	J G Mathews Sgt Capt A E Wisking	14 days Field Pun	7 Aug 43	WH Copeland Major	
Awarded the Cdn. Voluntary Service Medal & Clasp wef 15 Jan 44 in accordance with CAORO 4167									
U.K.	28-1-44	Pte		A.A. Sec.19. DRUNKENNESS	Documentary AFB252	~~14 days F.P.~~	31-1-44	Maj. S.E. Thompson	14 days pay FRI-149(2)
Field	27 May	44	Pte	A.A.Sec.15(1) AWL 36 hrs 30 mins	Sgt Schrecher, C.	3 days Pay	30 May 44		Forf 2 days Pay FR&I149(1)(a)
Field	14 Dec	44	Pte	AA40 - driving at excessive rate of speed.	Documentary Prov.AFB252	Admonished	20 Dec 44	Lt Col P.H. Savard	3 days pay FR&I G.P. ?? Capt

No. B37637 Name Grant G.J. | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 23 Apr 40 | G.C. Badges | Service or Proficiency Pay EX D 15 Apr 41

Date of last entry in Company Conduct Sheet 6 Jun 41 | No. and date of last drunk 3 Aug 41 | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. (Sgd) R.C. Lamb Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Eng.	18 Jan 41	Pte		Disobeying lawful command given by superior officer in that he did not pump water when ordered to do so.	Lt Froggett	14 days F.P.		Lt Col Labatt	RCL
"	31 Jan 41	"		While in arrest A.W.L. from 1730 hrs 31 Jan 41 to 1255 hrs 6 Mar 41. AA Sec.15(1)		180 days det. Forf. 22 days pay " " 35 " " " 166 "	20 Mar 41 FGCM 149(1)c(Findings confirmed by 149(1)a Commander CBU but remitted 149(1)b to 90 days det.		Forf 3 days FRAI
"	29 Jun 41	"		Sec.15(1) AWL from 2359 hrs 28 June to 1700 hrs 1 Jul 41.	Sgt Boden	168 hrs det.	2 Jul 41	Col Slack.	RCL
"	25 Jul 41	"		(Sec 40AA prejudice etc. Improperly dressed.		3 days CB	29 Jul 41	Col Slack.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Eng	12 Feb 42	Pte		Sec.40 AA.Cond. to the prejudice etc. did not report to mens mess for duty.	Sgt Galloway Cpl Bird Cpl Hopcraft	14 days CB 5 days pay FR&I	12 Feb 42	Major CE Bulmer	RCL
"	17 Nov 42	"		Sec.15(1)AA AWL 2 days 23 hrs 35 minutes.	Cpl Holmes	Forf 6 days pay FR&I	17 Nov 42	Capt Cornell	Forf 3 days pay FR&I
"	21 Dec 42	"		Sec.40AA Cond. to the prejudice used W.D. Vehicle for personal use.Pte John son. Sec.15.1.AA AWL 6 hrs 45 mins.	Pte Steele RSM Greenley	(1) 14 days det (2) Reprimand	21 Dec 42	Col Young	RCL

Released from the Detention Barrack H. Down on Mar ? 1943 sentence having ended. Remission earned under rules for Detention Barracks and Military Prisons 23 days.
Commandants Initials J.A.H.

Address by Defending Officer in mitigation of punishment. E-3. Page 3

Re the case of [illegible] Pte George Grant [illegible]

Argument for the Defence

1. The accused admits having been drunk and is satisfied that those appearing before the Summary of Evidence tell a fair story. He knows nothing of the matter except indirectly but is forced to recognise the testimony of the others.

2. Under the circumstances the only problem for the Court is the fixing of punishment and in doing so the accused should be given all possible latitude in view of his story and of the statements of Capt Bridges.

3. The testimony about the trouble at home is of such a weight that the action of the accused in drinking in order to get away from his troubles is readily understandable. It further brings out the effect that any sentence will have on him by the way in which it would affect his pay and allowances and therefore in turn of his testimony, his family left.

4. The statement of Capt Bridges brings out a further point — that since coming to the CW Lab. Grant has been working hard and willingly and that whatever Grant was trying to take a ~~straight line~~ in spite of his past. This should be taken into account along with his trouble as it points again to the ~~[illegible]~~ involuntary aspect of the whole affair — removing at least the suggestion that the actions of the accused arose from a mere trouble making tendency — a suggestion which the ~~facts as brought out~~ ~~weight otherwise~~ bear.

5. Under the circumstances it is submitted that this is a proper case for a suspended sentence, or if the Court can not see fit to go so far, then for the maximum leniency. This man has worked very well for his present unit and, if possible, should remain there.

4C-101
PIE GRANT GR

RECORDED AT CMHQ IN AB 160. 42-101

RECEIVED 25 OCT 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2) 40/P.A.D./1698 (2604)

Convened by Order of Maj-Gen. P J Montague Comd. M.G.A. CMHQ Dated 21 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 73036	Pte	A/Sgt.	George Rutherford	Grant	CMHQ.

PROCEEDINGS REVIEWED 6 Nov 44

JAG W. O. Lash Capt. REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 749 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(6), RP 40 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to the~~ as interpreter? Ans ~~The Interpreter is sworn (1). Do you object to the~~ as shorthand writer? Ans ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	B. Lable	R.C.O.C. CMHG
Member	Capt	R. G. McKenna	C.I.C. CMHG.
Member	Capt	F.A. Jacques	R.C.A.S.C. CMHG
Judge-Advocate	Lieut.	R. Lindsmore	J.A.G. CMHG.
Prosecutor	Capt	K.H. Pegree	CMHG
Defending Offr	Capt	J.H. Dunley	CMHG

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See Dif p 3.)

A8. The accused ... before arraignment make(s) (two) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to ... as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 885 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ordered and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 73036 Pte (A/Sgt) Grant G.R. CMHQ.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 41 (5)	Guilty	Guilty	
2nd 41 (5)	Guilty	Guilty	
3rd 15 (1)	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ (beginning on date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which, 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for sixty (60) days and to be put under stoppages of pay until he has made good the sum of six teen pounds eleven shillings and eight pence (£16-11-8) in respect of the loss occasioned by the commission of the offences in the first & second charges.

25 Oct 44

(Sgd) R. Fire Advocate. Judge Advocate. If any. Lieut Date awarded. (Sgt) President. (RP 85, 90.)

(See back of Convening Order re to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(2), MML p 760.)

Action taken for Part II Orders No. 134 Date. 1 Nov 44

Date. C. (R) H. Q. Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 32(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign hem personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Sentence to be suspended

I direct that the accused be not committed to prison or detention barracks until further notice. (1) 1½

(1. AA 57A. Delete if not used.)

(Sgd) P Montague

Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B73036 Pte (A/Sgt) GRANT. G.R.	30 Oct. 44	R. Wheelhouse (R. J. WILLIAMS) Lt-Col. CAMP COMMANDANT, Canadian Military Headquarters.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation. A.J. Jordan Lt-Col 25 Oct 44

Sentence suspended 1½ years

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 4: 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will thereto, or,* (ii) *to record the pleas as the findings of Court. proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President or~~ JA, ~~if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 25 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans N.O.(5)
(1. *RP* 37(*E*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (i) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and the (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 1, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making the appropriate record thereof on a plain sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin Here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie case against the accused on the~~ charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 40(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E3 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 114(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of the Court, being subject to confirmation, will be promulgated later.(1) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N.O.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (b), and (ii) they purport to refer to (a) soldier~~s~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 2 and Ex 3 respectively.(3)
(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement~~s~~ and Conduct Sheet~~s~~, and in mitigation of punishment ?(1) Ans By the defending officer.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. ~~if any~~.(2)
(1. *When several accused tried separately see RP* 103*f*. *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 44(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No. B-73036 Name GRANT G.R. | Sqn, Battery, or Company | Corps GIC | Date of enlistment 11 Sep 39 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/PAS/150 (780F)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature OC Company, etc. | Character

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Nature of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					Doc'y	7 days pay	30 Jun 45		Forf 7 days pay
Field	30 Jun 41	Pte		AA 15 (1) AWL	"	5 days CB			" 5 " "
"	28 Aug 41	"		AA 15 (1) AWL 2 days 19 hrs	"	2 days pay	4 Sep 41		
						7 days CB			" 2 " "
"	7 Jun 42	"		AA 15 (1) AWL 1 day 13 hrs		7 days pay	10 Jun 42		" 63 " "
"	10 Oct 44	A/Sgt	1)	AA 41 Forgery 16-11-8 cheque	"	60 days detn	25 Oct 44	FGCM	Stopp: 16-11-8
			2)	AA 41 Obtaining 16-11-8 by forgery					
			3)	AA 15 (1) AWL 2 days 3 hrs					
				GRANTED 20 days remission on 2 dec 44	Doc'y	20 days detn	15 Mar 45	FGCM	Forf 152 days pay
"	5 Feb 45	Pte		AA 15 (1) AWL 28 days 15 hrs					
				GRANTED 30 days remission 11 may 45					

(OVER)

(810)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	25 Jun 45	Pte		AA 15 (1) A/L 5 days 4 hrs	Doc	14 days FF 14 days pay	8 Jul 45		Forf 20 days pay

Certified true copy

J.R.Mathieu Lt

(J.R.Mathieu) Officer having custody of original

15 Sep 45

CHARGE SHEET

The accused, B-73036 Pte (A/Sgt) George Rutherford GRANT, 48th Highlanders of Canada, on strength Canadian Military Headquarters, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec.41(5)
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, FORGERY

in that he

in the Field on or about 22 Sep 44, with intent to defraud, forged the name of Babette A Grant to a cheque No 103521 drawn on the Bank of Montreal, London, England, for sixteen pounds, eleven shillings and eight pence, payable to the order of Mrs. Babette A Grant, 48 Richmond Park Road, East Sheen, Surrey, and thereby obtained the sum of sixteen pounds, eleven shillings and eight pence.

Second Charge
Sec.41(5)
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, UTTERING A FORGED DOCUMENT CONTRARY TO SECTION 6(1)(2) OF THE FORGERY ACT 1913

in that he

in the Field on or about 22 Sep 44 uttered a certain forged cheque purporting to be a cheque No 103521 drawn on the Bank of Montreal, London, England, for sixteen pounds, eleven shillings and eight pence, payable to the order of Mrs. Babette A Grant, 48 Richmond Park Road, East Sheen, Surrey, and to be endorsed by the said Babette A Grant, knowing the same to be forged and with intent to defraud, and thereby obtained the sum of sixteen pounds, eleven shillings and eight pence.

Third Charge
Sec.15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field on 2 Oct 44 absented himself without leave from 0900 hrs 2 Oct 44 until he was apprehended by the Metropolitan Police at 1230 hrs on 4 Oct 44.
(Absent 2 days 3 hrs 30 mins)

(R J Williams) Lt-col
Camp Commandant
Canadian Military Headquarters

In the Field
19 Oct 44

Approved on behalf of Judge Advocate General, Cdn Army Overseas, pursuant to KR(Can) 540 and Overseas RO 4756(3)

20 Oct 44
(W.A.I.Anglin) Colonel
D.J.A.G.,C.M.H.Q.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
21 Oct 44

(PJ Montague) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS
Convening Officer

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-73036	Pte	(A/Sgt)	George Rutherford	GRANT	48th Highrs of Canada, on strength CMHQ

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; *(Delete part in brackets when not required for compliance with RP 105(C).)*

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major *(Rank.)*	B Lable *(Must be named. RP 106.)*	RCOC	CMHQ *(Unit.)*

MEMBERS.

Capt	RG McKenna	CIC	CMHQ
Lieut *(Rank.)*	J Potter *(Named or detailed. RP 106.)*	CMSC	SP Sec CMHQ *(Unit.)*

WAITING MEMBER.

Capt *(Rank.)*	FA Jacques *(Named or detailed, if any. RP 106.)*	RCASC	"Q" Br CMHQ *(Unit.)*

JUDGE-ADVOCATE.

Lieut *(Rank.)*	R Livermore *(Must be named, if any. RP 106.)*		JAG Br CMHQ *(Unit.)*

On Active Service in the Fd

in England *(Country.)*

Date 21 Oct 44

P J Montague
Major-General *(Rank.)*

(Signature personally, RP 106(A).)

(P J Montague) Major-General
In Charge of Administration
Commanding Canadian Military Headquarters
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A/ [illegible] (In lieu of AFA3)
48/P & S/1807 14-01

Capt
A65A.

25 Oct 44.

Owing to the exigencies of the service Lieut. J. Potter S.P. Sec. C.M.H.G., appointed a member of the court, was not able to be present and Capt F.A. Jacques G Br. C.M.H.G. (waiting member) took his place.

President.

MEDICAL CERTIFICATE

I hereby certify that I have this morning examined B-73036 Pte (A/Sgt) George Rutherford GRANT, 48 Hlrs. C.M.H.Q. and in my opinion he is fit. to undergo trial by Field General Court-Martial.

J A Granville Capt
(Medical Officer, C.M.H.Q.)

London
25 Oct. 44

CONFIDENTIAL

FIELD GENERAL COURT-MARTIAL

DEFENCE FOR SGT GRANT

1. Sgt Grant has pleaded guilty on all three charges. The Defence pleads for mitigation of sentence in view of the following considerations:

(a) Length of Service

Sgt Grant joined the 48th Highlanders in September 1939, and came overseas December of the same year. He has served five years in the Army, practically all of that time in the UK. He joined the Army out of sense of duty and left a civilian job at which he was earning between 40 and 50 dollars per week as a broker in arbitrage. He served in France June 1940, and now wears the 1939-43 Star.

(b) Record of Service

Sgt Grant remained with his regiment until September 1941, when he was SOS to hospital for thirteen weeks with a fractured leg. After a brief period in the Holding Unit in January 1942, he was selected by Selection of Personnel Section as an officer's assistant because of his superior mentality, his age (now 37) and his ability to meet people. In June 1942, he was specially selected for work in the Section at CMHQ. I have been acquainted with him on duty since November 1943, and selected him above all other clerks, both military and civilian, to take supervisory charge of my statistical section composed of fifteen clerks. During his entire period of service in SP Section, Sgt Grant was completely above criticism. He proved himself to be alert, conscientious and capable of carrying supervisory responsibilities. His loyalty was unquestionable and he was

entirely reliable both in regard to the accuracy of his work and its confidential nature. He was liked by his associates, both soldiers and civilian women clerks and there was never one case of bad working relationships between him and his staff or myself. His skill in planning statistical production work was an important contribution in the transferring of SP records to the Hollerith Machine system. This was a vital operation and required six months to complete. During his service with SP Section he has never been late or absent without good cause and has always appeared in condition fit for work, never suffering from effects of intoxicating liquor. To my knowledge he never allowed his domestic and personal affairs to interfere with his military duties. In view of this satisfactory service, he earned his rank as Sgt. He is missed by his associates who on many occasions since 2 October, have expressed their regret about Sgt Grant's trouble. I state, on my own part, that he has been a useful and valued assistant.

(c) Crime Record

During his entire length of service, Sgt Grant's crime sheet has been entirely clean and there is no evidence whatsoever of a civil crime record. This is his first offence. This is not the record that is usually associated with criminal tendencies.

(d) His State of Mind

May I draw your attention to the events in the life of Sgt Grant immediately preceding and leading up to his acts which unfolded on 2 October 1944. This

will describe, at least, in part, the state of mind of the accused. He is, first and foremost, a human being with feelings and emotions, prides and prejudices, strengths and weaknesses. He has not, at his age, the intents and predispositions of a congenital lawbreaker. His actions on 2 October, were committed as a momentary lapse, the result of a series of emotional circumstances which all seemed to heap themselves upon him simultaneously. Sgt Grant was married in October 1942. He has one child and he and his wife are now expecting another. He has felt, justifiably or otherwise, that his mother-in-law took a more than normal interest in his domestic affairs, and that his wife's primary loyalty sometimes vacillated between her husband and her mother. During the Flying Bomb episode, Mrs Grant and their son evacuated London and Sgt Grant was left alone to carry on their domestic establishment. He missed his wife and son. Late in the Flying Bomb attacks their home and neighbourhood was blitzed and Sgt Grant was one of the first who assisted in the immediate rescue work even though he had been badly shaken up. It wasn't until after a night of distressing circumstances that he returned to assess his own loses and put his own home in order. He was profoundly disturbed by this event and we noted this at the Section. Shortly after, he obtained leave which he spent with his wife and family, at which time he learned of his wife's intentions to leave him. He naturally argued his case with her and no decision had been reached when he returned to London. Shortly after, however, his wife informed him, by letter, that she intended to carry

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out her intentions, even though they were expecting another child. He got good and drunk and returned home to find his wife's allowance cheque from the Canadian Government to the amount of £16.11. 8d. He was broke, he was mad, he was mad at his wife, it was only natural to want to get even with her, part of the cheque was assigned pay anyway, he decided to cash it and continue his "bender", which at least gave him momentary release from the circumstances which had seemingly descended upon him from all sides at once. In trying to hurt his wife, in the emotion of the moment, he didn't realize the consequences or the degree to which he was hurting himself. Yet during those moments of sobering up, when he realized what he had done, his only thought was to get this thing cleaned up. He accordingly confessed and promptly submitted a full statement on the whole matter (I refer, sir, to Exhibit "G"). He pleads guilty, he is prepared to face the music and pay his debt. That the accused had something to get drunk about is further illustrated by the events since his arrest. While he has been under close arrest, his mother-in-law, of course, has dominated the thoughts, feelings and actions of her daughter. She was discouraged from writing or communicating with her husband. He has not heard from her. It was by a letter from his mother-in-law only a few days ago that the accused finally learned of his wife's intentions to petition for divorce, retain custody of their son and give away by adoption their child who is not yet born. Here, Sir, stands a man who less than one month ago had all that a man could want - a wife, family, the ability and opportunity to work and earn, a good Army record, self-respect and good standing among his superiors and associates.

Today, because of a single act of indiscretion committed under distraught circumstances, he sees his world disintegrating and crumbling around him. He is ashamed of himself. He feels he has let down everybody - his family, SP Section and the folks back home. He pleads for the opportunity to become a useful soldier again. He pleads for the opportunity to fight for his family rights, his home, his wife, his son, his coming child. This was not the act of an inveterate or even potential lawbreaker. He doesn't need a long term of detention to learn his lesson. He has already suffered. He wants only to pay his debt and get on the right track again, as soon as possible.

2. Summary

The Defence pleads for mitigation of sentence. It pleads for mitigation because of Sgt Grant's long length of service. It pleads for leniency because of Sgt Grant's clean record sheet. This is his first offence. It pleads for mitigation of sentence because of Sgt Grant's good record of service, both as a soldier and as a valued officer's assistant in SP Section. It pleads for leniency because of the distress and duress which Sgt Grant was under at the time of his offence. It pleads for leniency to give him a chance to put his own house in order and reconstruct his own affairs. It pleads for mitigation of sentence because Sgt Grant realizes what he has done. He pleads guilty and he is prepared to take the penalty. As his defending officer, may I respectfully ask the Court to consider that, to impress the offender with the seriousness of his offense, a full and adequate sentence is not always desirable. The accused has already suffered and now pleads for leniency. Finally, if it please the Court, may the fact that Sgt Grant

has been under close arrest for 21 days pending Court-Martial

be taken into account.

3. Respectfully submitted.

J.H. Sunley Captain
SP Section
Canadian Military Headquarters

 Exhibit-1

Summary of Evidence in the case of B-73036 Fte. (A/Sgt) George Rutherford GRANT, 48 Hldrs of Canada, on strength Canadian Military Headquarters, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath.

Capt. V.G. Reeves, the Offier detailed to take the Summary explained to the accused the purpose of this Summary of Evidence.

1st Witness for the Prosecution: Lieut. J. Potter, C.M.S.C., C.M.H.Q., having been sworn states:-

I recognize A/Sgt. Grant, the accused, who is employed in S.I. Section, C.M.H.Q., and as my duties as Administrative Offier cover staff matters I have Knowledge of the accused and his regular duties. At 1000 hrs 2 Oct 44 A/Sgt. Grant was not at his desk as it was his duty to be. I Know this because I looked and did not see him there and I did this in consequence of a report made to me that the accused had not reported for duty that morning. I checked as to the possibility of Sgt. Grant having been detailed for a duty which would accession his absence from office and found he had not been so detailed. I did not see the accused on the 2 Oct 44 and the next time I saw him was in the Camp Commandant's Orderly Room on 6 Oct 44. I reported his absence to the Camp Commandant's office on 2 Oct 44.

J Potter Lt

The accused declined to cross-examine witness

2nd Witness for the Prosecution: M.25895 C.S.M. SLAVIK, W.J. having been sworn states:

I am Superintending Clerk of S.P. Section C.M.H.Q., 6 Charles II Street, London, S.W.1. I recognise A/Sgt. Grant, the accused, who is employed in my department under me. He should have reported at office for duty at 0900 hrs 2 Oct 44. He did not do so. I personally checked my staff and Sgt. Grant was not present. I reported his absence to Lieut. Potter. During the afternoon that day I checked for a medical report but found no evidence of the accused having reported sick. Sgt. Grant did not report for duty on 2 Oct 44 nor since. I have not seen him since then until today. Sgt. Grant was not granted leave of absence, if he had been I would have known about it. He was not detailed to any other duty – if he had been I would have known about it also. He was absent without leave and I reported him as such.

The accused declined to cross-examine the witness.

W.J. Slavik

3rd Witness for the Prosecution: Capt. G. Cruickshank having been sworn states:-

I am Officer i/c Records, Camp Commandant's office, C.M.H.Q., having custody of the Regimental Books and Records. I produce a document

relating to the accused, namely A.F.O. 1617 purporting to be signed by Police Sgt. L. Dack as the Officer of Police in charge of Barnes Police Station, Metropolitan Police, on 4 Oct. 44, who certifies that the accused, B 73036 George R. Grant, was arrested by P.C. 277 Bellhan at 12.30 pm 4 Oct 44, marked Exhibit "A".

The accused declined to cross-examine this witness.

G. Crutchstand
Capt.

4th Witness for the prosecution: Capt. J. R. Hirst, R.C.A.P.C., Chief Paymaster's Office, Acton, London W.3.

I hereby certify that in my opinion the attendance of this witness, owing to the exigencies of the service, is not readily procurable, and statements of evidence purporting to be signed by him have been read to the accused and are attached hereto, marked Exhibit "B" and Exhibit "C".

W.G. Pearce Capt.
Officer taking Summary.

I do not require the attendance of this witness for the purpose of cross-examination.

G. R. Grant

5th Witness for
the Prosecution: Mrs M. Morgan,
76 Askew Road, Acton, London. W.12.

I hereby certify that in my opinion the attendance of this witness, owing to the loss of time and expense involved, is not readily procurable and a written statement purporting to be signed by her has been read to the accused and is attached hereto marked Exhibit "D".

W.J. Pearce Capt.
Officer taking Summary.

I do not require the attendance of this witness for the purpose of cross-examination.
F. K. Grant.

6th Witness for
the Prosecution: C-30629 S/Sgt. Denton. L.,
S.I.S., 4th Pro. Corps, C.M.H.Q.

I hereby certify that in my opinion the attendance of this witness, owing to the exigencies of the service, is not readily procurable and a written statement purporting to be signed by him has been read to the accused and is attached hereto marked Exhibit "E".

W.J. Pearce Capt.
Officer taking Summary.

I do not require the attendance of this witness for the purpose of cross-examination.
F. K. Grant.

The accused was thereupon cautioned in accordance with R.P. 4 (c), as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused stated: "I made a statement to the S.I.S. I do not wish to make any further statement at this time".

G. R. Grant

I hereby certify that the foregoing Summary of Evidence consisting of 5 pages was taken down by me in writing at Canadian Military Headquarters on the 9th 12th 13th and 14th Oct. 44 in the presence and hearing of the accused, and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

W. J. Fearer Capt.
Asst. Camp Commandant C.M.H.Q.
Officer detailed to take the Summary of Evidence.

I request the Convening Authority to assign an Officer to conduct my defence at my forthcoming trial by F.G.C.M.

G. R. Grant

NOTICE OF INTENTION TO CALL AN ADDITIONAL WITNESS (R.P.76).

4/2

In the matter of a Summary of Evidence in the case of
B-73036 Pte (A/Sgt) George Rutherford GRANT, 48 Hldrs., CMHQ.

Whereas the undermentioned witness was not called and her evidence therefore not contained in the above-mentioned Summary of Evidence,

PLEASE TAKE NOTICE that the Prosecutor intends to call such witness at the forthcoming trial by Field General Court-Martial who will testify as follows:-

Witness: Mrs. Babette A. Grant, (wife of the accused),
48 Richmond Park Road, East Sheen, Surrey.

Abstract of Evidence: Witness will state that she did not receive her cheque for Dependent's Allowance and Assigned Pay for August 1944; THAT the endorsement on said cheque is not her signature, that it was not made by her nor with her knowledge or consent; THAT she is familiar with the handwriting of the accused who is her husband and the endorsement on the said cheque is in his handwriting.

V.G. Pearce

19 Oct 44

(V.G.Pearce) Captain
Asst. Camp Commandant, CMHQ.
PROSECUTOR.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police, e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.'s 480/1940).

(27899) Wt.22001/3249 30,000 7/44 A.&E.W.Ltd. Gp.698

EXHIBIT "A"

I CERTIFY that the man whose personal description is given below ~~surrendered himself to~~ was arrested by P.C. 277 Belham at 48 Richmond Park Road at (hour) 12.30/pm on the 4th day of Oct. 1944 as being No. B 73036 (Rank and Name) Cpl. George. R. GRANT. ~~a deserter (or~~ absentee without leave) from Canadian Military H.Q. and it appears to me ~~from his confession~~ that he is ~~a deserter or~~ absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 37 Height 5 Feet 6 Inches
Complexion dark Hair Brown
Eyes Brown
Marks
In uniform or plain clothes Uniform

Probable Date and Place of Attestation	Toronto 11. 9. '39
Probable Date of ~~Desertion or~~ beginning of absence, and from what place	2nd October 1944 C.M.H.Q. Cockspur St.

Signature of Officer of Police in charge of Barnes Station
4 October 1944 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....
who surrendered to the Police at ..... on .....
Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

Date of Signature.

EXHIBIT "S"

12 Oct 44.

Camp Commandant,
CMHQ.

Attention of Capt.Pearce.

I hereby certify that cheque No.77680 d/31 Jul 44, in the amount of £16. 11. 8d. issued by the Chief Treasury Officer, Overseas, to Mrs.Babette A.Grant of 48,Richmond Park Road, East Sheen, Surrey, is in payment of assigned pay and dependents allowance for the month of Jul 44.

J.B.Grant Capt
R.C.A.P.C.

7545

G.H.M.S.

1944-45

D DOMINION OF CANADA

Comptroller of the Treasury

No. 77580

LONDON,
ENGLAND

To The
BANK OF MONTREAL
47 Threadneedle Street
LONDON, ENGLAND

PAY SIXTEEN POUNDS 11-8 £ s d 31ST JULY 1944

16-11-8

To the
Order
of PAID MRS BABETTE A. GRANT,

48 RICHMOND PARK ROAD,
EAST SHEEN, SURREY

B-73036

LLOYDS BANK
PRESTON CIRCUS, BRIGHTON

(Sgd) ?
(Verified)

(Sgd) ?
For Comptroller of
the Treasury

DEPENDENT'S ALLOWANCE AND ASSIGNED
PAY BRANCH

(Stamp)
Bank of Montreal
Paying Cashier
18 AUG 1944

CIV4

THIS CHEQUE EXEMPT FROM STAMP DUTY

Certified that the above is a true copy substituted for the original Exhibit "B" in the FCCM proceedings of B-73036 Pte (A/Sgt) Grant G R.

J R Miquelon

(J R Miquelon) Capt
JAG Rev 2
Canadian Military Headquarters

22 Dec 44

EXHIBIT "C"

Camp Commandant,
CMHQ.

12 Oct 44.

Attention: Capt.Pearce.

I hereby certify that cheque No.103521 d/31 Aug 44, in the amount of £16. 11. 8d. issued by the Chief Treasury Officer, Overseas, to Mrs.Babette A.Grant of 48,Richmond Park Road, East Sheen, Surrey, is in payment of assigned pay and dependents allowance for the month of Aug 44.

J. L. Stirst Capt.
R.C. A.P.C.

DEPENDENT'S ALLOWANCE AND ASSIGNED PAY BRANCH

(Stamp)

O.H.M.S.

7545

DOMINION OF CANADA

1944-45

D

Comptroller of the Treasury

No 103521

To The
BANK OF MONTREAL
47 Threadneedle Street
LONDON, ENGLAND

LONDON,
ENGLAND.

31ST AUG 1944

PAY SIXTEEN POUNDS 11-8 £ s d 16-11-8

To The Order of MRS BARETTE A.GRANT, B-73036

(Sgd) ?
(Verified)

PAID 48 RICHMOND PARK ROAD, EAST SHEEN, SURREY.

(Sgd) ?
For Comptroller of the Treasury

PAID

THIS CHEQUE EXEMPT FROM STAMP DUTY

Certified that the above is a true copy substituted for the original Exhibit "C" in the FCCM proceedings of B-73036 Pte (A/Sgt) Grant G.R.

J. R. Miquelon

(J R Miquelon) Capt
JAG Rev 2
Canadian Military Headquarters

22 Dec 44

EXHIBIT "D"

76 Askew Road,
Acton, London. W.

13 Oct 44

The Camp Commandant,
C.M.H.Q.

I have been shown cheque No. 103521 dated 31 Aug 44 issued by Chief Treasury Officer, Canadian Army Overseas, in the amount of £16. 11. 8. payable to Mrs Babette A. Grant, 48 Richmond Park Road, East Sheen, Surrey.

This cheque was cashed at my place of business, 76 Askew Road, and I paid the amount of £16. 11. 8. in exchange for the cheque the money being paid to Sergt. G.R. Grant who presented the cheque on or about 22 Sep 44.

M. Morgan.

EXHIBIT "E"

S.I.S.
LONDON

C.M.H.Q.
5 Oct 44.

PROVOST

REG NO. B.73036, SGT. GRANT, G.R. - S.P.SECTION - C.M.H.Q.

ABSENTEE, THEFT AND FORGING OF CANADIAN ARMY DEPENDANT'S CHEQUE.

SIS/D/6-73

1. At 0900 hrs 2nd Oct 44, the above named N.C.O. was reported to be absent without leave.

2. On the 4th Oct 44, Sgt. GRANT was apprehended by the Civil Police at 48 Richmond Park Road, London. This absentee was escorted to the Barnes Metropolitan Police Station. He was subsequently transferred to No. 6 Provost Detention Barracks, 30, Henrietta St. London, W.C. 2.

3. Since Sgt. GRANT's absence, Mrs. Grant the wife of this N.C.O., has complained to the Paymaster of the non - receipt of her last Allowance Cheque. It has now been ascertained that Sgt. GRANT forged and cashed this cheque in his wife's absence and spent same on drink.

4. On the 5th. inst., Sgt. GRANT was interviewed and interrogated by the writer concerning his absence and also the missing allowance cheque. The following voluntary signed statement was obtained in writing from Sgt. GRANT in which the points in question are covered:-

BEGINS: COPY 5 Oct. 44.

First

I Reg. No. B.73036, Sgt. GRANT, G.R. have been cautioned by C/Sgt. Denton of the S.I.S. that I am not obliged to say anything unless I wish to do so, but whatever I now say will be taken down in writing and may be used in evidence.

This is to certify that I have read over the above caution and to show that I understand its meaning, I sign my name hereunder.

Signed; G.R.GRANT.

Apropos to the above statement I wish, of my own volition, and in all sincerity, to try and give as complete a picture of the circumstances leading up to this final charge of being A.W.O.L.

It is I'm afraid an admission of a person, fond of drink, who gives way to excessive indulgence under provocative circumstances.

The story starts on my wedding day, Oct 10th. 1942. with an excess of drink in male company on my pre-marital night, and too many mixed drinks at our reception following the church ceremony, I'm ashamed to say I create a distinctly unfavorable impression on my wife, her Mother and other relatives and friends. However the rest of our honeymoon passed in fairly convivial atmosphere, with perhaps the exception of the Friday evening, Oct. 16th., when I stayed below in the bar drinking with friends whilst my wife retired to bed alone. Apparently I came up stairs many hours later in a more or less helpless condition, to become involved in a domestic argument in which, tho I was entirely to blame I was the abusive one, not physically, but mentally.

(Continued on Page 2)

mentally/

On several occasions in the months to follow, the same sort of scene was renacted. On one particular occasion, during a visit to my Mother-in-law in Brighton, my wife and I met her Mother and some of her friends from R.E. Records office at Brighton, for noon-hour drinks. Altho I had asked my wife not to accompany these people back to their office, for a very particular reason which is of no interest to anyone except my wife and me, she listened to their pleading and did so with the promise of staying but one half hour. After remaining in the pub for over an hour during which time I had a goodly number of Scotches, I proceeded during an alert to the R.E. office in search of my wife. I waited for some time and then returned to the pub and continued drinking until closing time. I then repaired to my Mother-in-laws home, where meeting my wife and being furious by this time, I lost my temper and smacked her face. The rest of the week-end was a very trying one but after a two-hour conversation with my Mother-in-law, we parted on somewhat strained but I though friendly terms. I was wrong. A month later my Mother-in-law moved to London and I consistently managed to make excuses for not accompaning my wife on visits and refusing invitations to meals etcetera. In the month of August (1943) whilst on leave my wife had decided on Saturday to rent a self-contained furnished flat in Ruislip, we had been living in Barnes but as my wife was an expectant Mother we had decided to search for more suitable accomodation. The following day, Sunday, my Mother-in-law accompanied my wife and me to view the flat at Ruislip. It was an unfortunate visit, it ended in a very nasty insulting scene at the end of which I felt obliged to tell my Mother-in-law to leave. My wife was horribly upset and I of course furiously angry. This same occurrence I made my excuse for excessive drinking on more than one occasion. We of course did not let the flat at Ruislip.

Then came the birth of our son on October 28th 1943. At first relations with my Mother-in-law were more or less friendly but during my wife's stay in nursing home she managed to make my wife very miserable over a stupid argument as to our choice of Christian names. We, as was our right chose two names appearing on both family ties. His first name Antony, after my wife Antonia, his second Rutherford after myself. When my wife told of this scene a good week after the happening, I was adamant re changing the names and vowed never to speak to her Mother again and to go back on my promise to have the child baptised a Catholic. At first we had bad luck with the youngster, he was seriously ill for quite a long spell. During this period I was very worried and as usual sought refuge in drink, as was my wont. Ever since we married, altho I gave my wife a certain amount of money each pay day, I'm ashamed to admit I usually managed to borrow most of it back before next pay-day and occasional other sums as well. To this day these sums have not been repaid.

Came a change of residence in January this year and a return to health of our youngster and for a few months almost normal married home life. Then a bad spell in May when I borrowed twenty pounds from my wife which I squandered, mostly on drink. This led to another nasty argument at the end of which my wife promised to forgive me and I agreed to start paying her back at the rate of two pounds a pay. The next pay day I kept my word, but the following one I missed. I had been away on a special job for my office, and as usual spent far more money than my expense sheet allowed for. However I determined to make it up.

Then came the awful Robot raids and an exceedingly trying period. Getting little if any rest at night, I drank very heavily but I was always sober enough and close enough to my house to be of help should the situation warrant it. During these many weeks, my wife's nerves got steadily worse until early July she evacuated to her Mothers home at Levens, Westmoreland. The following week our home was blitzed whilst I was in. All that early Monday morning I helped rescue people at the incident, returned home at six in the morning to try and tidy our own house. My nerves were badly shaken.

(Continued on Page 3)

STATEMENT OF : B.73036, Sgt. GRANT, G.R. - S.P.SECTION - C.M.H.Q.

shaken/. The house was in such a state that I dreaded going home at nights, most evenings I spent in the local. We both wrote regularly and lovingly and quite freguently. Finally I got what I though was a grand break, leave was restored and I was given nine days leave. My wife seemed equally pleased as I had made arrangements for all three of us to stay at a lovely family house practically next door to her Mothers. I arrived late on the Friday night of Sept 1st. looking forward to a grand reunion and may say, hoping that it might be a real honeymoon. The first few days were very quiet and I enjoyed family life again. Our baby was grand and I loved to be with him again. On the fourth fifth & sixth days of my leave my wife seemed very distraught. On my taxing her with being under her Mothers influence too much she threw a bombshell. To my utter amazement she said she had decided to leave me and would I give her a divorce. It was such a rude shock after all her loving letters and her early behavior I was at loss as to what to say. I refused to discuss it any further that day and said I was leaving the next morning (Friday) close up the flat and wait for a change of decision on her part. I've forgotten to say my wife is expecting again, much too soon after the first I know but I though and prayed things would be alright. My wife accompanied me to Kendal the next day and after a long conversation at lunch and during a shopping tour, I had convinced her that she should come back, if not for herself, for the sake of the children. She promised to write over the week-end confirming this but I waited until Friday in vain and then received a most distressing letter, reverting her last decision and stating definitely she would never come back. Off the deep end again. Got drunk on Friday the 15th. and on Saturday the 16th. converted her D.A.cheque to my own uses. I had neglected to forward it on to her as I had promised. I was determined to drink myself into an illness or a break down. I have ever since I first met my wife been terribly (perhaps too much so) in love with her and always will be. My people at home who fortunately know nothing of all these my miserable shortcomings are terribly anxious to see my wife and our grand baby. He is the only grandchild. My actions in this drunken episode were stupid and silly, I've no excuse to make other than that as always in moments of stress, go on a bender, hurt myself physically and those I love most, mentally. The amount of the cheque (£16/11s/8d/.) I will of course redeem in full. The arrangements will have to be made through the Paymaster, I have no money of my own at present. All other monies owing to my wife I shall endeavour to repay at my earliest convenence. To close may I express the sincere wish that normal relations between my wife and myself may soon be resumed. I still have enought faith in myself that I still have the power and the will to make her happy.

Signed: G.R.GRANT ENDS:

5. Sgt. GRANT informed the writer that he cashed the stolen cheque at a Grocer Store operated by one Ivor MORTLEY, Askew Road, Acton.

6- It would appear that Sgt. GRANT'S present position can be attributed to excessive consumption of intoxicants.

7- This N.C.O. will be held in the Provost Detention Room, 30, Henrietta Street, London, pending further instructions from the Camp Commandant, C.M.H.Q.

CONCLUDED AND HANDED OVER.

Reg.No. C.30629, L.DENTON/Sgt.
CANADIAN PROVOST CORPS. S.I.

SIS/D-6-73

Camp Commandant,
C.M.H.Q.

1. Copy for your information, please.

London
6 Oct 44
JD/rm

Major,
For (A.D. Cameron) Colonel,
D.P.M. - C.M.H.Q.

A.G. Sa.,
C.M.H.Q.

1. Copy for your information, please.

London
6 Oct 44
JD/rm

Major,
For (A.D.Cameron) Colonel,
D.P.M. - C.M.H.Q.

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

~~dated~~ , ~~and in his regiment (or corps), the rank of~~

~~dated~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

To A/Sgt - 15 May 44 Date of promotion.

In the rank of A/Cpl. 1-2/12 years.

In the rank of A/Sgt. 5/12 years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twenty-fifth day of OCTOBER 1944 [signature] Asst. Camp Commandant CANADIAN MILITARY HEADQUARTERS.

Rank of officer

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked 2 signed by the president, and annexed to the proceedings.

Exhibit-2

M.F.R. 355
40 T & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-73036	Pte. (A/Sgt).	George Rutherford GRANT	48 Hldrs. CMHQ.

1. The following is a fair and true summary of the entries in the ---------- ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct NIL.

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 21 days in military custody, making a total of 21 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 37 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 11 Sep 39

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

9. ~~The accused is in possession of or entitled to an air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military military military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

Sheet destroyed as of 11 Jun 44 (Auth:CARO 2084)

Exhibit B

No B-73036 Name GRANT: G.R. Sqn, Battery or Company Corps 48 Highrs Date of enlistment 11 Sep 39 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40 [illegible]/136 (3438)

Date of last entry in Company Conduct Sheet 11 Jun 42 No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy of original document held in my possession 25 Oct 44.					

Captain
Records Officer.
Canadian Military Headquarters.
Officer i/c Regt'l Books.

(FTO)

LIST OF WITNESSES FOR THE PROSECUTION

1. Lieut. J. Potter, CMSC CMHQ S.P.Sect. C.M.H.Q.
2. M-25895 CSM Slavik W.J., S.P.Sect. CMHQ.
3. Capt. G. Cruickshank, Officer i/c Records, Camp Commandant, C.M.H.Q.
4. Capt. J.R. Hirst, RCAPC Chief Paymaster's Office, Acton W.3.
5. Mrs. M. Morgan, 76 Askew Road, Acton, W.12
6. C-30629 S/Sgt Denton, L. S.I.S., Cdn. Pro. Corps, C.M.H.Q.
7. Mrs. Babette A Grant, 48 Richmond Park Road, East Sheen, Surrey.

LIST OF EXHIBITS

Exhibit "A"	APO 1617 - Certificate of arrest by Metropolitan Police.
Exhibit "B"	Certificate signed by Capt. J.R.Hirst, RCAPC with cheque attached £16-11-8 payable to Mrs. Babette A. Grant for D.A. & A.P. for July 44.
Exhibit "C"	Certificate signed by Capt. J.R.Hirst, RCAPC with cheque attached £16-11-8 payable to Mrs. Babette A. Grant for D.A. & A.P. for Aug 44.
Exhibit "D"	Certificate signed by Mrs. M. Morgan as to cashing of cheque (Exhibit "C").
Exhibit "E"	Statement of Evidence signed by S/Sgt Denton, SIS C.Pro. C., embodying statement made by the accused.

LIST OF WITNESSES FOR THE DEFENCE

N I L

5T-151
Pte. Grant, G.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-73036 Pte GRANT, George Rutherford - 2 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of sixty (60) days.

(Sgd) ..... Judge-Advocate, if any. 18 SEP 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) [signature] Brigadier, Commanding "C" Group, Can. Reinforcement Units. Confirming Officer.

Date 19 Sep 45 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B/73036 Pte Grant, George Rutherford 2 CGRU	20 SEP 45	[signature]

Published in 2 CGRU DO 55/26 Sep 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED AT CMHQ IN AB 160 5-1-251

RECEIVED 30 OCT 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CPA98 (In lieu of AFA81) 45/1st & 8/1688 (6144) 4/38B

Convened by Order of Brig HON Brownfield CBE MC Comd "C" Gp, CRU dated 17 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-73036	Pte	George Rutherford	GRANT	2 CGRU

PROCEEDINGS REVIEWED 10 OCT 45 JAG Brnch, HQ

[illegible] OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 18 SEP 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 193, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) Do you object to S 16167 Sgt Bourassa, M as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see precedent AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D L REDMAN	HQ CRU
Member	CAPT	A I MORRISON	3 REPAT
Member	LIEUT	W PRYDE	3 REPAT
~~Judge-Advocate~~			
Prosecutor	LIEUT	L G GIBBONS	2 CGRU
Defending Offr	LIEUT	J W CASEY	2 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, assess and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty to all charges, use second alternative in para D6.) or (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86; 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence merely on ground of irrelevance. (RP 90(C), 116, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if is his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(B). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)
Ans Give Evidence NOTE-MIT
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~originals~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. AFB 353 or AFB 296. 2. MML 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(2) Ans Yes I do (NOTE A 112) (3)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 310, 5(3)-5(6), Overseas PO 309, 2323, RP 46. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 5(6). 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.73036 Pte. George Rutherford GRANT, CIC on strength of No. 2 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
ARMY ACT
SEC. 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, did absent himself without leave from 1430 hours on the 5th day of July 1945, until granted special leave by wire at his own request at 1045 hours on the 12th day of July 1945.

(Total Absence: 6 days, 22 hours, 45 minutes.)

SECOND CHARGE
ARMY ACT
SEC. 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, did absent himself without leave from the expiration of his special leave at 2359 hours on the 22nd day of July 1945 until surrendering himself to the Canadian Provost Corps in London at 2130 hours on the 24th day of August 1945.

(Total Absence: 32 days, 21 hours, 31 minutes.)

In the Field

13th Sept.45

(W.A. Townsley) Colonel
Commanding Officer
No.2 Cdn Gen Reinf Unit

To be tried by Field General Court Martial

Brigadier
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

17 Sep 45
Bordon, Hants.

(5-1)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy: AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-73036	Pte	George Rutherford	GRANT	2 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(~~x~~) attached and on (date) this date endorsed by me, is (~~xxxxxxxxxxxxxxxxxxxx~~). " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~xxxxxxxxxxxxxxxxxxx

Medical Officer's Certificate
K R (Can) para 557

I certify that I have this morning examined No: B 73036 (Rank)
PTE GRANT (Name) of 2 C.G.B.U. and in my opinion he is
fit to undergo trial be Court Martial.

Station
Date 18th 45

SGD [signature] (Medical Officer)

TRIAL OF

B-73036 PTE GRANT GR ---------- 2 CORU

The accused, sworn, states:-

I went AWL on 5 Jul 45 because I received a letter from my wife stating that she had accepted a full time position and had arranged for the care of the youngster aged 1 year and 11 months at a day nursery. I was worried about that situation because due to the carelessness of someone at a nursery home after the baby's birth we almost lost the child. Instead of applying to the officer for compassionate leave, I immediately went home at East Sheen, near London. There I found that my fears regarding his welfare were justified. He had developed a sthreptic throat and jivinitis, a form of trench mouth under those conditions. It was impossible that he could be cared for at a day nursery on account of the possibility of contagion. My wife and I tried to make other arrangements. That was not possible; under the doctor's advice I wrote to the Adjutant of 2 CIVR, explaining my reason of absence and asking that I be granted leave. On 10 Jul 45, I received a wire from the OC, RD Wing, 2 CIVR, granting me leave until 0300 hrs on 22 Jul 45. During that period I cared for the youngster to the best of my ability, my wife being at work all day long and on 23 Jul 45 at 8 o'clock in the evening when we last saw the doctor he gave me a medical certificate saying that the child was fit to be returned to the nursery. I took him to the nursery on the morning of 24 Jul and I then returned home. My obligation was of course to return to the unit immediately but as I was still worried about his condition and so I remained home. From day to day, I kept on postponing my departure to the unit making myself generally useful around the house and for a period of two weeks I had part time employment for two hours a day, in order to meet my share of the expenses. I attempted to return to my unit on 19 Aug and reached Haywards' Heath to change train for Wassocks and there I was informed by a soldier that the unit had disbanded and the present whereabouts of which he didn't know. I returned to London that evening and instead of reporting to the Provost Corps, as I should have done, I went home. On the evening of Fri 24 Aug, I surrendered myself to the Provost Corps as being a legal absentee. My category is "A". I was a trader on the stock exchange in civilian life. I have been in the army just over six years, Sir. I served with a field unit in 41, 48 Highrs of Canada. After coming out of hospital and convalescence I was assigned to the Personal Selection Section to give units M-Tests. In June42, I was posted to CMH, as a clerk in that section; I remained there until Oct 44. I got married in Oct 42. The reason for my AWL is not an excuse but it is just that I didn't have anything to occupy my mind in the army and I was worried about the child; I just couldn't stand it any more; since the past year I have had no use ofr the army; I've tried to get employment and I've tried; I have ability as a clerk and I know quite a bit about pay work; I was a cashier in civilian life.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 68 (B)

E-1

PLEA OF MITIGATION

B-73036 Pte. George Rutherford Grant.

This soldier enlisted 11 Sept. 39, and arrived overseas 30 Dec. 39.
He was employed at C.M.H.Q. from June 1942 until Oct. 1944, on the Selection Personnel Section as a Sgt. in charge of statistics and coding. Up to this time he had a clean record.
Since arriving in England he has been married, and is the father of a child.
Several times he has applied to be given a job, that would be an outlet for his active brain, but this was never granted.
He has also volunteered for Occupation Services. Due to not being employed in a position that he could capably fill, and worries over family affairs, the accused had been in a very troubled state of mind.
In passing sentence, I ask the court to take into consideration this soldier has already spent 24 days under close arrest, and would rather take a forfeiture of pay, so he could be placed in some position where he could be of some use, and releasing some other person so that they could be repatriated to Canada.

48 Richmond Park Rd.
East Sheen S.W. 14.
Wednesday, 11th July 1945.



The Adjutant
2 Depot Bn.
2 C.I.T.R.
Cdn. Army. England.

B 73036 Pte. Grant. G.R.

Sir:

In regard to my being illegally absent without leave, may I submit the following statement.

I absented myself from R & D wing 2 C.I.T.R. Depot Thursday after having been awarded a forfeiture of pay and a sentence of fourteen days Field Punishment, which I felt rather unjust. However that is no excuse for my behavior as I well know but in view of my present

personal problems that is the step I chose to take.

Due to straightened financial difficulties my wife has been obliged to take a full time position. We made arrangements for the care of our youngster at a Day Nursery but owing to his having an infected throat and mouth he can stay there for the time being as not possible according to Public Health regulations. As my wife only started work this week any leave for her is out of the question. I am making myself responsible for the care of my son. He is not a hospital case so naturally personal attention is absolutely necessary.

With all due respect for my obligations to the Army. I beg to be

allowed to remain at home
here. Where rightly or wrongly
I feel my present duty lies.
until Monday, the sixteenth
instant, on which day I
will report myself to the
Authorities at 2 C. I. T. R.
and submit to whatever
punishment they see fit
to award.

Altho on the Point
System (I have 212) I
should be due for Repatriation,
I am hoping that the Army
may find me some further
employment in this Country
for any period up to a year.

On my return to
Unit I shall submit Doctor
Certificates and other Documentary
to substantiate the above.

I have the honor to be, Sir,
Your obedient servant
F. R. Grant
B 73036.

EXHIBIT C

No.

Charges to pay

s. d.

RECEIVED

POST OFFICE

TELEGRAM

OFFICE STAMP

PUTNEY 14 JY 45 S.W.

Prefix. Time handed in. Office of Origin and Service Instructions. Words.

40

m

To

From

140 10355 HASSOCKS BR 29 =

B 73936 PTE GRANT G R 48 RICHMOND PARK ROAD

X

EAST SHEEN SW 14 =

= GRANT LEAVE TO 2359 HRS 22 ND JULY 45 =

MAJOR R H PATERSON OC DEPOT BATT BN CITR =

B 73936 48 14 2359 22 45 BATT BN CITR =

For [illegible] of doubtful words telephone "TELEGRAMS ENQUIRY" or call, with this form at office of delivery. Other enquiries should be accompanied by this form and, if possible, the envelope.

SUMMARY OF EVIDENCE

In the case of No. B-73036 Pte GRANT G.R. of the CIC on the strength of No 2 CCRU.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt A.Boake, of the CIC on strength of No 2 CCRU, having been duly sworn, states as follows:

" I produce the following documents, pursuant to ORO 5352 which have been read over and shwon to the accused and which are attached hereto as exhibits.

a) Certified true extract from 2 CITR DO Part II no 160 dated 1 Aug 45 showing that B-73036 Pte Grant G.R. absented himself without leave from 1230 hours 5 Jul 45. Produced and marked Exhibit " A ".

b) Letter dated 11 Jul 45, written and signed by accused and received at No 2 CITR at 1046 hrs 12 Jul 45. This is to show that on that date the accused requested special leave. Produced, marked Exhibit " B ".

c) Wire sent to the accused and showing that leave had been granted until 22 Jul 45 at 2359 hrs. Produced and marked Exhibit " C ".

d) Certificate under AA 165 (1) (j) showing the Accused as having surrendered to Can Provost Corps in London at 2130 hrs 24 Aug 45. Produced and marked exhibit " D ".

The accused declines to cross examine this witness.

A Boake Lt
(A.BOAKE)

The accused was then cautioned as follows: " Do you wish to make a statement or to give evidence on oath.? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) & (f) have been duly complied with.

J.H.Mathieu Lt
(J.H.MATHIEU)
Officer detailed to take the Summary of Evidence

In the field
7 Sep 45

EXA

EXHIBIT 'A'

LAST ORDER
No 179
31 Jul 45

NO 1 CANADIAN INFANTRYTRAINING REGIMENT
DAILY ORDERS PART III
issued by
LIEUT-COLONEL J.G.McCUAIG, ACTING COMMANDER

THIS ORDER
No 180
1 Aug 45

SECTION "A" OTHER RANKS

ABSENT WITHOUT LEAVE.

AWL from 1230 hours 6 Jul 45. Still absent 1230 hours 27 Jul 45.
(22) days

B-78036 Pte Grant G.R. (48th Highlanders)

signed: A.Edmondson Capt
for F.G.Wray Major
A/Regt Adjt
2 CITR

Certified true Extract:

Officer having custody of original

EXHIBIT D

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j)

I R.J.Stinson) Capt. D.A.P.M. CMHQ. certify that

Regt. No. B-73036 RANK Pte. NAME Grant G.R.

REGIMENT

UNIT No.4 C.I.T.R.

STATIONED AT

Surrendered himself to No. A-II634I Rank Cpl. Name Hyatt D.S.

Of the No.6 (Area)Prov.Coy. Cdn.Provost Corps.

On the 24 day of Aug. 1945 at London Hours 2130

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing (Military Uniform) or ~~(Civilian~~ Clothes).

Signature of Provost-Marshal, Assistant Provost-Marshal or other Officer or Commanding Officer of the Portion of His Majesty's Forces or the Officer, Warrant Officer, or the non-commissioned Officer in charge of the Detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering. (Strike out part inapplicable).

R.J.Stinson Capt.
(R.J.Stinson) D.A.P.M. - CMHQ.

London
25 Aug.45

LIST OF WITNESSES

In the case of B.73036 Pte. Grant, G.R.

CIC, on strength of No. 2 C.G.R.U. a soldier of the Cdn. Army Overseas.

(For Prosecution)

1. Lieut. A. Boake, No. 2 C.G.R.U.

(For Defence)

NIL.

LIST OF EXHIBITS

(For Prosecution)

Exhibit "A":- Certif. True Extract of 2 CITR DO Pt.II No.160 d/1 Aug 45 showing accused A.W.L. from 1230 hrs 5 July 45.

Exhibit "B":- Letter d/11 Jul 45 written and signed by accused and rec'd at 2 CITR at 1045 hrs 12 Jul 45 showing that on that the accused requested special leave.

Exhibit "C":- Wire sent to the accused and showing that leave had been granted until 22 Jul 45 at 2359 hours.

Exhibit "D":- Certif. under AA 163(i)(j) showing accused surrendered to Cdn. Prov. Corps in London at 2130 hrs 24 Aug 45.

(For Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, B.73036 Pte. Grant, G.R. hereby request that the Convening Officer appoint Capt. S.C. Biggs - Aldershot to represent me at my forthcoming trial by Court-Martial, should he be available.

In the Field,
7th Sept 45

G.R. Grant Pte.
(G.R. Grant)

RECEIPT FOR DOCUMENTS

I, B.73036 Pte. Grant, G.R. hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the charge sheet under which I am being brought to Court-Martial.

7th Sept 45

G.R. Grant Pte
(G.R. Grant)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 25 Oct 44	AA 15 (1) AWL AA 41 Forgery	[illegible]0 days detn	30 days remission
FGCM	Field 13 Mar 45	AA 15 (1) AWL	90 days detn	30 days remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 18 day of SEPT. 1945

J. L. Mathieu Lt.
Officer having custody of regtl books

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B-73036	Pte	Grant G.R.	2 CGRU

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15 (1) 5 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 30 Jun 41

Date of last entry in Field Conduct Sheet 5 Jul 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for~~ _____

~~beginning on the~~ _____ ~~day of~~ _____

4. The accused has been awaiting trial on the present charges for ~~nil~~ Nil days in civil custody; and for 24 days in military custody, i.e., Nil days in open arrest, 24 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 38 yrs

6. The date of his attestation ~~filling up for military service~~ 11 Sep 39

~~7. The service which the accused is allowed to reckon~~ _____

8. The accused is in possession of‡ Cvsm & Clasp

‡State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously~~ _____ without reduction, to the present date—

Date of Promotion.

In the substantive rank of _____

In the war substantive rank of _____

~~In the acting rank of~~ _____

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.20721/3701 22,000 9/44 A. & S. W. Ltd. Gp.4/98

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.73036 Pte George Rutherford GRANT - CIC - 2 CITB

Charge. (Insert "alternative" where applicable.)	Plea. (See instr p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	NOT GUILTY	GUILTY	except that his absence commenced not at 0800 hrs 15th Jan/45 but commenced at 0800 hrs 30th Jan 45 MB
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of ninety (90) days. MB

(Sgd) ..... 13 Mar 45 (Sgd) MB Thompson Capt

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) 28 MB

~~(1. AA 57A. Delete if not used.)~~

(Sgd) ..... A.B. Macdonald

Date 15 Mar 45 Commanding 3 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 73036 Pte GRANT GR	16 Mar 45	D Laperrière Lieut

ENTERED UNDER No. 66
DATE 19 March 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5358

FIELD GENERAL COURT-MARTIAL

CFAAS (In lieu of AFAS) 40/P & S. 1698 (E144) 4/38B

Convened by Order of Col CB WARE DSO T/Comd 13 CITB dated 11 Mar 45

RECEIVED 20 MAR 1945 JAG BRANCH CMHQ

ACCUSED.

(At the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt, .	Full Christian Names.	Surname.	Unit.
B.73036		George Rutherford	GRANT	CIC 2 CITB

PROCEEDINGS REVIEWED

MB Thompson Capt

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 13 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation or procedure should be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 583(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) Do you object to P.28126 as shorthand writer? Ans No
The shorthand writer is sworn.(1) SGT AH SINCLAIR

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	D.I. REDMAN	H, CRU
Member	Capt	R.D. YUILE	3 CITB
Member	Lt	A. INTERMOSCIA	4 CITB
~~Judge-Advocate~~			
Prosecutor	Lt	P. SAPERIA	2 CITB
Defending Offr	Captain	JH MEDHURST	2 CITB

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 82(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF5 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP*-62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-86; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex.....initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE MADE
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie case~~ against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Give Evidence. Do you intend to call witnesses on your behalf ?
Ans. NO SIR. Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE MADE
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 695. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and ~~states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.~~(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Forms B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MML 4.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By way of Defence ONLY.(2)
(1. *RP 37(C), 46(D).* 2. *Address(if any, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 142, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 98(C), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B-73036 Private George Rutherford GRANT, C.I.C., on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

Sec 15(1) ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, at 0800 hours, 15 Jan 45, illegally absented himself without leave until he surrendered himself to the Canadian Provost Corps at London at 2300 hours, 27 Feb 45.

(Total Absence: 43 days, 15 hours)

Laurentide Camp.

9 Mar 45

J A Wilson

.....
(J A Wilson) Col
Comd
2 C I T R

To be tried by Field General Court Martial.

In the Field
11 Mar 45

C B Ware

(C B Ware) Col
Temporary Comd
13 Cdn Inf Trg Bde

my

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B73036	Pte		George Rutherford	GRANT	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet attached and on (date) 11 Mar 45 endorsed by me, ~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~[illegible]~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
LT-COL	D L REDMAN, VD		HQ CRU

MEMBERS.

Captain	to be detailed by Commanding Officer	3 CITR
Lieutenant (Rank.)	to be detailed by Commanding Officer (Named or detailed. RP 106.)	4 CITR (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Commanding Officer (Named or detailed, if any. RP 106.)	1 CITR (Unit.)

~~[illegible]~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 11 Mar 45

(Signed personally. RP 105 fn 2.)
(C B Ware)
Temp Commanding 13 Cdn Inf Trg Bde
Convening Officer.

Colonel (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAO (In lieu of AFA2) 40/P & S/1/PET 14631)

(See overleaf for oaths and notes for use on trial.)

MED OFFRS CERTIFICATE 2 CITR/11

K.R.Can.Para 557

I certify that I have this morning examined No. 8.730.36.....

.PTE. GRANT. G.R..... and in my opinion he

is FIT ~~UNFIT~~ to undergo trial by Court-Martial.

Station: Laurentide Camp ...[signature]... Capt.

(RCAMC) Attahced to 2 CITR

Date: 13 MAR 45

COURT REPORTER: R.26126 SJT SINCLAIR

CASE OF

B.73036 Pte GRANT GR CIC 2 CITR

PROSECUTION

FIRST WITNESS

The Prosecutor produced:

(1) A certified true copy of Unit Pt II Order No. 59 d/10 Mar 45 relating to the accused.

ORDER MARKED EXHIBIT 1

(2) A Certificate of Surrender which related to the accused.

CERTIFICATE OF SURRENDER MARKED EXHIBIT 2.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

-DEFENCE-

FIRST WITNESS

The accused, having been duly sworn, states:

Sir, on the morning of 15 Jan I was at home in London, not on leave, and when I went to get up in the morning I found I couldn't get up. My wife went to get the Dr but he wasn't able to come until the morning of the 16, at which time he told me I was suffering from fibrositis, strained muscles in the back, and that the only cure for me would be to stay in bed with heat treatments, and said that I wasn't fit for duty. I have here a certificate from him dated 16 Jan 45 that I tender to the Court.

CERTIFICATE MARKED EXHIBIT 3

On the 16 I wrote a letter to the OC Recep Wing, 2 CITR, and I mailed it. This is the letter with the Receipt Stamp of the Unit on it.

LETTER MARKED EXHIBIT 4

Before sending the letter I sent a telegram to the OC Recep Wing 2 CITR, and I have here the telegram which my Def Offr obtained from the Unit where it was received.

TELEGRAM MARKED EXHIBIT 5

It is true that on Sun the 14 I was with my wife in London without leave, but I had intended to return early Mon morning in time for the first parade. I had lumbago some yrs ago and my back had been hurting me for about 3 wks before the 14th. I did as the Dr directed, stayed in bed, and taking heat treatements, and the following week I sent a second letter to my OC, but I got no reply to my telegram or either of my letters, and I expressed the opinion that I would be free to rejoin my unit the follow-

weekend, but the Dr didn't give me my release until 1930 hrs the 29 Jan and on that day all the pipes had frozen in the house, and that evening when I was planning to rejoin my unit the pipes in the loft burst and the lounge ceiling came down. There was nobody else living in the house at the time except my wife and child, and I naturally stayed on to help her clear up the mess, and I decided to stay overnight and report in in the morning, the 30th Jan. At 4 o'clock the same morning the hall ceiling came down, making a terrific mess, and I spent the rest of the morning until noon clearing up the place and wringing out the rugs and carpets, and at this time my wife sent a telegram to the unit saying I would definitely be reporting on the 1 Feb as I had to stay at home and help. I have here the telegram which I offer in evidence.

TELEGRAM MARKED EXHIBIT 6

For 3 days after I was busily occupied with my wife to clear the place up as she isn't able to do heavy work on acct of a miscarriage she suffered last Nov, and on Thurs night when I fully intended to report for duty I was so dead tired and my back was bothering me again that I decided to stay for another day or two. I thought I was doing my wife a favour by doing this and all the work about the flat, and I just continued to do so I'm afraid, Sir. The week of 5 Feb I checked by phone with the Pro Corps at Henrietta St to inquire as to whether I had been posted an absentee and was told there was no record. After that I just stayed on from day to day with the wife thinking I was of help to her and that she was improving, but on the evening of 26 Feb we were discussing matters between ourselves and the wife remarked that the neighbours were getting rather curious as to my continued stay at home and she felt it would be better if I returned to my unit. I can say that my wife frankly admitted that same evening that all the time she wanted me to go back, but I didn't want to as I thought I was doing so much for her. Sir, I was a trader on the Toronto Stock Exchange in civil life, my category is "A" and my age is 38. I would like to make a plea to go across the channel either in a fighting capacity or as a clerk. I was once a Sgt IC of the Statistical Dept in CMHQ, until I made an unfortunate mistake last Nov which I've now paid for. That is all I wish to say, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE DEFENCE IS CLOSED

STATEMENT BY THE PROSECUTOR ON THE FINDING

Documentary evidence has been produced to establish the date of AWL and the date of return are as in the Charge Sheet. The Prosecution wishes the Court to refer to footnote 1, AA Sec 15(1) in this respect.

STATEMENT BY THE DEF OFFR ON THE FINDING

I'd like to point out that this accused made every attempt to notify the authorities of his absence and of the fact that he was ill and that it was impossible for him to return until 30 Jan 45. At no time whatsoever did he make any attempt to hide his absence from the Army.

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT IS REOPENED

PLEA IN MITIGATION

(NOTE ATT)

13 Mar. 45.

Plea in Mitigation

In the case of L 73036 Pte. Grant G.R.

In asking the court to be lenient with this man I would like to point out that he realizes that he has erred but in so doing he believed that his duty to his wife and child came before everything else. He now realizes that his decision was faulty and wishes to make amends.

This man is a cat. 38 years of age and has the benefit of 2½ yrs. of experience as a sgt in charge of a sub section of the Personnel Selection Branch at C.M.H.Q. He has taken a wrong turn in life but with a little help and understanding he could once again travel the right path.

I will ask the court to be lenient with this man in order that he may once again become a useful member of His Majesties' Forces.

E-3
MY

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 58 9/ Mar 45

PART II DAILY ORDERS BY A/COLONEL JA WILSON COMMANDER

EX 1

This Order No: 59 d/10 Mar 45

Substitute A

PARA:

ABSENT WITHOUT LEAVE

AWL from 0800 hrs 15 Jan 45. Still absent 0800 hrs 16 Jan 45.

B73036 PTE GRANT G R (48th)

(Sgd) J.L. HENSLOWE, Capt
for AJA BAXTER - Major
ADMIN OFFICER
2 CITR

Certified True Extract

9 Mar 45
(Date)

A. Edmondson Lieut
(A. EDMONDSON) Lieut.
A/ Adjutant 2 CITR

Ex 2

Exhibit B

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j)

I (R.E.Birch) Capt. D.A.P.M. C.M.H.Q. certify that

Regt. No. B-73036 RANK Pte. NAME Grant G.R.

REGIMENT # 2.C.I.T.R. (CRU)

UNIT

STATIONED AT

Surrendered himself to No. B-132910 Rank Cpl Name Watson J.R.

Of the No.6.(Area) Coy Cdn. Pro. Corps.

On the 27 day of Feb. 1945 at 2300 hrs. Hours

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing (Military Uniform) ~~[illegible]~~

Signature of Provost-Marshal, Assistant Provost-Marshal or other Officer or Commanding Officer of the Portion of His Majesty's Forces or the Officer, Warrant Officer, or the non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering. (Strike out part inapplicable).

R.E.Birch

(R.E.Birch), Capt.
D.A.P.M., C.M.H.Q.

London
28-Feb-45

Dr. G. MORGAN EVANS,

TELEPHONE:
CHISWICK 3576.

EX 3

7, DUKES AVENUE,
CHISWICK, W.4.

16 . 1 . 1945.

This is to Certify that G. R. Grant

residing at 48 Richmond Park Rd SW14

is suffering from fibrosis.

and is unable to ~~follow~~ ~~attend School~~ occupation rejoin his unit.

48 Richmond Pk Rd
Tuesday 16. Jan. 1944

B 73036 - Pte. Grant, G.R.

To: Officer Commanding:
Reception Wing.
2 C.I.T.R.
Cdn. Army, England

2 C.I.T.R.U.
RECEIVED
17 JAN 1945
15 Whrs

EX 4

Sir:

Am enclosing Doctors certificate to explain my neglect to report for duty. At present am confined to bed undergoing heat treatments in order to relieve condition. Will advise by wire when I shall be fit to return to duty.

I have the honor to be, Sir
Your obedient servant
G. R. Grant (pte)
B 73036

Dept Bn

Feather
17 Jan 45

Charges to pay
s. d.

RECEIVED

POST OFFICE

TELEGRAM

Prefix 56 Time handed in. Office of Origin and Service Instructions. Words

No.

OFFICE STAMP

C.I.P.U. RECEIVED 17 JAN 1945 15 hrs

ACTION P.O. 18 JAN 45 W.3

From 156 3.0 EBT 26

To

PRIORITY OFFICER COMMANDING RECEPTION WING 2 CITR

CANADIAN ARMY ENGLAND CANRECORDS W 3 =

UNABLE REPORT FOR DUTY SUFFERING FIBROSITIS MEDICAL

CERTIFICATE IN POST = G R GRANT B 73036 +

CT A B 73036 ONE EBT = 403

For free repetition of doubtful words telephone "TELEGRAMS ENQUIRY" or call, with this form at office of delivery. Other enquiries should be accompanied by this form, and, if possible, the envelope.

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ASTON B.C.
30 JAN 45
W.3.

OFFICER COMMANDING RECEPTION WING2 CITR CANADIAN-ARMY-
ENGLAND

CANRECORDS.

DEFINITELY REPORTING THURSDAY ~~REX~~ PIPES BURST CEILINGS
DOWN MUST REMAIN HELP CLEAN UP

G R GRANT B 73036

2 C.M.R.U.
RECEIVED
31 JAN 1945

Prefix	Handed in	Office of Origin and Service Instructions or Nature of Service, if other than telegram.	Words	Received
3	1 OF 1945 .57	EAST SHEEN	22	From PRO 4087
				At 12.10
		CHARGES on Imperial and Foreign Telegrams and Radiotelegrams		By J ROBINSON

145

F.C. & Co. Ltd. Vol. 4444

SUMMARY OF EVIDENCE

In the case of B-73036 Pte George Rutherford GRANT, C.I.C., on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut H.J. BOAKE of Regimental Headquarters 2 CITR, having been duly sworn, states as follows:-

"I am Lieut H.J. BOAKE of Regtl HQ 2 CITR, and I produce the following documents pursuant to Overseas RO 5352 which have been read over and shown to the accused, and which are attached hereto as Exhibits:

Exhibit "A":- Certified True Extract from 2 CITR Part II D.O. No. 59 d/10 Mar 45, certifying that B-73036 Pte GRANT, G.R. illegally absented himself without leave from 0800 hrs, 15 Jan 45.

Exhibit "B":- Certificate in Accordance with Army Act Sec. 163 (i) (j) certifying that B-73036 Pte GRANT, G.R. surrendered himself to the Canadian Provost Corps in London at 2300 hrs, 27 Feb 45.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

H.J. Boake.....
(H.J. Boake) Lieut.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Laurentide Camp.

9 Mar 45

P. Saperis.....
(P. Saperis) Lieut.
Officer detailed to take The Summary of Evidence.

EXAMINED

M.F.R. 355
40/T & S.673

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment ~~(or unit)~~
B-73036	Pte	GRANT, G.R.	2 C I T

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	~~Within last 12 months~~	~~Since enlistment~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, ~~Air Force Act~~ summary awards under Section 47 of the Army Act and dispensations with trial under ~~A.A. 75~~ are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 36 years, 1 months.

6. The date of his ~~completion~~ attestation specified in his ~~record of service~~ attestation paper 11 Sep 39.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purposes of determining his position, etc.~~

9. The accused is in possession of or entitled to ~~a war~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. C.V.S.M. & CLASP.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

E & M

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

dated ....., and in his regiment ~~(or corps)~~, the rank of

dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

~~In the rank of ..... years.~~

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number B73036 Rank Pte

Name George Rutherford GRANT of 2 Cdn Inf Trg Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In The Field 25 Oct 44	Sec 41(5) Sec 15(1)	60 days Detention Stoppages £16-11-8.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of Mar 45 R Superia Lieut Asst Adj 2 CITR

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Sheet destroyed as of 11 Jun 44(Auth: CARO 2084)

No. B-73036 Name GRANT, G.R. Sqn, Battery, or Company Corps 48 Highrs. Date of enlistment 11 Sep 39 GC Badges Service or Proficiency Pay 3/17 MFM.6 (AFB 122) 40/P&S/130 (7019)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London	22Sep 44	A/Sgt		Tried by Field Gen. Court Martial (a) A.A.Sec.41(5) Forged the name of Babette A. Grant to a check for £16-11-8.		60 days detention.	25 Oct 44	F.G.C.M.	
						Stoppage of pay of £16-11-8			
	22Sep 44			(b) A.A. Sec.41(5) Uttered a False Cheque and obtained thereby £16-11-8.		Forf. 3 days pay FR&I 149(1)a			
				(c) A.A.Sec.15(1) A.W.L. 2 days 3 hrs, 30 min. Found Guilty on all counts. The findings and Sentence of Court confirmed by Major-Gen. the Hon F.J. Montague.		Forf. 60 days pay FR&I 149(1)b			
	2 Oct 44					Forf 20 days pay FR&I 149(1)c			
						Total Forf. 83 days pay (one day concurrent)			

(FIO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY CONSISTING OF..1...PAGES.					
				DATE. 8-3-45					
					H Dearness Lt.				
					(H.W.J. Dearness)Lt.				
					Officer having custody of Regimental Books.				

2 CITR/13

LIST OF WITNESSES

In the case of B-73036 (No.) Pte (Rank) GRANT, G.R. (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. Lt. H.J. BOAKE, Regtl HQ 2 CITR
2.
3.

(For the Defence)

N I L

LIST OF EXHIBITS

In the case of B-73036 (No.) Pte (Rank) GRANT, G.R. (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

Exhibit "A": -Certified True Extract from 2 CITR Pt II DO No 59 d/10 Mar 45 certifying that accused went AWL from 0800 hrs, 15 Jan 45.

Exhibit "B" -Certificate in Accordance with A.A. Sec. 163(1)(j) certifying that accused surrendered himself at 2300 hrs, 27 Feb 45.

-

(For the Defence)

N I L

REQUEST FOR DEFENDING OFFICER

I, B-73036 Pte George Rutherford GRANT

hereby request that the Convening Officer appoint any available officer to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp,
9 Mar 45

G.R. Grant
(B-73036 Pte Grant, G.R.)

RECEIPT FOR DOCUMENTS.

I, B-73036 Pte George Rutherford GRANT

hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
9 Mar 45

G.R. Grant
(B-73036 Pte Grant, G.R.)

4I-6.

Pte. Grant. HW.

RECORDED AT CMHQ IN AB 160 ... 41-6

FIELD GENERAL COURT-MARTIAL

CPA86 (To Secs of AFA3) 41/P S.R. 1608 (3664)

Convened by Order of Lt-col M.F.Bogert A/Comd 2 Cdn Inf Bde dated 18 Nov. 44.

ACCUSED.

(If the Trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and Regt'l unit, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-17297	PRO PRIVATE	Harold Whitfield	GRANT	SASK LI

PROCEEDINGS REVIEWED 18 Dec 44

fdc W.C. Dreh Capt.

REVIEWING OFFICER, HQ 1 CDN C.M.U.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 20 Nov. 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-113

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A45, for words and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 13-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0910 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ as interpreter? Ans. ~~[illegible]~~

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans. ~~[illegible]~~

~~The shorthand writer is sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans. No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	S LYNCH MC	Seaf of C
Member	CAPT	JJ MACKIE	L.E.R
Member	LT.	TA.S. KING	Seaf of C
Judge-Advocate			
Prosecutor	CAPT	RJ. STAPLES.	R.C.A
Defending Offr	LT.	L.A. MAGEE	S.L.I

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused G-17297 Pte GRANT H.W. before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert on RE rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

F76 AA/129

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G17297 Pte Harold Whitfield Grant SL I (NG)

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40.	Not Guilty	Guilty	
2nd	AA 40	Not Guilty	Guilty	
3rd	A.A. 10(3)	Not Guilty	Guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on date(1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Ninety days Detention

(Sgd) ..... Judge-Advocate, if any. 20 Nov 44 Date awarded. (Sgd) Skynch Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign there personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... A/Commanding 2 Cdn Inf Bde. Confirming Officer.

Date 24 Nov 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G17297 Pte GRANT H.W.	24 Nov 44	R.J. Staples A/Capt. Camp Commandant HQ 2 Cdn Inf Bde.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B); and of witnesses see RP 85-85; calling or re-calling of witness by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The ~~Defending Offr submits that the evidence for the Prosecution~~ does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, ~~the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans DO NEITHER Do you intend to call witnesses on your behalf ?
Ans No ~~Are these witnesses as to character only ? Ans~~
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, fn(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1st 2nd 3rd charge(s), being subject to confirmation, will be promulgated later.(1) ~~(2) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes - through my defending officer. (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2325, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 38. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see insets at back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, 317297 Pte Harold Whitfield GRANT, Saskatoon Light Infantry (MG) a soldier in the Canadian Army Active Force, CMF, is charged with,

WHILST ON ACTIVE SERVICE

First Charge
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he, in the Field, ITALY, on the day of 10 Nov 44 did improperly and without authority use Canadian Military Vehicle No Z4208929.

WHILST ON ACTIVE SERVICE

Second Charge
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he, in the field, at approximately 1615 hrs 10 Nov 44 was unfit to be in charge of a motor vehicle due to previous indulgence in alcoholic stimulants.

WHILST ON ACTIVE SERVICE

Third Charge
Sec 10 (3)

RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM,

in that he, in the field, at 1615 hrs 10 Nov 44 when told by L/Cpl Parkes, F. of No 105 CMP that he was under arrest, did resist arrest by struggling.

In the field
15 Nov 44

(H.B. Gourlay) Capt
SC 2 Cdn Inf Bde

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field
18 Nov 44

(M.P. Bogert) Lt-col
A/Comd 2 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1c, 105.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
G-17297	Private		Harold Whitfield	GRANT	SASK LI (MG)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 NOV 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and whereas I am of opinion that it is not desirable that the accused should be tried by a superior qualified offr~~ N/A.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~To consist of, to appoint (a) the Offr to Duty as Court, (b) a Pl Offr as President, for the Accused's Rank and Arm of Service.~~ N/A.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~To also appoint as Judge Advocate (not the City Solicitor of Toronto).~~ N/A.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	S. Lynch MC	Seaf of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.J. Mackie	L E R
Lt	T.A.S. King	Seaf of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	K.J. Rootes	L E R

~~JUDGE ADVOCATE~~ N/A.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 18 Nov 44

W.P. Bogert. (Signed personally. RP 105 fn 2)

(W.P. Bogert)

Lt-col (Rank.)

Commanding 2 Canadian Infantry Brigade

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (In Dept of AFAIR) 40/P & S/1801 (1943)

(See overleaf for oaths and notes for use on trial.)

Hq 2 Cdn Inf Bde
20 Nov 44

THIS IS TO CERTIFY THAT I HAVE THIS DATE EXAMINED G-17297 Pte GRANT H W AND I FIND HIM ~~UNFIT~~/FIT TO UNDERGO TRIAL BY FIELD GENERAL COURT MARTIAL

"Robt Mc Kenzie"
MEDICAL OFFR C.C.

20 Nov 44.

Ⓘ

Prosecution: 1st Witness HQ Eighth Army.

I am 2695160 RSM Lunn Jr having been sworn, states:-

On Friday 10 Nov 44 on returning from Sennigalia to Rimini in a 15 cwt Ford I observed 80x in front a veh. at 45° angle across the main highway. My driver also saw it and geared down. I stepped 20 yds in rear of the veh. My driver sounded the horn when he saw the front veh. reversing, the front veh continued to reverse despite further blowing of the horn. I shouted for the veh. to stop but it came on a hit the bumper of our veh. I got out to investigate and went up to the veh and asked if he had heard a horn sounding - he replied "No". At this moment I saw a MP on a motorcycle and shouted for him to stop which he did. I explained the case to him and handed accused over to his charge. The MP asked the driver to produce his pay book but the driver said he did not have it with him. The M.P. asked me to take my vehicle and drive in front of the accused (who I now recognise) and told accused to drive behind my veh and that he would follow in rear, we were to proceed to Corps MP HQ. En route to said HQ the accused overtook my veh at a speed of aprox 40 mph and was almost in collision with Southbound traffic. When accused did get in front of my veh I observed that his veh was not under proper control as it was zig-zaging across the rd. I then got out on the stamp board of my veh

and shouted for the MP to overtake the veh in front and to stop it - irrespective of MP's own danger he got ahead of the accused's veh and stopped him. The MP went up to the accused and ordered him to step down from his veh - he refused to do so. On the second order he made an attempt to get out but had to be assisted. He was being brought over to another 15 cwt to proceed to HQ - when on his way he did resist and further assistance was necessary. At the police station he was asked to produce his pay book which he then did and when asked to quote name, rank and number he did repeat it correctly.

Questions by Prosecutor :- (Results)

~~accused~~ ① I recognise accused as driver of the veh.

② The visibility was good.

③ In my opinion the accused heard our horn and shouts.

④ When accused passed my veh he was driving dangerously and was near the ditch several times.

⑤ Accused was not steady when he stepped from veh. Three people had to assist him.

⑥ The veh was not under proper control.

⑦ I judge his speed to have been 45 mph.

Cross Exam: By Defence: (Results)

① The veh slowed down after passing me.

② I do not think the zig-zaging was a result of bad road because the veh was nearly in the ditch several times.

③ The Southbound traffic was heavy, as 30 vehs passed me with no space.

④ When accused left his veh he did not need to be suported and was not in danger of falling down.

R.A. 83 I complied with

(111)

Prosecution: 2nd witness HQ Eighth Army

I am 2987203 Pte Alexander A. duly sworn, states:-
I was coming from St Agatha to Rimini at about 1600 hrs 15 Nov 44 and had reached a point one and ½ miles south of Recconi when I saw a veh which seemed to be in trouble at an angle of 45° across the road. I stopped 20 yds in rear of the veh. The veh in front began to reverse in a dangerous manner. I rushed at him and shouted for driver to stop - he failed to do so and damaged my veh slightly.

Questions by prosecutor: (results).

(a) Accused identified as driver of the veh.
(b) I think accused could hear the horn.
(c) Accused reversed in jerks.
(d) It was a good stretch of road.

Cross Examination (Results).

(a) I am a driver.
(b) It was possible that the accused might not have heard the horn.

R.P. 83 b complied with

Prosecution. 3rd Witness: 105 Provost Coy (12)

I am 111 7382 L/cpl Parkes F. duly sworn states:—

On 10 Nov 44 at about 1615 hrs I was on mobile patrol on Catolica Riccione main rd. At a point 2½ miles South of Riccione I was signaled to stop by RSM Lunn he asked me if I would take Pte Grant's particulars. I ordered Grant to step down from his veh. I asked for his pay book he replied "I have not got it". I then asked RSM Lunn to proceed to 105 CMP HQ. I ordered accused to follow RSM Lunn and I followed up in rear. After one mile of travelling I saw the accused overtake the RSM. I gave chase and overtook the accused's veh and signaled him to stop, which he did. I ordered him to step down from the veh. He made no attempt to step down. He made a second attempt in which I had to help him from the cab. I then noticed he was unsteady on his feet and his breath smelt of alcohol. I saw an oncoming 15 cwt and signaled the driver to stop. I ordered accused to ride in rear of this veh which was accompanied by myself. On ordering accused into the 15 cwt he resisted arrest. I then called for assistance and he was overpowered. We managed to get him into the 15 cwt and I told the driver to proceed to 105 CMP HQ. On entering HQ I handed accused over to RSM North where accused produced pay book and particulars taken. Accused was then detained for further enquiries.

Questions of Prosecution (Results).

(1) I recognise Pte Grant as the driver.
(2) Accused was wobbling on second try to get out of veh and required help.
(3) Accused was under influence of alcohol.
(4) Required three men to assist me with accused.

Cross Exam by Defence (Results).

① Accused did need help to stand up.
② In resisting he flung his arms about and broke away getting into 15 cent.
③ Accused was drunk and not mad.
④ Accused stoped immediatly when I signaled him in his veh.

RPA 83b Complied with.

Prosecution 3rd Witness: Seaf. of C.
I am M29183 A/Sgt Wilson J duly sworn, states:-
The accused was turned over to me by the CMP. They stated that they had orders to leave him at Seaforth guard Room. The accused was sober and properly dressed and fit for duty when brought to me.

Questions:
① I was guard comander of SH of C.
② The time was about 1800-1830 hrs.

R.P. 83 b complied with

Prosecution 4th Witness:
I am G 17240 PSM. Thompson H.H transport S.M. of Carlton and York Regt. duly sworn, states:-
On 10 Nov 44 I was over at Sgts Mess when S.M. Dobson of Sup Coy reported to me that his truck had been stolen. After supper I went to the transport office and reported loss to Bn HQ. Then went to Sup coy for further details and was told the truck had been returned.

Prosecutor Questions (Results).
① Pte Grant had no authority for the veh.
② Veh number is CZ4208929.

Cross Examination (Results). (6)

① Accused could not have had permission as it is necessary to obtain such permission from transport office.

② I do not know Pte Grant.

③ The veh was on charge to Sup Coy and driven by Pte Richard (A.J.)

R.P. 83 & complied with

Prosecution 5th Witness:

I am G17814 Pte Richard (A.J.) of C and YR - Sworn states:-

On 10 Nov 44 I was detailed to take my truck and drum gas for the burner. I parked it in front of Sup Coy orderly Room. I was behind the house getting empty gas tins. I heard the truck start. I walked to the front of the house and ~~am~~ my truck driving away. I immediately informed the TCP at Catolica and the next time I saw the truck was just outside Riccione parked on the side of the road.

Questions of Prosecution (Results).

① Truck number is Z4208929

② Grant did not have permission to use the truck.

③ I went to CMP and confirmed that the truck taken was mine.

④ RSM Lunn was standing near my truck on the road when I saw it.

Cross Examined (Results).

① I had been talking to Grant at 1545 hrs in the billets

② Could not swear that Grant was not drinking.

③ I recognise the accused and he had no permission to use my Ford 15 cwt truck.

(R.P. 83 (1) complied with)

Summary of Prosecution against Pte Grant.

1st Charge. using a military Vehicle without authority as ~~[illegible]~~ born out in Evidence of P.S.M Thomson of C. & Y.R. and Pte Richard of C. & Y.R.

2nd Charge. unfit to be in charge of a motor Vehicle due to indulgence Alcoholic ~~[illegible]~~ stimulants as born out in Evidence of R.S.M. Hunn and L/Cpl parkes

3rd Charge of resisting arrest is born out by evidence of R.S.M Hunn and Cpl parkes.

It is my opinion from the evidence given by the witnesses that the accused is guilty of all charges..

R. J. Staples Capt
RCA.

By Det. Officer.

Statement in defence of S 17297 Pte Grant Harold Whitfield.

Pte Grant has been with 25th Inf Bde for approx 10 weeks during which time he has had no charge against him previous to that he was with "B" Coy S.L.I. (M.G.) for a few weeks during his ~~stay~~ duty with them he had no charges against him.

In the evidence brought out at this court martial he was driving on a road which had heavy traffic, he had no accident other than bumping a fender when he was in reverse, ~~and~~ during which time it is quite possible that he could fail to hear the horn of R.S.M. Lunny vehicle. When ordered to stop he did, properly when asked for his pay book at C.M.P. H.Q. he produced it and repeated his name, no, and Regt. When turned over to L/Sgt Wilson of Seaf of C. Guard Comdr. he was sober and properly dressed. Pte Richard was with Pte Grant at approx. 1430 hrs and they were not drinking.

It is quite possible that when Grant was ordered into the 15 cwt and told that he was under arrest that a normal argument could result in him having to be helped into the truck.

The evidence brought out fails to establish the fact that Pte Grant had been drinking previous to 1545 hrs.

— Lamager Lt.
Defending Officer

Plea for mitigation of punishment in case of G 19297 Pte Grant Harold Whitfield. Saskatoon Light Infantry.

Pte Grant enlisted in the Canadian Army when he was 18 years old and had served for the past 5 years, having overseas early in the war. He has been through the Italian campaign to date.

Grant was a youngster when he enlisted and apparently has got off on the wrong foot according to his crime sheet. But for the past seven months he has been doing a good job and has had no crimes against him.

He has been on Line Traffic control through the last action and therefore subjected to many heavy shell fire and this trouble he is in now may be due to a nervous reaction so to speak.

In recommending this I would like to point out the fact that soldier is still young, healthy and can be of very valuable assistance to the army for the time and that he knew what his job was when war started in that he joined up and came overseas in 1934.

Major
Deputy Officer

C/A 1

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G17297	Pte	Grant, H.W.	Sask LI (MG)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial the summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 427, A.R., 1940.

* The accused should state whether he admits the entries in the conduct sheets, particulars of which have been given to him, and if not should call evidence in contradiction and to his character, and if he admits previous convictions by civil authority or disciplinary conduct.

Instructions.—(1) In charges in which more than one offence is alleged, state the number of offences in each charge.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1)	4 times	24 times.
For Sec 40	times	3 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct NIL

or

~~[illegible]~~

2. ~~[illegible]~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or [illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 23

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 3 Oct 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of since enlistment service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~[illegible]~~ (or is in possession of *or* entitled to (*state any military decoration or reward*)). 1939-45 Star and CVSM and clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or corps or department*) the rank of , dated .

(*18700) W'L19822/144 350,000 9/42 A.G.R.M.(Lon.) Gp.4/33

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G17297 Rank Pte Name Grant, H.W. of SLI (MG) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
NIL	NIL	NIL	NIL	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15 Nov 44 day of

(HB Gourlay) Capt

Off. Records

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs conserved amended accordingly.*)

Old Sheet Destroyed 3 Apr – 40 — Certified Copy

No. J 17297 Name Grant H. U. — Sqn., Battery, or Company — Corps — Date of enlistment 3 Oct 39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine — Sheet No. — Signature G.C. Company, etc.

M.F.M. 6 A.F.B. 122 (2nd M—T—41 (1111—20) R.Q. 1772-10-1873)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
2 Boys A A Field	14-10-40	Pte		AWL from Guard Mounting	L/Cpl Archer	4 days C.B. forf 1 day Pay	16-10-40	maj Dillanger	F.R.S.1
"	2-12-40	"		AWL 0630, 2.12.40 to 0815, 6-12-40 (AA 15)(1)	Lt Brennan	7½ days C.B.	7-12-40	Lt Col H Mackenzie	forf 5 days Pay
"	12-12-40	"		Failed to appear on Defaulters Parade (AA 15)(2)	Lt Mainland	forf 14 days Pay	16-12-40	Lt Col H Mackenzie	forf 1 day Pay F.R.S.1
"	12-12-40	"		AWL 2200, 12-12-40 to 0630, 13-12-40 (AA 15)(1)	Lt Brennan	Pay			
"	15-12-40			AWL 822 hours 15.12.40 to 0630 hrs 16-12-40 (AA 15)(1)	Sgt Mitchell	14 days C.B.	19-12-40	Lt Col Mackenzie	forf 1 day Pay F.R.S.1
"	30-12-40	"		AWL 2359 - 30.12.40 to 1800 hrs 9-1-41 (AA 15)(1)	Sgt Clifford	7 days C.B.	10-1-41	maj Dillanger	forf 18 days Pay F.R.S.1
"	31-12-40	"		AWL 2000, 25-1-41 to 10.30 hrs 27-PAL (AA 15)(1)	L/Cpl Merrick	14 days C.B.	30-1-41	Lt Col H. Mackenzie	forf 3 days Pay F.R.S.1
"	15-2-41	"		AWL 2000 15-2-41 to 0700 17-1-41 (AA 15)(1)	Sgt Mc Guire	14 days C.B.	17-2-41	maj Dillanger	forf 21 days Pay F.R.S.1
"	15-3-41	"		AWL 2359 15-3-41 to 0900, 16-3-41 (AA 15)(1)	Sgt Butler	14 days diet	21-3-41	maj P.E. Dillanger	forf 6 days Pay F.R.S.1
"	18-3-41	"		AWL 2200, 16-3-41 to 1800, 20-3-41 (AA 15)(1)	Cpl Fulcoda				F.R.S.1
"	30-4-41	"		AWL 2200, 20.4.41 to 0700, 23.4.41 (AA 15)(1)	Cpl Carpenter	7 days C.B.	21-4-41	maj P.E. Dillanger	forf 1 day Pay
"	23-6-41	"		AWL 0600, 22.6.41 to 0900, 23.6.41 (AA 15)(1)	Cpl Thomas	14 days C.B.	24-6-41	Lt Col W.G. Leggat	
"	1 Nov 41	"		Disobeying an Order AWL 20 hrs 45 min (AA 15)	Sgt Bryson	28 days F.P.	3rd Nov 41	Lt Col W.G. Leggat	forf 1 day Pay F.R.S.1
"	27-6-41	"		AWL 1800 hrs, 27-6-41 to 0600 hrs 28-6-41 (AA 15)(1)	Sgt Coates	10 days Diet	30-6-41	maj P.E. Dillanger	forf 2 days Pay F.R.S.1
				2) AWL 2230, 27-6-41 to 0300 hrs. 29-6-41 (AA 15)(1)	Lt Harvey				

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-7-41	Pte		Quel 2230, 14-7-41 to 2300, 14-7-41 (AA 15)(1)	L/Cpl Smith	3 days C.B.	15-7-41	Maj J.D. Watenbergh	
"	10-8-41	"		Quel 2230, 10-8-41 to 0600, 11-8-41 (AA 15)(1)	Cpl Merritt	7 days C.B.	11-8-41	Lt Col H. Digger Jones	Forf 1 day Pay, F.P. #1
"	13-9-41	"		Quel 2359, 13-9-41 to 0930, 14-9-41 (AA 15)(1)	L/Cpl J.D. Baffe	7 days F.P.	15-9-41	Maj J.D. Watenbergh	Forf 1 days Pay, F.P. #1
"	7.11.41	"		Missing a Military Duty (AA 15) (1)	Lt Sapsford		11-12-41	Capt L. Logan	Forf 1 days Pay, F.P. #1
"	18.12.41	"		A.W.L. - 22.15, 18, 12 41. to 1410, 20-12-41	Cpl McKinley	6 mths det commuted to 3 mths det by Brig	6 Jan 42	6 Jan 42	F.G.C.M. forf 9 days Pay A.W.L.
"				Quel 2215, 21 Dec 41 to 1800, 29 Dec 41 (AA 15)(1)		6 mths D.B. Det Barracks			
Field	24 Jan 42	Pte		Neg to parade (refused to double) Sch. 40	Lt Comrie	5 days C.B.	25 Jan 42	Capt L. Fraser	
Field	28 March	"		Quel (Sch Sec 15 (1)	Lt Comrie	1 day forf of Pay			
Field	10 April	"		Got to pay old Tabaring in of Road) AA 4	Cpl McLauchlan	7 days F.P. with Duty	Nov 20-12-42	Lt Col H.G. Lawson	
Field	16-6-43	"		Not in possession of M.B. Kit (AA 40) Sch 15(1)	Lt Jones	7 days F.P. 7 days forf	22-6-43	H.G. Lawson	1 days Pay. F.P. #1 149 (1)
Field	26 March	"		Quel - 2 days 22 hrs - Sch 15 (1)	Lt Jones	7 days F.P. - 7 days Pay	31 March 43	Maj J.D. McGaughey	2 days pay F.P. #1
Field	15 March	"		Quel - 3 days - Sch (15) (1)	Cpl W.O. Comrie	7 days Detention	18-8-43	Lt Col Maitland Lt Col	3 days Det F.P. #1.
				Ex Official Convict 22 Nov 43					
Field	4-1-44	Pte		U.O.C.S. AWL (7 hrs, 31 mins)	Cpl Jagram	7 days C.B.	15-1-44	D. Col	1 days Pay
								J.E. Muckleston	F.P. #1, 149
Field	24-4-44	Pte		Sch. 15 (a) Absent 3 days 7 hrs	L/Sgt Mc Tomich	Forf 4 days pay	28-4-44	Lt Col H.G. Lawson	auto forf 4 days pay F.P. #1) 149 (a)

No. G-17297 Name Grant, H.W. Sqn., Battery, or Company Corps C.I.C. Date of enlistment 9-10-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 A.F.B. 122 (ITEM 1-41 (1220-20) H.Q. 1779-30-1802) Tutor

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 May 44	Pte		AA Sec. 15 (1) Absent 21 days 30 mins	S/Sgt Mrs Trivial	28 days Pay forf AA (46) (Protective Custody Untill	25 May 44	Lt Col. R.W. Sent Auto	forf 22 days pay) F.R.S. & E.G. (1) (a) F.R.S.

CERTIFIED TRUE COPY

H.R. Gourlay

(H.B. Gourlay) Capt

SC 2 Cdn Inf Bde

Summary of Evidence in the Case of
G17297 Pte Grant H.W.

1st Witness for the Prosecution - 2695160 R.S.M. Lunn J. Main H.Q. Eighth Army having been duly sworn states -

I am 2695160 R.S.M Lunn J. On 10 Nov 44 I was returning from Sangatta to Rimini in the front of a 15 cwt Ford - at about 1600 hrs I observed a truck 80 yds in front on an angle of 45 degrees across the main highway - my driver also observing this changed down to lower gear and stopped his vehicle about 30 yds from rear of the vehicle in front. Our truck had no sooner stopped when the truck in front started to reverse, my driver on realizing the danger ~~of our position~~ of a collision sounded his horn repeatedly and him and I also shouted as the truck got nearer to us for the driver to stop; the driver still reversed and collided with our bumper. I immediately got out to investigate the case and asked the driver if he had heard a horn sounding. He replied no. Just at this moment a military Policeman on a motorcycle approached the scene of the accident. I shouted for him to stop which he did - I then explained the entire case to him and handed the accused who I now recognize over. The Policeman asked the accused for

his pay book and he replied I haven't got one. He was then ordered by the Policeman to get into his truck and he would have to come to his C.M.P.'s H.Q. The Policeman asked me if I would go in front with my 15cwt and he would follow the rear. And told the accused to follow behind me. En route to the above H.Q. the accused driving the Vehicle passed me at approx 45 M.P.H. almost coming in collision with the oncoming traffic. When the truck was immediately in front of my Vehicle I could observe the Vehicle Zig-Zagging on the road. In my opinion not under proper control. I got out on step board of my vehicle and shouted for the Policeman to overtake & stop him which he unnecessary did, unaware of the danger. When the accused stop his vehicle the M.P. ordered him to step down from his truck which he refused to do so. On the 2nd order the accused made an attempt but had to be assisted. He was then told that he was under arrest and that he would have to proceed in another 15cwt to our H.Q. He did resist arrest at that time, until assistance was put into said truck. On reaching the H.Q. he was asked to produce his pay book by Sgt. Major of C.M.P., H.Q. This he did and also quoted his Rank Name & Number as registered in his pay book.

He was then detained for further investigation

No. 2695160 Thum RSM

The accused declined to Cross Examine this witness.

Statement by the accused. G 17297 Pte Grant H.W.
I do not recognise this Sgt. Major.

2nd Witness for the ~~defence~~ Prosecution

2987203. Pte Alexander A. Main H.Q. Eighth Army. having been duly sworn states.

I am 2987203 Pte Alexander A. Main H.Q. Eighth Army. Returning from Senegallia to Rimini at about 1600 hrs. I marked a point at approx 1½ miles South of Riccione. I saw a truck in front of me which seemed to be in trouble with the front end 45° across the road. I changed down and stopped at approx 30 yds from the rear of this vehicle I had just brought my truck to a stand still when the vehicle in front commenced to reverse in a dangerous manner. I sounded my horn, shouted for the

driver to stop, he failed to do so and came in collision with ~~mine~~ my collision bar damaging it -

A. Abrande Pb.

3rd W The accused declined to Cross Examine this witness.

3rd Witness for the prosecution

3111 7382 L/cpl Parkes H. 105 CMP. having been duly sworn states.

I am 111 7382 L/cpl Parkes H of the 105 CMP. On the 10 nov 44 - at about 1615 hrs I was on mobile patrol to Riccone and Cattolica when at a point 2½ miles south of Riccone I was signalled to stop by R.S.M. Lunn. When he asked me to take Pte Grant, particulars, I ordered him to step down from the drivers seat, this he did, I asked him for his paybook which he replied I have not got it. So I ordered the driver to step back to his drivers seat and to follow ~~on~~ R.S.M. Lunn to the CMP's H.Q. 105. I then followed up in the Rear. On the way to coy. H.Q. I saw Pte Grant overtake the R.S.M.'s vehicle I immediately gave chase and overtook Pte Grants vehicle and signalled him to stop. This he did. I ordered him to step out of the car making no attempt the first time, on the second.

Fifth Witness for the Prosecution -

G17240 P.S.M. Thomson H.H. of the C.Y.R. having been duly sworn states.

I am G17240 P.S.M. Thomson H.H. transport Sgt. of the C.Y.R. on the afternoon of the 10th Nov 44 - I was in the Sgts. mess when Sgt. Major Dobson of Sup. Coy. C.Y.R. came in and reported to me that Pte Richards A.J. truck number CZ 4203929 ~~had been~~ a 15 cwt truck, had been stolen. I reported that a vehicle was stolen to Bn H.Q. and after supper went to Sup coy to get the particulars. I found the truck had been returned by the D.M.P.'s.

~~The accused declined to cross examine this witness.~~

H H Thomson

The accused declined to cross examine this witness -

attempt I had to help him from the car, then I noticed that Pte Grant was unsteady on his feet. I then requested the driver of a 15 cwt to take him to H.Q., C.M.P., he resisted the arrest and I had to call for assistance and he was overpowered. The driver of the stolen vehicle at the time of stopping the 2nd time on the road drove his own vehicle to C.M.P., H.Q. I handed Pte. Grant over to R.S.M. North where Pte Grant produced his pay book. On taking his particulars he was detained for further investigations

F. Carter

The accused declined to cross-examine this witness.

3rd Witness for the Prosecution. M29183. Lt/Sgt Wilson J. Seaf. J.C.
having been duly sworn states -

I am M29183 Lt/Sgt Wilson J. Seaf J.C. while acting as guard Comdr for Seaf Highlanders J.C. at 1830 hrs 10/11/44, the accused was brought to me by the C.M.P.'s. They stated that they had arrested him, that afternoon and had orders to leave him at the Seaf. J.C. guard room. The accused was then sober and properly dressed. J. Wilson

The accused declined to cross examine the witness.

6th Witness for the Prosecution.

G17814 Pte. Richard A.J. C.Y.R. having been duly sworn states.

I am G17814 Pte Richard A.J. approx 1545 hrs. 12 nov 44. I parked my truck in front of Our Sup. Coy. O.R. and was in the kitchen getting gas cans. I heard my truck start I went out and saw the truck drive away. I then proceeded to traffic control Post at Catholica and gave them the number of the truck, next time I saw my truck was just coming into Riccione, it was stationary on the side of the road.

G.17814 Pte. A. J. Richard

The accused declined to cross examine the witness

The accused was cautioned as follows.

Do you wish to give any statement or give evidence on oath, you are not obliged to say anything or give evidence unless you wish to do so but what ever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused does not wish to give evidence nor call witnesses

The foregoing evidence consisting of 6 pages was taken down by me in presence and hearing of the accused and that R.P (C), (D), (E), and (F) have been complied with.

R. J. Staples Lieut.
Officer Taking Summary.

In the Field
14 nov 44.

4F-110
Pte (A/4/Cpl) Grant, J.H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C42982 Pte James Herman Grant N.W.S.Hqrs

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 12(1)(a)	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 7, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~(beginning on (date))~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 120 days
and a forfeiture of 120 days pay

(Sgd) ~~Judge Advocate, if any~~ Date awarded. 22 Sept 44 (Sgd) W M Semmell Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 24 Oct 44 (Sgd) Jon Rockingham Brig Commanding 9 Cdn Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. C42982 L/Cpl James Hiram GRANT Date. 27 Oct 44 Signature of Offr. Norton Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160 4F-410

CPAM (In lieu of AFA81) AG. F & B/1608 (E) 44 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Bde. H.Q. 9 Cdn Inf Bde dated 19 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C42982	Pte. A/L/Cpl.	JAMES HIRAM	GRANT	N.W.S. Hqrs.

PROCEEDINGS REVIEWED
J.C. Campbell Major
2 Dec 44
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS REVIEWED Date 22 Dec 44 D.J.A. Odn Sec. GHQ 1 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 25 SEP 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation on this form arises, see fmn for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for duties and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (not) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter? Ans~~
~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer? Ans.~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Majr	W.M. SEMMELL	SDS Hqrs
Member	Capt	J.A. DUKE	SDS Hqrs
Member	Capt	L.C. WENHOLD	N.W.S. Hqrs
Judge-Advocate			
Prosecutor	Lieut	G.A. Godfrey	N.W.S. Hqrs
Defending Offr	Lieut	R.F. Tingley	N.W.S. Hqrs

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (b) and fn 2 were not followed. See Qn p 2.)

A8. The accused C42982 Pte (A/L/Cpl) James Hiram GRANT before arraignment make(s) (no) ~~his~~ plea(s) (3)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 80 mnp

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pencil page 81

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 27(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO .(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. Later. Do you intend to call witnesses on your behalf?
Ans. NO. Are they witnesses as to character only? Ans. NO.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.(2) Part I of the Schedule is dated and signed.(3)
(*1. AA 54(7) (8), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or call any witnesses as to your character?(1)
Ans.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Later.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(*1. When several accused tried concurrently see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 162, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 308, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Charge Sheet

The accused No. C.42082 pte. James Wilson GRANT, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas, R.C.A.S. is charged with

First Charge Deserting His Majesty's Service

Section 12 (1) (a) Army Act in that he

in the Field, at approximately 1300 hours 15 Aug. 44, having been warned that his Company was participating in an attack absented himself without leave from his platoon until approximately ~~1300 hours 15 Aug. 44~~ 1300 Hours 16 Aug with intent to avoid such attack.

In the Field
7 Sept. 44

(D.F. Forbes) Lt.-Col.
Commanding,
North N.S. Highlanders.

To be tried by FIELD GENERAL COURT-MARTIAL

(C.M. Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field,
19 Sep 44.

Amnd & Read.

FIELD GENERAL COURT-MARTIAL

CFA30 (To Issue of AF A3)
60-PAM/1097 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1-8, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-42982	Pte	A/L/Cpl	James Hiram	GRANT	NNS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above, the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet (~~Sheets~~) annexed and on (date) 19 Sep 44 endorsed by me, (~~Order or Orders dated the ... day of ...~~) To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable that the trial of the said person should be held by a military court of ...~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~X (Order dated the ... day of ...) (The Offrs detailed by the said Order) ...~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) M.M. GENGELL (Must be named. RP 106.) SDG Highrs (Unit.)

MEMBERS.

An Offr (not below the rank of Capt) to be appointed by OC Nth NS Highrs

An Offr (Rank.) To be appointed by OC SD&G Highrs (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in France (Country.)

Date 19 Sep 44

Jell Rockingham (Signed personally. RP 105 fn 2.)
(J.M. Rockingham)
Commanding 9 Cdn Inf Bde

Brigadier (Rank.)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Form 8 Rev.

Medical Examination Certificate

25 Sept. 44
M. I. R.

I certify that I have this date medically exam ined C42082 Pvt. Grant, J. H. and consider him in fit condition to undergo Trial by Court's Martial.

He is free from all infectious and contagious diseases.

H C Campbell Capt
Signed Unit M. O.

11

Nonb Pres

First Witness

FH1017 Sgt. Mackenzie J. A., NNS Highrs, having been duly sworn states:

On the fifteenth of August 1944 on approaching our start line to put in an attack I was approached by Cpl Farmer who was in charge of number five section and told me that L/Cpl Grant J. H. was missing from the section. I did not have time to check personally as we were near our start line, but after we had consolidated our position L/Cpl Grant was missing when I took up my consolidation report. I was L.O.B. at the time L/Cpl Grant reported back.

Questioned by the prosecution

Q. Do you recognize the accused?

A. Yes.

Q. Can you personally say that L/Cpl Grant was briefed for the show by his corporal

A. Yes.

Q. During that time can you say for sure if he missed action?

A. He missed action as far as my platoon was concerned. He was not with me.

Questioned by the defense

Q. How long was the accused with your platoon?

A. Since the latter part of July.

Q. After the attack on the 15th of August ~~and~~ when L/Cpl Grant returned did he stay with your platoon until the present time?

A. Yes sir.

Questioned by the court

Q. What were you on the 15th of August

A. Acting platoon commander.
Q. Did you brief your platoon on the attack
A. I briefed the section commanders and ~~they~~ ~~in turn~~ checked to see if they briefed their men
Q. Was L/Cpl Grant in your platoon during the briefing by the section commanders
A. He was a member of my platoon but I couldn't swear that he was in the section while it was being briefed
Q. What day did L/Cpl Grant return to your platoon?
A. I was L.O.B. when he returned, but L/Cpl Grant was there when I got back.

Second Witness: F 86643 Cpl Farmer L.E. Wounded and unable to attend. Sworn statement attached as evidence.

Third Witness:

F 59800 C.S.M. Bishop, H.J., having been duly sworn states:

At approximately 2200 hrs on the 18th of August Pte Grant, whom I recognize, reported to me after being absent from the 14th of August I sent him to the company clerk to have the time and date of his return recorded.

Questioned by the court.

Q. Are you the C.S.M. of the company to which L/Cpl Grant belongs
A. Yes sir.
Q. Were you in the attack on Aug. 15.
A. Yes sir,
Q. Did you see L/Cpl Grant on Aug 15.
A. I do not remember seeing him
Q. Did you see L/Cpl Grant between Aug 15 and Aug 18 when he returned to you
A. No sir.
Q. Did L/Cpl Grant have anything to say when he reported back to you on Aug. 18.

A. No Sir.

The accused CH2482 X1 Cpl. Grant J.H. desires to give evidence on oath, and having been duly sworn states.

Questioned by the defence.

Q. Cpl Farmer stated that mortar and shell fire was brought down on troops ahead and that the section went to ground. Was the section compact or was it dispersed? Were you spread out considerably or were you together?

A. We were together.

Q. When Did you see the company move off again?

A. No sir.

Q. Where did you go then?

A. I came back to battalion headquarters.

Q. Did you report to anyone at battalion H.Q.

A. Yes sir.

Q. Whom did you report to?

A. To the adjutant.

Q. Was this on the same day as the attack?

A. Yes sir.

Q. Tell the court in your own words what happened to you from there until you returned to your platoon.

A. When I reported in to Bn. H.Q. I stayed at Bn. H.Q. until the next day. We were picked up there and marched back to the battalion. When we got to the Battalion position the battalion was moving off. We did not have time to report back to our own company so they told us to follow up the best way we could.

Q. Who told you that?

A. The R.S.M., sir. When I couldn't catch a vehicle to follow the battalion I started back to look for "B" Echelon. When I found "A" Echelon they brought me through to "A" Echelon, and from "A" Echelon back to the unit.

Q. How long have you been with the Nth. N.S. Hegh's

A. Approximately a year and five months

H

2. Did you come to France with them on D. Day?
A. Yes, sir.

Questioned by the prosecution

1. You said that your section was compact, then why did you not fall up when the section went on
A. When we first went down we were all together. After we were down for awhile we started spreading out. I went back approximately 100 yards into a shell hole. When the company got up to move off I missed the company.
2. Did you know the direction of the advance?
A. No sir.

Questioned by the court

1. Cpl Grant, were you briefed on this operation?
A. Yes sir.
2. What was the nearest town or city where you were on the 15th of August?
A. I don't remember.
2. Who did you report to at B. Echelon?
A. A Mr. N. S. Hughes captain.
2. What did he tell you?
A. He told me to wait and that he would pick me up with a jeep. I was there approximately one half hour and was taken to A Echelon.
2. How far did you go to A Echelon
A. Approximately two miles from B to A Echelon.
2. How many miles from A Echelon to the Battalion
A. I am not sure but we were approximately three hours in the truck.
2. How long did it take you to find "B" Echelon
A. Approximately a day.
2. Why did you go back to look for B Echelon instead of going forward?
A. The battalion was moving on vehicles then.
2. What was the name of the place where you caught up with the battalion?
A. I do not know.

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2. Was anyone with you when you were absent?
A. Yes sir.
2. Who was with you?
A. Pte Pumford.
2. From your section?
A. From another platoon in my company.
2. Was he with you from the time you left the company until you got back to the company?
A. Yes sir.
2. Where did you meet him?
A. At the Starting line.
2. How long have you known Pte Pumford?
A. Approximately a couple of weeks before then.
2. Was he a friend of yours?
A. No sir.
2. You believe you made every effort possible to return to your company?
A. Yes sir.

Examined by the prosecution:

2. ~~You said then you were~~ How many vehicles did you check after ~~to getting off the R.S.M.'s to~~ see whether they were full?
A. One vehicle.

Examined by the court

2. Where did you ride after you could not get off the T.C.V. ?
A. The R.S.M.'s ammunition truck could not get one
2. Why did you get off the R.S.M.'s ammunition truck?
A. Because it was loaded with ammunition and I was afraid it would come under shell-fire.
2. Where did you go when you got off the R.S.M.'s truck?
A. I started back for "B" Echelon.

6)

The defending officer addresses the court:

The charge states that the accused absented himself without leave with intent to avoid an attack. Pl Cpl Grant has been with the HN&H for approximately 1½ years. He came to France on D Day and has been in every battle until this one. He states that he lost his company when it left the start point and reported to B.H.Q. almost at once and tried to get back to his unit. I don't think he had any intention of deserting.

Supplementary Sheet. Original not available (16-4-43)

No. C.42988 Name Grant, J.H. Sqn., Battery, or Company C.1. Corps Date of enlistment 20-8-42 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine NA Sheet No. 1 Signature O.C. Company, etc. Character Good

U.F.M. 6

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries as at 16-4-43					
Supplementary Sheet compliled from MFM 2 April 29/43					A.W. Jefferson, Lieut.				

Certified true copy of Supplementary Sheet, in my custody

H M Cunningham

(H.M. Cunningham) Capt & Adj
North Nova Scotia Highlanders
Custodian of Regimental Documents

(P.T.O.)

"C" A" [illegible]

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C.42982	L/Cpl.	Grant, J.H.	North Nova Scotia Highlanders

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since Enlistment.
For NIL	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, n il

~~There are no entries in the conduct sheets of the accused~~

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers hereto stated should correspond with the numbers or entries in the conduct sheets, provision being given in the most serious offence in each entry, and to any recommendation for gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

2. The accused has not been previously convicted, ~~as~~

~~Previous convictions of the accused by a court martial or a civil court, exclusive of those under section 47 of the Army Act, and dispensations with that section, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~and has not been under sentence for~~

~~no offence since the day of~~

4. The accused has been in confinement, awaiting trial on the present charge, for no days in civil custody, and no days in military custody, making a total of no days, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service / attestation paper~~ is ~~Nil~~.

6. The date of his ~~commission / attestation~~ specified in his ~~record of service / attestation paper~~ is 20 Aug. 42

7. ~~The service which the accused is about to re-engage or extend is the first period of~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ service.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his position as

10. ~~The accused is in possession of, or entitled to, the following military decoration or military award for or in possession of or~~ The accused is in possession of the Canadian Volunteer Service Medal

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer had held the regimental rank of

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of ~~temporary~~ and in his regiment (or corps or department) the rank of ~~substantive~~ officer.

(71846) Wt. 30224/5072 75,000 12/40 A.P.B.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Third day of September, 1944

(Mr. Cunningham) Capt. & Adj.
North Nova Scotia Highrs.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

1(A) NMA Pres

SUMMARY OF EVIDENCE in the case of C.42982 L/Cpl. Grant, J.H., North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

FIRST WITNESS FOR THE PROSECUTION (wounded and unable to attend)

Second Witness for the Prosecution

F.86643 Cpl. Farmer, L.E., North Nova Scotia Highlanders, states - "On the morning of the 15 Aug 44 orders came in from the platoon sergeant that the unit was going to make an attack that afternoon. I personally passed this information on to my section, of which 1/CPL Grant, whom I recognize, was a member. L/Cpl. Grant was present when I passed on this information. We were marching from the assembly area to the starting point at approximately 1300 hrs. Mortar and shell fire was brought down on the troops and tanks ahead. The section went to ground. When we got up to move off again L/Cpl. Grant was missing. I reported this to Sgt. McKenzie.

Cpl Farmer L.E.

Cpl. Farmer, L.E.

The accused declines to cross examine this witness.

Summary of Evidence in the Case of No. C 42982
L/Cpl Grant J.H., NNS Highes, a soldier of the
Cdn Army Overseas.

The accused is informed of his rights

First witness for the prosecution: F86643
Cpl Farmer L.E. NNS Highes ~~States~~;

On the morning of 16 Aug 44 orders were received from the pl sgt that the unit was going to make an attack that afternoon, I personally passed this information on to my section, of which L/Cpl Grant, (whom I recognize,) was a member. L/Cpl Grant was present when I passed on this information.

We were marching from the assembly area to the starting point, at approximately 1300 hrs, ~~the~~ mate and shell fire was brought down on the tps and tanks ahead - ~~[illegible]~~ The section went to ground, when we got up to move off again L Cpl Grant was missing. I repeated this to Sgt McKenzie Cpl Farmer L.E.

The accused declines to cross examine the [illegible]

Ex'd [illegible]

Second Witness for the prosecution; F 41017 Sgt
Mackenzie J.H., NNS Higher states;

On the 15 Aug 44 at approx 1300 hrs Cpl
Farmer reported to me that L Cpl Grant J H
was absent from his ser. I did NOT have
time to check the ser there as we were approaching
our start line to put in an attack. After the attack
was over I ~~took~~ made out any consolidation report
and L/Cpl Grant, whom I recognize, was missing from his ser.

J H Mackenzie Sgt

The accused declines to cross examine this witness

Third Witness for the prosecution, F 59800 C Sm
Bishop A J. NNS Higher states
L/Cpl Grant J H (whom I recognize) reported to me at 2200 hrs
18 Aug 44. I ordered him to report to
the Cy clerk, in order that his return may
be recorded.

H J Bishop
C.S.M.

The accused declines to cross examine the witness

[illegible]

The accused does NOT work + call witnesses in his defense at this point

Certified that R P + D, E, F, G, complied with,

In the Field
28 Aug 44

[illegible] Capt.

Officer detailed + [illegible] the summary.

I, C.42988 L/Col. Grant, J.H. desire to have an officer assigned to represent me at my Court-Martial

J.H. Grant

(Signature of the Accused)

RRR-37

PTE GRANT R.

RECORDED AT CMHQ IN AB 160. RRR 37

RECEIVED JUL 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S 1698 (2864)

Convened by Order of Brig. E Snow Comd 11 Cdn Inf Bde dated 28 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 60047	Pte		Robert	GRANT	Perth R

PROCEEDINGS REVIEWED 8 Jul 44

Mc Marshall Capt

REVIEWING OFFICER, JAG BRANCH

CANADIAN SECTION G.H.Q. 2nd EDITION 9 JUN 1944 DISCIPLINE & PAY SECTION

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PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) 29 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N. H. Minshull	11 C I B Sp Gp Pl Fn
Member	Capt	C. A. Gordon	In R C
Member	Capt	W. A. Nelson	C B Highrs
~~Judge Advocate~~			
Prosecutor	Lieut	D. W. Handford	Perth R
Defending Offr	Capt	F. B. Kennedy	Perth R

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused A60047 Pte Grant, Robert before arraignment makes (no) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. (Deleted in error [illegible]) ~~The accused is (are) arraigned (separately) on all charges in the charge sheet.~~(1) The accused does ~~(do)~~ not object to any charge.(2) ~~There is no amendment to be made to the Charge Sheet.~~(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. 8 D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 2. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by all of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CHARGE SHEET

The accused A 60047 Pte Robert GRANT, The Perth Regiment, C A a soldier of the Canadian Army Overseas is charged with:

First Charge
Sec 12 (1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTION,

in that he,

In the Field on 11 Apr 44, absented himself from The Perth Regiment C A, until apprehended by the Military Police in the field on 16 Apr 44.

Second Charge
(Alternative)
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENT WITHOUT LEAVE

in that he,

In the Field at 2300 hrs on 11 Apr 44 did absent himself from his unit, The Perth Regiment C A until apprehended by the Military Police, in the field at 1630 hrs on the 16 Apr 44. Total absence of 4 days, 17 hrs, 30 minutes.

J. S. E. Lind

(J S E Lind) Lt Col
T/Comd Perth R

In the Field

25 Apr 44.

To be tried by Field General Court Martial

In the Field
28 Apr 44

E. Snow

(T E Snow) Brig
Comd 11 Cdn Inf Bde

ptm

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (1868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.60047	Pte		Robert	GRANT	Perth R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 APR 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N.H. MINSHULL	11 CIB Sp Gp P.L.Fns.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	C.A. GORDON	Ir R.C.
Capt.	W.A. NELSON	C B Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	N/A	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in ITALY (Country.)

(T E Snow) (Signed personally. RP 105 fn 2.) Brig. (Rank.)

Date 29 APR 44

Commanding 11 Cdn Inf Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

29 april 44

This is to certify that I have this date inspected A 60047 Pte Grant R, of Perth Regt and found him free of vermin & infectious disease and fit to undergo Court martial

H C Pecocapt
RCAMC

Def offr wishes to apply for an adjournment until 1030 hrs in order to complete defence. Def offr states he has only had about ten minutes with accused and wishes more time to prepare defence.
The court closes for consideration of this motion.
The court re-opens and advises that the requested adjournment is granted.
At 1030 hrs the court reopens.

1st witness for the prosecution Lieut C. D. Hood 18 Pl D Coy Perth R having been duly sworn states

Q. Do you recognize the accused?
A Yes
Q Who is he?
A Pte. Grant R.
Q Tell your story to the court concerning the accused's absence.
A. The morning after our move into the area on the day of 11 Apr 44. around day light, after having had a conversation with Cpl Tupling I had reason to suppose that Pte Grant was absent. I called up coy hq and asked if Pte Grant were there. Their answer was "No". I reported his absence then and also on the second day when he did not return. He had left the pl area the night we moved in to pick up surplus rations
Q Had Pte Grant shown abnormal behaviour up till the last time you had seen him?
A No. I had only seen him for a short time before

Cross Examination by the Def Offr.

Q Describe the posn you took up - and also when Pte Grant took his posn

A Our posn was known officially as Hill 520 and was about 1000 yds in length. The sec posns were fwd. Pte Grant was with the centre sec.

2nd witness C79206 Cpl Zupling AR D Coy Bde HQ having been duly sworn states:

Q Do you recognize the accused?

A Yes he is Pte Grant

Q Is he a member of your sec?

A Yes

Q Tell the court what happened on the night of 11 Apr 44

A We marched slowly to the left fwd posn and took over from an English unit who in turn showed us the sangars for my sec. Pte Grant was in charge of the Bren gp. and after showing them their sangars I left them. Whilst I was locating the rest of my sec Pte Grant said that the English had left some rations on the way up and that he would like to go back for them. I gave him permission and that was the last I saw of him until 22 Apr 44

Q Had you noticed anything peculiar in Pte Grants behaviour?

A No sir

Q How long has the accused been in your sec?

A Since Feb - approximately two months - At that time I joined the regt.

Cross Examination by the def offr

Q What time did Pte Grant ask to go back?

A I am not sure of the time but it was 10 or 15 mins after reaching the posn

Q Were you in a posn to tell if Pte Grant was his normal self?
A He took over the Brenegs
Q Had he shown a nervous inclination at any front?
A Yes sir when I first joined the unit at the front.
Q Can you enlarge on that
A We bunked together and had had talks on the subject. He admitted he was nervous but I thought that it had worn off.
Q Has Pte Grant in your estimation been a first class soldier
A Yes sir
1st Witness recalled by the Court
Q You said that you called Coy Hq and asked if he (the accused) was there?
A Yes sir
Q Did Pte Grant perform any duties as a member of your pl from the time that he went for the rations?
A Not to my knowledge as I did not see him again until 24 Apr 44
* See Foot page 7. for insert here

Witnesses for the Accused

C79206 Cpl Tupling AR called by the def off.
Q Tell the court your relationship with the accused and the type of person you found him to be
A I bunked with Pte Grant and we had several talks about the action of 17 Jan 44 and he admitted he was quite nervous after that action. I believed that the nervousness was gradually disappearing and after we

had had a rest I thought it had completely dissappeared. When we took over from the Westminster Regt I was given another sec and did not have much to do with Pte Grant. When we went into Camp at Casalnuova I was sure enough of him to recommend him as 2 ic of a sec. Shortly after this he was chosen to attend the Junior Leaders Course. On returning from the course he was very enthusiastic about it and took over the Bren gp in a very good manner. He was on the Coy adv pty to this present front and was waiting for us at Santa Maria and from there to the front everything went fine

Q Had you found Pte Grant to be a first class soldier?

A Yes sir

Q (by the Court) How did he get along with the rest of the men in the sec?

A The sec worked well

3rd Witness Lieut Handford DW. The Perth R having been duly sworn states:

Q Did you have the accused in your pl in D Coy on 17 Jan 44

A Yes

Q Tell the Court the type of person that you found him to be and what he underwent on 17 Jan 44

A. On 17 Jan 44 the accused was in my pl and had been since Sep 43. 18 pl was reserve pl of the coy and as we crossed to our objective the enemy mortar fire that had been well ranged was at its peak. Some of the

men had frozen completly, but Pte Grant followed me to the Objective and was ready there for other duties. He was on that day and always has while in my pl been a dependable, willing and efficient soldier.

4th witness. The accused, having been duly sworn states:

Q Tell the Court what happened to bring about this change

A at the Ortona front I came under MG fire. My nerves got the better of me. I told no one about this just tried to wear it off. At the front on 10 Apr 44 we were under shell fire this worked up my nervousness. When I went in the next night with the pl and hearing stories about being surrounded my nerves snapped. I have no recollection of what happened from then on, or how I got out of the line. I actually come to when I reached the staging camp where we had stopped on our way to this area. I tried at first to evade the provost but finally gave myself up.

Cross-examination by the prosecutor.

Q Do you remember asking Cpl Tupling for permission to get the rations?

A No sir

Q When you arrived at the Objective on 11 Apr 44 where was your sanger?

A I could not take you there now.

Q were you talking to anyone in your sec after reaching the Objective?

A No sir

Q. Do you recall being on the objective?
A I marched up with the tps and must have been talking to someone as I pulling days so
Q Did you do any thinking on the way up?
A Yes sir – too much
Q What were you thinking
A I do not know. I had some dumbfounded feeling that I cannot express
Q Did you contemplate leaving once you were on the objective
A No sir
Q Do you remember where Jeep head was
A No sir the first time I saw it was when I was brought back to Bn HQ.
Q Do you remember having seen a mule train in D Coy area
A No sir.

5th witness Lt-Col Rutherford Perth R having been duly sworn States

Q Did you command a trg school at Guglionesi in Mar + Apr 44
A Yes
Q Did you have Pte Grant as a student.
A Yes.
Q Do you know the accused personally?
A No. Only while at the school. The report on Pte Grant was that he was a keen and willing worker and did not mention his

character, but during the school his character was shown as AI.

Def Offr remarks in Mitigation of Punishment

I ask the court to consider the circumstances under which this man left his companions. My submission is that it was due to his nervous state and that if we look into and study human beings and their reactions under abnormal circumstances we will not find it difficult to understand about this case. This man must be punished and I ask that his punishment be with the Perth Regt and that his character, his front line service and his prospects for the future be given sincere consideration

* The prosecutor produces certificate of apprehension and submits it to the court The certificate is marked Exhibit "C" and initialled by the president

Wm ~~Exhibit~~ A

Certificate in accordance with the Army Act Section 163 (1) (33)

I certify that No. A60047 Pte GRANT R. of the Perth Regiment -Canda [illegible] apprehended at CARPINONE at 1630 hours on the 16th day of April 1944.

Signed:- [signature] Captain,
C.S. 115 Provost Company.

Signature of Provost Marshal, A.P.M. or other officer [illegible] to whom custody the [illegible] person was taken [illegible] [illegible].

Wm Exhibit "C"

SUMMARY OF EVIDENCE

R P 4

Perth Regt C A

24 Apr 44.

Summary of Evidence in the case of A 60047 Pte Robert GRANT, The Perth Regiment, charged with:

1. AA Sec 12 (1) (a) DESERTION

2. AA Sec 15 (1) WOAS ABSENT WITHOUT LEAVE.

R P 4 F — The Commanding Officer directs that all evidence be taken on oath.

First Witness — C 79206 Cpl Tupling A R "D" Coy The Perth Regiment C A having been duly sworn states:

"I was NCO i/c 8 Sec, 18 pl, "D" Coy of the Perth Regt on the 11 th of April 44 and I still am. The accused was a member of my section and as we were going ~~xxxx~~ into the forward position at about 2300 hrs he came to me and said that members of the unit we were relieving had told him that they had dropped off a cache of food on the way up and that he would like to go and get it. I gave him permission do so and that was the last I saw of him until today the 23 rd Apr 44.

The accused:

Q1. What was I like at the time, did I seem quite normal?

A1. As far as I could see, yes.

A R Tupling

(C 79206 Cpl Tupling A R)

Second Witness — Lieut C D Hood "D" Coy, The Perth Regiment C A having been duly sworn states:

"I was Pl Comd of 18 pl "D" Coy The Perth Regt C A on 11 Apr 44 and I still am. It was reported to me by Cpl Tupling on the 12th April that the accused had absented himself. I called Coy HQ when I learned of his absence to enquire if he was there. It was reported that he was not there. He has not performed any duties nor has he been present from the time he absented himself until now, the 23 April 44.

The accused declines to cross examine this witness.

Lieut C D Hood

(Lieut C D Hood)

Third Witness — Capt R W Mitchell, Adjutant, The Perth Regiment C A having been duly sworn states:

"Herewith a document purporting to be a signed statement of the D.A.P.M. the 11th Br Provost Coy which is marked, initialled and attached hereto as exhibit "A".

The accused declines to cross examine this witness.

R W Mitchell Capt.
(R W Mitchell) Capt.

I certify that R P 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 24th day of April 1944.

J S Whyte Capt.
(J S Whyte) Capt
The Perth Regiment C A

In the field

24 Apr 44.

sheet 3

F G C M

A 60047 Pte Robert GRANT
The Perth Regiment C A

)a) LIST OF WITNESSES FOR THE PROSECUTION

C 79206 Cpl Tupling A R	The Perth Regiment CA 5 Cdn Armd Div C M F
Lieut C D Hood	The Perth Regiment CA 5 Cdn Armd Div C M F
Capt R W Mitchell	The Perth Regiment CA 5 Cdn Armd Div C M F

F G C M

A 60047 Pte Robert GRANT
The Perth Regiment C A

(b) LIST OF WITNESSES FOR THE DEFENCE

NIL

F G C M

A 60047 Pte Robert GRANT
The Perth Regiment C A

(a) LIST OF EXHIBITS

Document purporting to be a signed statement by D.A.P.M. 115 Br Provost Coy.

F G C M

A 60047 Pte Robert GRANT
The Perth Regiment C A

I do/~~do not~~ desire the Convening Officer to detail an officer to represent me at my forthcoming trial by FIELD GENERAL COURT-MARTIAL.

I request the services of ~~[illegible]~~

if available.

Capt F.B. Kennedy

Pte Grant R

(A 60047 Pte Grant, R)

In the Field

24 April 44.

No A 60047 Name GRANT, Robert Sqn, Battery, or Company D Corps C I C Date of enlistment 16-4-42 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 80/P&S/136 (3438)

Date of last entry in Company Conduct Sheet 14-7-42 No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc F A Tilston Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ipperwash, Ont	8-5-43	L/Cpl		AWL from 2200hrs 8May43 until 1025 hrs 10May43 (1 day 12hrs25mins) AA 15(1)	Cpl Smithers Documentary	Reverts to permanent grade of Pte	10May 43	Capt E B Johnston	Forf 2 days pay FRI 149

Certified true copy of original document in my custody as custodian of Regt'l documents.

R W Mitchell Capt
(R W Mitchell) Capt Capt

Exhibit "A"
HM

(PTO)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A 60047	Pte	Robert GRANT	Perth

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, R.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15(1)	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~[illegible]~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or

~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs, 11 months, ~~11~~ 16 dys

6. The date of his ~~commission~~ attestation specified in his record of service is 16 Apr 1942

7. ~~[illegible]~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs ~~6~~ 11 dys service.

9. The accused is entitled to reckon 2 yrs ~~6~~ 11 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to ~~[illegible]~~ (state any military decoration or reward). CVSM & Clasp

~~[illegible]~~

~~[illegible]~~

Exhibit B

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~24th~~ 29th day of April 1944

Rutherford Capt.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... Date of [illegible]

In the rank of ..... years

In the rank of ..... years

(Insertion—[illegible] in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, [illegible] the case of a trial by field general court-martial the information may be collected from such courses as are available [illegible] paragraphs concerned amended accordingly.)

NAME Grant, R.R.

Reg. No. B-11646

Tr. Centre No.

Clearing Depot No.

Contents	H. Q. File No.	Non-Effective By
M. F. M. 103 or 103A (Enrol. Form)		
M. F. M. 101 or 101A (Enrol. Form)		
M. F. M. 82 or 82A (Enrol. Form)		
N. W. S 1AR or 1AR FR (Med. Exam)		
M. F. B. 227 (Med. Board)		
CASE HISTORY SHEETS		
MORNING SICK REPORT (M. F. B. 292)		
CONDUCT SHEETS		
DECLARATION of C. of I. (Copy of Record from M. B. 68)		
M. F. M. 110 (Particulars of Family)		
M. F. M. 30 or 30A (X-Ray Report)		
M. F. D. 930A (Last Pay Certificate)		
M. F. B. 350 or 350A DISCHARGE CERT. (Copy)		
M. F. M. 7A or 7C DISCHARGE CERT. (Dup.)		
M. F. B. 483 DESERTERS-DESCRIPTIVE RETURN OF		

~~D 411 C~~

~~A 9030-4-37-18~~

~~SECRET~~

M.F.W. 2589A.
100M-5-42 (6199)
H.Q.1772-39-1377

DOCUMENTS N.R.M.A.

NOTICE

1. File should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to BF it for two or three days than keep it out of Central Registry indefinitely. This ensures its being completed and kept in order, and also gives other offices an opportunity.

2. Central Registry should be notified whenever a file is passed direct to another branch.

3. All outgoing letters should bear the official file number.

10/GRANT R.R/1

B-116646

CANADIAN MILITARY HEADQUARTERS
(CANADIAN ARMY OVERSEAS)

CROSS REFERENCE
JAG-Rev- 5J-97

GRANT R.R. B-116646

Central Registry	Date	PA or BF	Initials	Referred to	For Remarks	Initials	Date
		(If purpose for which referred cannot be expressed on one line, add minute to file, and enter here "With Minute")					
JUN 1 1945	13 JUN 1945	PA	CL AG Rev.	JAG Rev	WITH PAPERS C.		JUN 2 - 1945
JAN 1 1946	14 Jan	PA	AG Rev	Dis	WITH PAPERS C. RF		JAN 9 - 1946
JAN 1 1946	16 Jan	PA	AG Rev	[illegible]	WITH PAPERS C. RF		JAN 1 - 1946
APR 23 1946	25 Apr	PA	[illegible]	Pers.	WITH PAPERS C. RF		APR 19 1946

10/GRANT R.R/1

Hos Rg 16883

1/9A

DO NOT WRITE BELOW THIS LINE

99/37
~~210~~/Grant RR/1

B-116646 Frm Grant RR

CENTRAL REGISTRY	DATE	P.A. or B.F.	INITIAL	REFER ED TO	REMARKS	INI-TIALS	DATE
JUN 5 - 1945	C	[illegible]	[illegible]	AG10	papers	[illegible]	2-6-45
6 JUN 1945	[illegible]	[illegible]	[illegible]	AG12	papers	CR	6/6
JUN 11 1945	C	[illegible]	[illegible]	AG12	Papers	CR	11/6
JUN 12 1945	12 Jun	[illegible]	[illegible]	AG12	BF	CR	12/6
JUN 16 1945	23 Jun	[illegible]	[illegible]	AG11	Papers	CR	15/6
JUN 18 1945	[illegible]	[illegible]	[illegible]	[illegible]			[illegible]
JUN 27 1945				AG12	Papers	CR	21/6
JUN 28 1945				[illegible]	[illegible]	[illegible]	29 June
JUN 29 1945				[illegible]	[illegible]	[illegible]	[illegible]
JUL 1 - 1945				[illegible]	[illegible]	[illegible]	29 June
JUL 2 - 1945	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]	[illegible]
7 SEP 1945	[illegible]	[illegible]	[illegible]	AG10	BF	CR	7/9
				[illegible]	papers	CR	[illegible]
15 OCT 1945	[illegible]	[illegible]	[illegible]	A8	Papers	CR	12 Oct 45
	[illegible]	[illegible]	[illegible]				
DEC 12 1945	[illegible]	[illegible]	[illegible]	AS	BF	CR	10 Dec
	25 [illegible]	BF	[illegible]				
	10 [illegible]	BF	[illegible]				
	28 [illegible]	BF	[illegible]				
	[illegible]	BF	[illegible]				

~~210~~/Grant/ RR/1

PART II ORDER EXTRACT FORM

TO: D & P SECTION
2 ECH HQ CAOF

99/20/

26 APR 46 19

EXTRACTS FROM: UNIT 4/QUEENS OWN RIFLES OF CANADA CAOF

Part II Order No. 19 dated 26 APR 46

REMISSION AND SUSPENSION OF SENTENCE

(a) Remainder of sentence of 1 yr det awd by FGCM on 19 APR 45 and suspended 30 SEP 45 is remitted
Auth - GOC 3 CDN INF DIV CAOF d/15 APR 46
B116646 Rfn GRANT R R

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.
For information

Originating Clerk's Initials fgk

for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6 40/P&S/1276 (6704)

99/24/D & P Gen/1 (A8)

2nd ECHELON
HEADQUARTERS CANADIAN ARMY OCCUPATION FORCES

10 APR 46

HQ
3 Cdn Inf Div CAOF

M.Fs.M. 6
~~B14432 Pte WOOD, D.J.~~
B116646 Pte GRANT, R.B.

1. Reference telephone conversation (Capt Kinghill-S/Sgt Metcalf) of today's date.

2. Herewith supplementary MFM 6 for the m/n soldier as requested.

(W H Pope) Captain
for OIC 2 Ech HQ CAOF

WHP/DL

PART II ORDER EXTRACT FORM

TO D & P SEC
2 Ech CFN

2 ECH CFN/20/3 Transit Camp/1
15 MAR 19 46

EXTRACTS FROM: UNIT 3 CDN TRANSIT CAMP (C)(CFN)

Part II Order No. 3 dated MAR 46

SOLDIER UNDER SUSPENDED SENTENCE

STRENGTH DECREASE

still X4
2 apr 46

SOS to X-4 List CAOF 13 MAR 46
Auth: EARS/6885 d/13 MAR 46
B116646 Pte GRANT R R CIC(R)

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
40/P&S/1276 (6704)

PART II ORDER EXTRACT FORM

TO: 2 ECHELON
HQ CAOF
ATTN: A8

FROM: XXXX
2 ECH CFN/3 Transit Camp/1
1 MAR 19 46

EXTRACTS FROM: UNIT 3 CANADIAN TRANSIT CAMP (C) (CFN)

Part II Order No. 2 dated 1 MAR 46

SOLDIER UNDER SUSPENDED SENTENCE

PUNISHMENTS

On 14 FEB 46 awd 28 days detention for an offence under AA Sec 15(1) AWL from 0830 hrs 25 JAN 46 to 1610 hrs 12 FEB 46 (18 days 7 hrs 40 mins) Under close arrest from 1610 hrs 12 FEB 46 to date of trial Forf 1 days pay under FR&I 149(1)(c)(ii) Forf 19 days pay under FR&I 149(1)(a) Forf 28 days pay under FR&I (1)(b) Total Forf 48 days pay
B116646 Rfn GRANT R R

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

(DC STEWART-PATTERSON) Lieut
for Officer IC
2 ECH SEC ADM SEC HQ CFN for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

Originating Clerk's Initials csg

ECH—6
40-P & S/1276 (8757)

99/24/SUSPEND/1 (A6)

2ND ECHELON
HEADQUARTERS CANADIAN ARMY OCCUPATION FORCE

4 MAR 46

HQ
3 Cdn Inf Div (CAOF)

AFsA 3104

1 AFsA 3104 for the u/m are enclosed herewith for action in accordance with Overseas RO 4732, para 4 (b).

NUMBER	RANK	NAME	UNIT
B45001	Pte	Alford R.B.	2/7 CIB Gd Def Pl CAOF
B45983	Pte	Archibald J.	4/QOR of C CAOF
D67352	Spr	Beaulieu A.	2/18 Cdn Fd Coy RCE CAOF
E100149	Pte	Brosseau L.	3/R de Chaud CAOF
B58018	Pte	Challis A.W.	3/HLI of C CAOF
M45906	Tpr	Currier E.J.	2/7 Cdn Recce Regt CAOF
X72680	Pte	Dobbie A.J.	4/C Scot R CAOF
A102295	Rfn	Durocher C.J.	4/QOR of C CAOF
G1879	Pte	Gibeault Y.	3/Nth Shore R CAOF
B116646	Rfn	Grant R.R.	3 Cdn Transit Camp
B155177	Rfn	Heastont J.N.D.	4/QOR of C CAOF
D61202	Pte	Hebert P.E.	2/3 CIB Coy RCASC CAOF
F57033	Pte	Hillier W.J.	3/Nth NS Highrs CAOF
B126217	Pte	Hiscott G.A.	3/SD&G Highrs CAOF
F51630	Pte	Landry R.N.	3/Nth NS Highrs CAOF
C62958	Pte	Langlais J.G.	4/QOR of C CAOF
H41612	Rfn	Lozinski P.	4/R Wpg R CAOF
B136976	Pte	Marshall E.G.	3/SD&G Highrs CAOF
G1296	Pte	Mason W.E.	3/SD&G Highrs CAOF
F56213	Pte	Mercer J.G.	3/Nth NS Highrs CAOF
F62239	Pte	Myers E.G.	3/Nth NS Highrs CAOF
D91900	Pte	McKay R.W.	7 Cdn Gen Hosp RCAMC CAOF
F55017	Tpr	Oakley D.C.	2/7 Cdn Recce Regt CAOF
M56471	Gnr	Pretzer C.C.	2/12 Cdn Fd Regt RCA CAOF
G10214	Pte	Reed J.H.	3/Nth Shore R CAOF
G57641	Pte	Robichaud O.	3/Nth Shore R CAOF
D139607	Pte	Rochette J.M.A.	3/R de Chaud CAOF
F69127	Pte	Scott T.	3/Nth NS Highrs CAOF
D15594	Spr	Shaink L.	2/18 Cdn Fd Coy RCE CAOF
L60609	Gnr	Shevchuk F.J.	2/13 Cdn Fd Regt RCA CAOF
F95320	Pte	Silliboy B.	3/Nth NS Highrs CAOF
F55259	Rfn	Sullivan W.D.	3/Nth NS Highrs CAOF
B27364	Pte	Tuer J.	4/QOR of C CAOF

2 On completion of Part VI, may the forms be returned direct by the reviewing authority to this HQ.

(W H Pope) Capt
for OIC 2 Ech HQ CAOF

ENCLS(33)

XI.

Space for further Review (continued from page 2).

Date	Directions	Signature and Appointment of Authority giving the Directions	If sentence suspended, date of release, No. of marks earned to count towards remission, and Signature of O.C. Prison or Detention Barracks

XII.—Remarks and recommendations of C.O. on Second Trial.

Date		Signature

XIII.—Remarks and recommendations of Confirming Officer on Second Trial.

Date		Signature

Certified Copy. D.Clapperton Capt

Army Form A 3104.

Cdn Sec. GHQ 1 Echn - 21 A Gp

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of NB.116646 Rfn Grant, Ronald Robert Unit att 20 Cdn Spec Emp Coy X-C 1st Royal Regina Rifles

Sentenced to 1 yrs Detention on 19 Apr 45

Age on, and date of, enlistment 23½ yrs - 15 Aug 43 Term of service 1 yr 8 mos

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on (3)

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offences, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to .....

and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on (3)

Place .....

Date ..... Superior Military Authority (4).

(1) Enter words not required, and initial alterations.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until completed.
(6) This paragraph to be left unused until completed. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspense is avoided by the award of a subsequent sentence of penal servitude

(*25381) Wt.36106/5832 60,000 10/44 A.F.&S.W.Ltd. Gp.689 Forms A.3104/14.

VI. Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., consulted upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. BF 30 Sep 45.	"E.L.M. Burns" Maj-Gen. GO i/c Cdn Sec 1 Ech HQ 21 A Gp. 30 Jun 1945	
27 Sep 45	Suspend wef 30 Sep 45.	"J.F.A. Lister" Brig. C of S/DA & QMG Cdn Forces in the Netherlands.	sent susp wef 30 Sep 45 marks earned 1320 days in susp 200 WD Cain, Major, Comd 1 Cdn Detn & FP Bks
	remain in suspension BF 1 Apr 46	C Vokes, Maj-Gen GOC 3 CID CAOF 1 Feb 46	

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. (1) AA 15(1) - AWL from 0845 hrs 21 Jan 45 to 1400 hrs 10 Mar 45 - absent 48 days 5 hrs 15 mins. (2) AA 15(1) AWL from 1300 hrs 18 Mar 45 to 1445 hrs 26 Mar 45 - absent 8 days 1 hr 45 mins. (3) AA 11 - Neglect to obey Part I orders improper possession of pistol - P.35 automatic J.4676. "J. Worthington" Lt and Adjt. Signature of Officer making entry. 20 Cdn Spec Emp Coy.	21 Jan 45 15 Mar 45 10 Mar 45	19 Apr 45
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
23 Apr 45	Recommend that case be reviewed in 4 months from date of trial (19 Aug 45). "W.W. Glover" Capt., A/OC 20 Cdn Special Emp Coy.	

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
27 Apr 45	Recommend that full sentence be served. "J.S.H. Lind" Brig Comd 3 CBR Gp.	

220/SUS/Misc/1

HQ 3 Cdn Inf Div CAOF
5 Feb 46

2 Ech HQ CAOF 24/Suspend

A8

REVIEW OF SUSPENDED SENTENCE
13 CBR Bn

1. Herewith AF A3104 in respect of the undermentioned soldier with the endorsement that sentence remain in suspension with a further review on 1 Apr 46:

B 116646 Rfn GRANT R R - 13 CBR Bn.

Chicing-Hall Capt

(C.M. PARADIS) Lt-Col
AA & QMG 3 Cdn Inf Div CAOF

RECEIVED
7 FEB 1946
R.H.Q. Bnd Exh.
Bn Army Gp.

Enc:
EHKH/b

99/37/GRANT RR/1 (A8)

2ND ECHELON HEADQUARTERS CAOF

5 Jan 46

CMHQ

(Attn: AAG Dis)

Held by 3 Dist
as of 31 Jan 46
BF 28 Feb 46

B116646 Rfn Grant R.R.
PE Stragglers' Unit (13 Bn)

1 The m/n SUSS is presently on strength of the PE of Stragglers' Unit (13 Bn).

2 As this is a CFN unit, the m/n AF A3104 is forwarded herewith for review in accordance with Overseas RO 4732 para 4 (b).

3 OC 13 CBRBn is requested to forward direct to CMHQ (Attn: AAG Dis), for use of the reviewing authority, a statement of Rfn Grant's conduct while employed with that unit.

4 On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ, please.

WHP/LPB

(J J P de Salaberry) Major
DAAG Pers
for Officer i/c
2nd Echelon Headquarters CAOF

CODRIER/

ENCL(1)

COPY TO: OC 13 CBRBn

MESSAGE FORM

99/20/3/SD & G Highrs (CAOF)/1

FROM:
CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE (A2)

Date-Time of Origin
21 1200A Dec 45

FOR ACTION

TO: 13 CBR Bn (PE) :

3/SD & G Highrs (CAOF) :

FOR INFORMATION

ARCO 3 Div (CAOF) : A-5 B : A-5 (CAOF) : A-8 (2 Ech) : 2 Ech Rep (13 CBR Bn):

ORIGINATOR'S No: EA2/ 8007 UNCLASSIFIED (.)

Cancel this HQ msgs EA2/ 5909 d/121700A Dec 45 (.) Following SUSS required as Regtl Police on PE of stragglers' unit (.) 2 Ech Rep (13 CBR Bn) msgs EAR6/1407 d/181410A Dec refers (.)

B 116646 PTE GRANT R R

/BC

(PE PETERS) MAJOR

"SOLDIER UNDER SUSPENDED SENTENCE"

PART II ORDER EXTRACT FORM

TO: D&P
A8

99/20/ HQ 13 CBR Bn 1/A5 B

19 Dec 45 19

EXTRACTS FROM UNIT HQ 13 CDN BASE RFT BN

Part II Order No. 21 dated Dec 45

STRENGTH INCREASE

TOS from X-3 List CIC (R) 2 DEC 45
B116646 Rfn GRANT R R

The following documents are { attached. Please acknowledge receipt on attached duplicate
required. Please forward same.

Originating Clerk's Initials res

(R M Grant) Lieut for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 HCH—6

MESSAGE FORM

99/20/3/SD & G Highrs (CAOF) /1

FROM:
CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE (A2)

Date-Time of Origin
12 1700A Dec 45

FOR ACTION

TO: 1 Cdn Gen Hosp RCAMC : 13 CDN En : 3/SD & G Highrs (CAOF) :

FOR INFORMATION

TO: ARCO 3 Div (CAOF) : A-5 (CAOF) A-5 B : A-8 (2 Ech)
3 Cdn Inf Div Reception Camp (CAOF) (2)

ORIGINATOR'S No: EA2/ 5909 UNCLASSIFIED (.)

On discharge from 1 Gen Hosp following SDSR individual will be DOS 13 CDN En (PE) and be TOS 3/SD & G Highrs (CAOF) self day following (.) No soldier under suspended sentence will be repatriated from this theatre until final remission has been granted (.)

B 116646 PTE GRANT R R

/BC

(PE PETERS) MAJOR

PH to 99/37/Grant R R/1

99/57/GRANT RR/1 (A8)

CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE

MEMORANDUM

11 Dec 45

A.2

R116646 Pte Grant R.R.

1 The m/n SUSS is presently a patient in 1 Cdn Gen Hosp.

2 May appropriate instrs for posting on discharge be issued, please.

(J A V Cade) Major
OIC D&P Section
Cdn Sec 2 Ech HQ Brit Army of the Rhine

JAVC/LPB

HAMD/

B-11664/6 Pte. Grant. RR

Adm 1 Can Gen Hosp

26/11/45

1 CD/FP/BKS/ 1502

1 CDN DETN & FP BKS
CDN PRO CORPS
2 Oct-45

Cdn Sec 1 Ech
HQ ~~XXXXXX~~ BAOR

ATT AG 11

SUSPENSION OF SENTENCE
B-116646 Pte GRANT R R

1. Under Auth:- Cdn Sec 1 Ech HQ 21 A Gp 510/GRANT R R/1 (AG 12)d/28 Sep-45 the m/n soldier's sentence has been placed in suspension wef 30 Sep-45 and he was despatched to 13 CBR Bn Attached please find AF A3104 with Pt VI Completed.

2. For your information, please

WDC/el

[signature] Major
COMMANDANT
1 CDN DETN & FP BKS
CDN PRO CORPS

C.R. please up with pers file

AG12
17/4

MESSAGE FORM

From: CIRFOR (REAR) 28 1100 A Sep 45

To: 1 Cdn Detn A F P Bks

A.2922 (.) Unclassified (.)

Following sentences suspended wef dates shown opposite each name

B.45983	Pte	Archibald J	27 Sep 45
K.110036	Pte	Boudreault H	27 Sep 45
B.137734	Pte	Bruce D A	27 Sep 45
B.38018	Pte	Challis A F	29 Sep 45
B.45930	Pte	Connors E H	27 Sep 45
B.72080	Pte	Dobbie A J	27 Sep 45
G.79217	Pte	Dupuis H B	1 Oct 45
K.49733	Pte	Frigon L	1 Oct 45
G.1879	Pte	Gibeault T	27 Sep 45
H.116646	Sgn.	Grant R R	30 Sep 45
B.126217	Pte	Hiscott G A	27 Sep 45
G.1972	Pte	Holmes H D	30 Sep 45
H.103103	Pte	Koloushynski M	27 Sep 45
F.51630	Pte	Landry R E	27 Sep 45
G.52958	Pte	Langlais J G	27 Sep 45
B.159012	Pte	Leahy S L	27 Sep 45
B.136444	Pte	Marcella J P	27 Sep 45
D.91900	Pte	McKay L W	27 Sep 45
K.82239	Pte	Myers E G	27 Sep 45
F.12405	Pte	Ranson J R	27 Sep 45
G.57561	Pte	Robichaud C	27 Sep 45
D.139607	Pte	Rochette J M A	27 Sep 45
D.1559[illegible]	Spr	Shaink L	27 Sep 45
F.58577	Cnr	Turner C H	27 Sep 45
F.90786	Pte	Theard T C	27 Sep 45

Arrange release (.) AF A3104 follows

Capt.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B116646 Rfn Ronald Robert Grant

Charge. (Insert "alternative" where applicable.)	Plea: (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15(1)AA	Guilty	Guilty	
2nd 15(1)AA	Guilty	Guilty	
3rd 11(1)AA	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"DM" ~~At present under confinement.~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) year.

(Sgd) ~~Judge-Advocate (if any).~~ 19 Apr 45 Date awarded. (Sgd) "D C MacDougall" Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 768.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51–56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be (or remain) in close arrest pending further orders.~~(1) "JSL"

(1. AA 57A. Delete if not used.)

(Sgd) "J S Lind" Brig

Date 21 Apr 45 Commanding 3 CBR Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B116646 Rfn Grant RRG X-9 List (RRR) att 20 GSEC	23 Apr 45	"W W Glover" Capt A/OC 20 Cdn Special EmpCoy

AF# 3012 A No Date 23Apr45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA56 (To Beg of AFA81) 40/P & R/1606 (4000) 4/3

Convened by Order of Brig J S H Lind Comd 3 Cdn BRG dated 16 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B116646	Rfn	Ronald Robert	GRANT	R R R 20 Cdn Spec Emp Coy

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 19 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29/91

"DM" A1. The President, Members, waiting Member, ~~JA if any, and Offr under instr~~ if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see furm. For GCM in MML pp 741 to 753. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 23, RP 36, 63-70, 73, 74, 94, 103, 118, 122.)

"DM" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

"DM" ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

"DM" ~~A5. President to accused: Do you object to be~~ ~~as Interpreter I - duly~~

~~The Interpreter is sworn (1). Do you object to~~ ~~authorised writer I - duly~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

"DM" A7. The President, Members, ~~JA if any, and Offr under instr~~ if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	D C MACDOUGALL	9 CBR Bn
Member	CAPT	F J LOWTHAY	9 CBR Bn
Member	CAPT	R ROBERTS	9 CBR Bn
Judge-Advocate			
Prosecutor	LIEUT	J R FIRTH	9 CBR Bn
Defending Offr	LIEUT	W R TRAVERS	20 Cdn Spec Emp Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

"BM" A8. The accused before arraignment make(s) (no) (~~a~~) plea (1)

23May45 jwb

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, deletes and make appropriate record per Notes.)

"DM" A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), and make an address in mitigation of punishment.(2) call witnesses as to character

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 32(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114. *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defendin, Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See M M L p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 40(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFB* 353 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....

(1. *RP* 37(*C*), 40(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* *RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(10), 60(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

20 CANADIAN SPECIAL EMPLOYMENT COMPANY

20S/2/FGCM/1
9 Apr 45

a ADJA
HQ 3 Cdn Base Rft Gp
Cdn Army Overseas

APPLICATION FOR FGCM
B-116646 Rfn Grant, R.R.

Ref your S/FGCM/7 d/7 Apr 45.

1. Pte Grant has been warned that under RP 76, a witness will be called against him at his trial to prove publication of the orders mentioned.

2. The witness is:

D-3030 Sgt Anderson, K.A.
Orderly Room Sgt
20 Cdn Special Emp Coy

JW/egk

"J.W. ??????? Lt.
for (A.E. KELSEY), Major
Officer Commanding
20 Cdn Special Emp Coy.

"D.M."

CHARGE SHEET

The accused, B.116646 Rfn Ronald Robert GRANT, X-9 1st Royal Regina Rifles, attached 20 Cdn Special Emp Coy, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 0845 hrs 21 Jan 45 until apprehended at 1400 hrs 10 Mar 45. (Total time absent: 48 days 5 hrs 15 mins)

SECOND CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1300 hrs 18 Mar 45 until apprehended at 1445 hrs 26 Mar 45. (Total time absent: 8 days 1 hr 45 mins)

THIRD CHARGE
Army Act
Sec 11

WHEN ON ACTIVE SERVICE NEGLECTING TO OBEY PART I ORDERS

in that he

In the Field, on 10 Mar 45, was in possession of P.35 automatic pistol No. J.4676 contrary to 20 Cdn Special Employment Coy Part I Order dated 27 Nov 44 and 20 Cdn Special Employment Coy Part I Order No 47 dated 6 Mar 45 directing all persons to abstain from the carrying of weapons when off duty.

In the Field,
[illegible] Apr 45.

A.E. Kelsey
(A.E. Kelsey) Major,
Officer Commanding,
20 Cdn Special Employment Coy.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
16 Apr 45.

J.S.H. Lind
(J.S.H. Lind) Brig
Comd
3 Cdn Base Rft Gp

D Moore Dwyer Maj
President

CHARGE SHEET

The accused, B.116646 Rfn Ronald Robert GRANT, X-9 List Royal Regina Rifles, attached 20 Cdn Special Emp Coy, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 0845 hrs 21 Jan 45 until apprehended at 1400 hrs 10 Mar 45. (Total time absent: 48 days 5 hrs 15 mins)

SECOND CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1300 hrs 18 Mar 45 until apprehended at 1445 hrs 26 Mar 45. (Total time absent: 8 days 1 hr 45 mins)

THIRD CHARGE
Army Act
Sec 11

WHEN ON ACTIVE SERVICE NEGLECTING TO OBEY PART I ORDERS

in that he

In the Field, on 10 Mar 45, was in possession of P.35 automatic pistol No. J.4676 contrary to 20 Cdn Special Employment Coy Part I Order dated 27 Nov 44 and 20 Cdn Special Employment Coy Part I Order No 47 dated 6 Mar 45 directing all persons to abstain from the carrying of weapons when off duty.

In the Field,
7 Apr 45.

H.E. Kelsey
(A.E. Kelsey) Major,
Officer Commanding,
20 Cdn Special Employment Coy.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
16 Apr 45.

J.S. Lind
(J.S.H. Lind) Brig
Comd
3 Cdn Base Rft Gp

To [illegible] [illegible] [illegible]
[illegible]

FIELD GENERAL COURT-MARTIAL

CFA93 (In lieu of AFA3)
40/P&R/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B116646	Rfn		Ronald Robert	GRANT	Royal Regina Rif. 20 Cdn Spec Emp C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on "JSL" (date) 16 Apr 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ "JSL"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "JSL"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "JSL"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	D C MACDOUGALL CAC	9 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT	To be detailed by 9 Cdn Base Rft Bn	
CAPT or LT	To be detailed by 9 Cdn Base Rft Bn	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
CAPT or LT	To be detailed by 9 Cdn Base Rft Bn	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.) "J S Lind" (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 16 Apr 45 (J S H Lind) Commanding 3 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"D MacDougall" Major
President

MEDICAL OFFICER'S CERTIFICATE (A.F.(Can) Para 557)

I certify that I have this day examined B116646 Rfn GRANT RR

and in my opinion he is fit ~~unfit~~ to undergo

trial by Court Martial.

Station In the Field

Date 19 April 45

"W A Besiden ?" Capt
Medical Officer
20 Cdn Special Emp Coy
Unit

"D MacDougall" Maj President

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 567)

I certify that I have this day examined B116646 Rfn GRANT RR

and in my opinion he is fit~~/unfit~~ to undergo

trial by Court Martial.

Station In the Field

Date 19 April 45

"W A Besiden ?" Capt
Medical Officer
20 Cdn Special Emp Coy

"D MacDougall" Maj President

PLEA IN MITIGATION

Plea in Mitigation of B116646 Rfn Ronald Robert GRANT X-9 List RRR, attached 20 Cdn Special Emp Coy.

Rfn Grant joined the RAF in March 1939 as ground crew. In June 1939 he was transferred to air crew and started to train as a pilot. In March 1940 he was sent to Canada on the Air Training Scheme and in May 1941 he received his commission as an officer and afterwards did instructional work.

In October 1942 his chum whom he had known for years was killed when his plane which was in front of Grants, crashed as they were taking off the field. Grant's mind went blank and his plane crashed into a hanger. After four months in Hospital mostly for nerves he was posted to ground work which was a keen disappointment to him, so much so that in July 1943 he asked for a discharge so he could join the Can Army. This was granted in Aug 1943 on medical grounds and he was taken in the Canadian Army as a Sgt, instructing on aircraft recognition.

Being anxious to get overseas he reverted voluntarily to the rank of Pte and was sent over as a reinforcement in April 1944. On the way over three of friends were killed in front of him when they were caught in the closing of a watertight doors. This affected him so much that he was taken off the boat in a stretcher and spent a month in the Hospital for nerves.

In June 1944 he received word that his father who was commander of a Corvette had been killed in action and on D plus 6 Grant arrived in France where he joined the Regina Rifles in the line.

He was sent out of the line in the latter part of Aug for Battle Exhaustion, after having been nearly hit by a 88mm shell. He then spent six weeks in the mental ward at 10 C G H from where he was transferred to the surgical ward for an operation for Haemorrhoids. After convalescence he was sent to 10 CBRBn, then to 20 Cdn Spec Emp Coy in Jan 45.

While at 10 CBRBn in Jan he received word that his mother had died in December. He tried to get a week compassionate leave to England but was unable to do so and after a few days at 20 Cdn Spec Emp Coy went AWL and again in March, when, after a few days he pulled himself together and gave himself up voluntarily to the Provost Corps in Ghent.

Whilst with the RAF Rfn Grant always had a clean record, but having once held a commissioned rank in the RAF, life in the Army hasn't been easy for him as he has had to take a lot of razzing. Grant's one wish now is to take his punishment so that he can make a fresh start then return to Canada to live and marry the girl he is engaged to.

Grant was born and brought up in Scotland and only went to Canada when he went over with the RAF in 40. His only relative now is a sister who is in the ATS and is married to a Cdn Sgt. Grant's present category is M-2, S-1.

In my opinion Grant has undergone considerable mental anguish and punishment prior to going AWL and it is hoped that the Court will take this into consideration. As far as the charge of being in improper possession of revolver is concerned - it so happened that a friend brought it down from his regiment along with several other personal items, that he had left there, just two days previous to giving himself up, and being AWL at the time he had not had a chance to turn it in. From the history of this soldier the court can see that besides being a naturally high strung and nervous soldier, he has had more than his share of bereavements and hard knocks. I hope the court will consider the difficulty this man has had in adjusting himself in the Army as an other rank after serving as an officer in the RAF. He has certainly proved his patriotism and good intention by joining the Cdn Army voluntarily after getting his discharge from the RAF. The fact that he gave himself up indicates, I believe, that he intends to turn over a new leaf and I believe he has suffered punishment mentally in deciding to surrender himself and take the consequences of his wrongdoing and start afresh with a clear conscience.

"W R TRAVERS"
(W R TRAVERS) Lieut
20 Cdn Special Emp Coy

"DM"

SUMMARY OF EVIDENCE

Case of B .116646 Rfn GRANT, R.R., X-9 1st Royal Regina Rifles, attached 20 Cdn Special Emp Coy, a soldier of the Canadian Army Overseas. Charged with absence without leave and neglect to obey 20 Cdn Special Emp Coy PART I ORDERS, dated 27 Nov 44, No 47 d/6 March 45 and No 55 d/19 March 45.

R.P. 4(f) The Commanding Officer directs that the evidence shall be taken on oath.

Exhibit "A"	Certified true copy of CR AFW 3012A Serial No 212 page 2 of 5 d/6 Feb 45
Exhibit "B"	Certified true copy of CR AFW 3012A Serial No 217 page 3 of 4 d/13 Feb 45
Exhibit "C"	Certified true copy of CR AFW 3012A Serial No 224 page 7 of 7 & last d/20 Feb 45
Exhibit "D"	Certified true copy of CR AFW 3012A Serial No 242 page 1 of 2 d/17 March 45
Exhibit "E"	Certified true copy of AFW 252 d/10 March 45
Exhibit "F"	Certificate under Army Act. Section 163 (1)(j)
Exhibit "G"	Certified true copies of extracts from Part I Orders 20 Cdn Special Emp Coy d/27 Nov 44 No 47 d/6 March 45 No 55 d/19 March 45
Exhibit "H"	Certified true copy of CR AFW 3012A Serial No 244 page 3 of 8 d/21 March 45
Exhibit "I"	Certified true copy of CR AFW 3012A Serial No 252 page 1 of 3 d/31 March 45
Exhibit "J"	Certified true copy of AFW 252 d/26 Mar 45
Exhibit "K"	Certificate under Army Act Section 163 (1)(j)

Cdn RO
(21 A Gp)
No 774(ee)

The accused was cautioned as follows:

"Do you wish to make any statements or to give evidence on oath? You are not obliged to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

E. H. Dimac Brigadier
President

I certify that the foregoing Summary of Evidence consiting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure (4) (c), (d), (e),(f) and (g) have been complied with.

P A Thurrott

In the Field
2 April 45

(P.A. THURROTT),Lt,
Officer detailed to take
Summary Of Evidence

DM

Under RP 76

D-3030 Sgt. Anderson, K H.
Will appear to prove publication
of Part I Orders

J W Lantry Lt and Adj.

DM

ACKNOWLEDGEMENT BY THE ACCUSED

I hereby acknowledge that I have been served with a true copy of the Original Summary Of Evidence, and also a true copy of the charge which is brought against me.

I desire the services of.....
.....if he is available, or I request that an officer be appointed to represent me at my trial.

.....
B.116648 Rfn Grant, R.R.

X-9 List

CERTIFIED TRUE COPY
MARGIN FOR FILING PURPOSES

Army Form W. 3012 A.

Serial No. 212

No. of Sheets to this Return 2 of 5

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—
OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
ABSNET WITHOUT LEAVE				~~OFFICERS~~				
B116646	Rfn	GRANT RR	RRRR	Absent without leave from 0845 hrs 27 Jan 44 Still absent 0845 hrs 28 Jan 44 (1st day)				
				~~OTHER RANKS~~				
		Exhibit "A" "DM"						

X-9 List 20 Cdn Special Emp Coy
(Unit)

Date 6 Feb 45 19

"J W Lauchey ?" Lt
(Signature and Appointment of Officer)

HQ 2 CBRG
(Bde, Div., Area, etc., with which Unit is serving)

Form W3012A/1

X-9 List

CERTIFIED TRUE COPY

Vis. 15403/2528 32,000 Pads 6/44 JH 51-7701

MARGIN FOR FILING PURPOSES

Army Form W. 3012 A.

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—

OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Serial No. 217

No. of Sheets to this Return 3 of 4

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
ABSENT	ITHOUT	LEAVE						
				OFFICERS				
B116646	Pte	GRANT RR	RRR	Absent from 0845 hrs 21Jan45 29 Jan 45 (5th day)	Still absent 0845 hrs			
				OTHER RANKS				
		EXHIBIT "B" "DM"						

13 feb 45

Date 19

Forms W3012A/1

"J W Lauchey?" Lt

(Signature and appointment of Officer)

20 Cdn Special Emp Coy (Unit)

HQ 2 CBRG

(Bde, Div, Area, etc., with which Unit is serving)

X-9 List

CERTIFIED TRUE COPY

Wt. 15403/2528 32,000 Pads 6/44 JH 51-770

MARGIN FOR FILING PURPOSES

Army Form W. 3012 A.

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—
OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Serial No. 224
No. of Sheets to this Return 7 of 7 &last

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
ABSENT WITHOUT LEAVE				OFFICERS				
B116646	Rfn	GRANT RR	RRR	Cease att from and SOS X-9 List as a deserter wef 18 Feb 45 having been declared illegally absent by a Ct of Inq from 0845 hrs 22 Jan 45				
				OTHER RANKS				
		EXHIBIT "C" "DM"						

22 Feb 45
Date 19

"J W Lauchey?" Lt
(Signature and appointment of Officer)

20 Cdn Special Emp Coy
HQ 2 CBRG
(Unit)
(Adm. Div. Area etc. with which Unit is serving)

Forms W.3012A/1

CERTIFIED TRUE COPY

X-9 List

MARGIN FOR FILING PURPOSES

Army Form W. 3012 A.

Wt. 15423/2528 35,000 Pads 6/44 JH 51-2701

Serial No. 242

No. of Sheets to this Return 1 of 2

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)— OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				OFFICERS				
(1) STRENGTH INCREASE								
(a) B116646	Rfn	GRANT RR	RRR	TOS X-9 List on returning from desertion wef 1400 hrs 10 Mar 45				
				OTHER RANKS				
		EXHIBIT "D" "DM"						

20 Cdn Special Emp Coy (Unit)

HQ 3 Cdn Special Emp Gp (Bde, Div, Area etc., with which Unit is serving)

Date 17 Mar 45 19

"J W Lauchey?" Lt (Signature and appointment of Officer)

Form W3012A/1

CHARGE

Army Form B 252
(See King's Regulations)

20 Cdn Special Employment Coy

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No B116646 Rank Pte

Name Grant RR

Place Ghent Date of Offence 10 Mar 45

OFFENCE WOAS I AWL from....until apprehended be Member Cdn Provost Corps at approx 1400 hrs 10 Mar 45

2. Improper possesion of a Weapon F.35 Automati Pistol J.4676

Disposal of charge to be forwarded to fmn HQ

Names of Witnesses :— "???" Sgt i/c Ghent Detachment

C4920 Cpl Mitchell R J

C3529 L)Cpl Cayouette A L

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded Exhibit "E" "DM"

By whom Awarded

Adjutant.

P.T.O.

20133 W1-W12472/969 2,500,000 5/42 K. & H. Ltd. G122/47

Statement of EVIDENCE in the case of
B116046 Pte Grant RR

1. Att approx 1400hrs 10 Mar 45, on information received, accompanied by L/C Cayouette I proceeded to the Michel Cafe, Wilson Plaats Ghent. I there accosted a soldier whom I now know as the m/n OR,. He could not produce authority allowing him to be absent from his unit.
2. I placed him under close arrest, escorted him to Det HQ, where it was established that he was a Deserter. His particulars were taken, when searched he had a Weapon to which he could not produce authority to carry. Later he was escorted to the Town Gurad Room Ghent, where a live body receipt was obtained and is now held at this Det HQ.

"R J Mitchell" Cpl
C4920 Mitchell R J

I have read over the above statement and corroborate same.

"A Cayouette" L/Cpl
E48560 Cayouette A L

REMARKS

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163(1)(j)

I certify that No B116646....Rank Pte...Name GRANT RR.....

of 20 Cdn Special Employment Coy..... unit was arested by C4920 Cpl Mitchell RJ 2 Cdn LofC Provost Coy Detachment Ghent.....GHENT (place) at 1400...hrs on 10th March

(date). He was dressed in uniform/~~civilian clothes~~.

Date 10 March 45 Ghent Belgium

Signature of Provost Marshal, APM, or other officer into whose custody the a/m person was taken on arrest.

Signature & Rank "C Wood" Capt (C Wood) DAPM 2 CBRC

Unit or appointment Canadian Provost Corps

Exhibit "F" "DM"

NOTES

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer 'for' another or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

Exhibit "F"
DM.

20 CANADIAN SPECIAL EMPLOYMENT COMPANY
PART I ORDERS ISSUED BY MAJOR A E KELSEY
OFFICER COMMANDING

#20
Dated 27Nov44

Last Order #19
dated 20Nov44

(Excerpt from Part I Order No 20)

Para (6)
CARRYING OF WEAPONS
(a) The carrying of weapons by Officers and ORs when off duty is strictly forbidden.
(b) All souvenier weapons suchs as Lugers, P-38 pistols and all types of non-issue firearms as wells as large knives daggers or bayonets which are not regular issue type will be turned into the respective QMs where a receipt will be given for same.
(c) Effective immediately, personnel found in possession of weapons other than those issued through the normal channels will be subject to severe disciplinary action, and such souvenier weapons discovered may be confiscated.

Signed (HA Edwards) Lt
for (AE Kelsey) Major

Officer having custody of original order

"J Worthington" Lieut
(J Worthington) Lieut

---

20 CANADIAN SPECIAL EMPLOYMENT COMPANY
PART I ORDERS ISSUED BY MAJOR A E KELSEY
OFFICER COMMANDING

Order #47
d/6 Mar 45

Lst Ord #46
dated 4 Mar45

(Excerpt from Part I Order No 47)

Para 19
WEAPONS-CARRYING OF
(a) The carrying of weapons by officers and other ranks when off duty is strictly prohibited.
(b) Attention of units is drawn to Circular Letter 2 CEFC/9-1 dated 24 Nov 44 in this respect and to souvenier weapons with instructions re disposal of same.
(c) [illegible] or when given explicit instructions by their commanding officer.
(d) The fore-going will be re-published weekly in unit orders and unit COs will ensure that this information is made known to all ranks.

Signed "J"
(J Worthington Lt)
for (A E Kelsey) Major

Officer having custody of original order

"J Worthington" Lt
(J Worthington) Lieut

Exhibit "G" "DM"

20 CANADIAN SPECIAL EMPLOYMENT COMPANY

PART I ORDERS ISSUED BY MAJOR A E KELSEY
OFFICER COMMANDING

Order No 55
d/19 Mar 45

Last order No 54
dated 18 Mar 45

Para 50

WEAPONS CARRYING OF

(a) The carrying of weap ns by officers and other ranks when off duty is strictly prohibited

(b) Attention is drawn to circular letters 2 CBRG/9 - 1 dated 24 Nov 44 in this respect and to souvenir weapons with instructions re disposal of same.

(c) Weapons will only be carried by officers and other ranks when on duty, or when given explicit instructions by their Commanding Officer

(d) The fore-going will be re-published weekly in unit orders and units COs will ensure that this information is made known to all ranks.

Si ned (J Worthin ton) Lieut
for (A E Kelsey) Major

Officer having custody of Original Order

"J WORTHINGTON" Lt
(J Worthin ton) Lieut

Exhibit "C" "DM"

X-9 List

CERTIFIED TRUE COPY

Army Form W. 3012 A.

MARGIN FOR FILING PURPOSES

Serial No. 244

No. of Sheets to this Return 3 of 6

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—
OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				OFFICERS				
(2) ABSENTEES AND DESERTERS								
(b) B116646	Rfn	GRANT RR	RRR	AWL from 1300hrs 18Mar45 - Still absent 1300hrs 19Mar45 (1st day)				
				OTHER RANKS				
		Exhibit "H" "DM"						

X-9 List /20 CDN SPECIAL EMP COY (Unit)

HQ 3 CDN SPECIAL EMP COY (Bde. Dtn. Arms. etc., with which Unit is serving)

Date 21 Mar 45 19

"J Worthington" Lt (Signature and appointment of Officer)

Form W3012A/1

CHARGE

Army Form B 252
(See King's Regulations)

20 Spec Employment Coy

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. B116646 Rank Pte

Name GRANT R

Place GHENT Date of Offence 26 Mar 45

OFFENCE WOAS AWL from ?? until apprehended by the Cdn Provost Corps, at 1445hrs 26Mar 45

Names of Witnesses — "D Matheson" Sgt "DM"
i/c Ghent Detachment
C4920 Cpl Mitchell R J
C36350 L/C Andrew H W

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded Exhibit "J"

By whom Awarded

Adjutant.

P.T.O.

Statement of EVIDENCE in the case of
B116646 Pte Grant R

At approx 1445 hrs 26 Mar 45, I was on duty in company with L/C Andrew HW, Upon information received I proceed to Cafe Wilson Plaats, Ghent Labourse There I observed a soldier, whom I now know as the a/m soldier. I asked him for his pass, which he failed to produce. He was AWL

I placed him under close arrest and escorted him to the Town Guard Room, where he was handed over to the Guard. A live Body Receipt was obtained.

"R J Mitchell" Cpl
C4920 Mitchell R J

I have read over the above statement and corroborate same.

"H W Andrews" L/C
C16350 Andrew H W

REMARKS

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163(1)(i)

I certify that No. B116646 Rank Pte Name GRANT R

of 20th Spec Employment Coy

R 9 Sec 2 Cdn LofC Pro Coy Ghent Detachment

GHENT (place) was arrested by C4920 Cpl Mitchell

(date). He was dressed in uniform/~~civilian clothes~~. at 1445 hrs on 26th March 1945

Date 26 Mar 45 Signature of Provost Marshal, APM, or other officer into whose custody the a/m person was taken on arrest.

Ghent

Signature & rank "C Wood" Capt
(C Wood) DAPM 2 C.B.R.G.

Unit or appointment Canadian Provost Corps

NOTES EXHIBIT "K" "DM"

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer for another or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual name of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
B116646	Rfn	GRANT R R	X-9 List RRR att 20 CSEC

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For AA15(1) ..... 2 times

For AA 40 ..... 1 time

For .... times

For .... times

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the attached extract.~~ "DCK"

3.* ~~The accused at the present time is under~~ "DCK"
~~sentence for .....~~
~~beginning on the ..... day of .....~~ "DCK"

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 36 days in military custody, making a total of 34 days of which Nil days were spent in hosp.

5. ~~The present age of the accused is 25.~~

6. The date of his attestation is 15Aug43.

7. The service which the accused is allowed to reckon is 1 yr. 7 mos. 20 days.

8. The accused is in possession of * CVSM & Clasp

* State the military decorations (if any) held by accused.

9. (~~If the accused is a warrant officer or NCO, the~~) "DCK"
accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

EX "B"
"D MacDougall" Maj.
President

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 19th day of April 45

"J Worthington" Lt & Adjt

Officer having custody unit records

MFM 6
(AFB 122)
40/PAM/136 (3a2m)

No B11646 Name GRANT Ronald Robert | Sqn, Battery, or Company | Corps CIC | Date of enlistment 13Sep43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet n-a | No and date of last drunk n-a | Period not reckoning towards freedom from extra fine n-a | Sheet No | Signature OC Company, etc DJ Ryham Capt

Place	Date of offence	Rank	Cases of drunkenness	Offence	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed on completion of 6 mth service date of 1st entry 8 Oct 43 Cases of Drunkenness Nil					DJ Ryham Capt 18 Mar 44
				Voluntary Blood donor 16 Nov 43 H J Ryhman Capt					
Field	24Oct44	Rfn		AWL 0845hrs 24Oct44 to 1600hrs 3 Nov 44		Documentary 22 days pay	8Nov44	LtCol JR CALKIN TF	33 days pay "JDR"
Field	3Jan45			AA40 Neg,etc.-neg to carry out duties of rm ord & 15 blnkts were stolen	Cpl Woloshyn CQMS Brash	28 days pay	9 Jan 45	LtCol G H Logie CO	
Field	9Jan45			AWL 1915hrs 9Jan45 to 2200hrs 9 Jan 45 to 2200hrs 9Jan 45 AA15(1	Sgt Bratley Sgt Pateman	7 days CB	11Jan45	RW Kelly Capt	

CERTIFIED TRUE EXTRACT FROM THE REGIMENTAL BOOKS HELD IN MY CUSTODY

Ex "C" "D MacDougall" Maj
President

"W R Leavere?"Lt
for "J W Northington" Lt & Adjt
20 Cdn Spec Emp Coy

(P10)

No 1 Cdn Detn/ 1502
No 1 Cdn Detn & FP Bks Cdn Pro C

15 Sep 45

2nd Review

Cdn Sec GHQ
1 Ech 21 A GP

SENTENCE UNDER REVIEW

B116646 Rfn Grant RR

1. Reference 510/Grant RR/ 1 (AG 10) d/2 Jul 45 relative to sentence under review for the m/n soldier.

2. The u/m inlm is appended

(a)	Date sentenced by FGCM	19 Apr 45
(b)	Date admitted to detn bks	24 Apr 45
(c)	Number of days remission already lost	NIL
(d)	Number of marks already earned	1580 out of 1980
(e)	Date of release with full remaining remission	14 Dec 45

3.	Attentiveness to drill and parade square work	Attentive
	Reaction to strict military discipline	Favorable
	Appearance and bearing	Above average
	Cleanliness in person and clothing	Clean in person and kit
4.	Application to work and ingenuity	Trustee in MI Room
5.	Military employment upon release from detn	Applied for CAOF

6. a) This soldier is more than anxious to redeem himself and wishes CAOF service upon release.
b) Conduct and department has been above reproach.
c) There is no doubt this soldier will render useful service and suspension is recommended upon review of sentence on 30 Sep 45.

W D Cairns Major
Commandant
1 Cdn Detn & FP Bks
Cdn Pro Corps

WDC/rm

K 230 22.3.45

WORK SHEET

REVIEW OF SENTENCES AWARDED BY COURT-MARTIAL

1. ~~AAC~~ to CO i/c Date _____

11. No B.116646 Rank Rfn Name Grant, H.R.

Unit X-9 List Regina Rif att 20 Cdn Spec Emp Coy Age ~~24~~ 25

Date of Enlistment 15 Aug 43

Pun Service RAF

Offence: AA Sec 15(1) - AWL - 48 days, 5 hrs, 15 mins.
AA Sec 15(1) - AWL - 8 days, 1 hr, 45 mins.
AA Sec 11 - Improper possession of pistol.

Sentence: Undergo one year detention.

WEF 19 Apr 45 Last Reviewed First review

111. Extenuating Circumstances: See underlined portions of plea in mitigation(flagged)

Rec by Court: none.

Character (previous convictions): AA Sec 15 (1) - two offences
AA Sec 40 - one offence.
Most severe punishment - 28 days pay.
Some service in action.

IV. Rec by CO: 20 Cdn Spec Emp Coy:- Recommend that case be reviewed in 4 months form date of trial (19 Aug 45.).

V. Rec by next senior officer: Comd 3 GBRG:- Recommend that full sentence be served.
~~Comd 1 Cdn Detn & FP Bks:-~~ A -- Yes (COF) (as C Pro C)
B -- excellent.
C -- Yes (Strong recommendation)

VI. Rec re review by AG. 10:

1945 ~~Mar~~ C ~~Apr~~ B May Jun Jul Aug Sep Oct Nov ~~Dec~~ R

1946 Jan Feb Mar ~~Apr~~ E

AG 10
What sort of [illegible] could this M2 S3 man do in the C Pro Corps? 48 days AWL is a very serious offence
E. [illegible]

[signature]
(J. T. Weir) Capt.,
for AG 10.

510/Grant HR/1 (AG.10)

29 Jun 45

ADC to GO i/c

B.116646 Rfn. Grant, H. R.

1. The minute of the GO i/c on the att worksheet is noted. May Part VI AF A3104 be endorsed please.

(J. F. Weir) Capt.
For AG.10
Cdn Sec 1 Mob Hq 21 A Gp

Work Sheet
21J

No 1 Cdn Detn/ D.1502
No 1 Cdn Detn & FP Bks Cdn Pro C

16th June, 1945

Cdn Sec GHQ
1 Ech 21 A GP

SENTENCE UNDER REVIEW

B.116646 GRANT R R

C.R.
CDN SEC GHQ 1 ECH
21 ARMY GROUP

1. Reference 510/GRANT R R/1 (AG 12) d/ 2 June, 1945 relative to sentence under review for the m/n soldier

2. The u/m infm is appended:

(a) Date sentenced by FGCM	19 Apr 45
(b) Date admitted to detn bks	24 Apr 45
(c) Number of days remission already lost	Nil
(d) Number of marks already earned	440
(e) Date of release with full remaining remission	14 Dec 1945

3. Attentiveness to drill and parade square work	Attentive
Reaction to strict military discipline	Favourable
Appearance and bearing	Average
Cleanliness in person and clothing	Clean and tidy

4. Application to work and ingenuity — An excellent worker

5. Military employment upon release from detn — Desires C.O.F. Service.

6. (a) This soldier is very anxious to redeem himself and has volunteered for C.O.F. service and prefers Cdn Provost Corps Duties as he was with S.P., in the R.A.F. prior to joining the Canadian Army.

(b) His conduct and deportment has been excellent since admission

(c) A very fine type of man who has had more than his share of hard knocks throughout his period of service, with domestic troubles and deaths in his family. It is highly recommended that this sentence be placed in suspension and that he be earmarked for C.O.F., service.

A/ W Blum Capt Lt.,-Col.
Commandant, (APL),
1 CDN DETN & FP BKS
CDN PROVOST CORPS

COR/fjs

K 230 22.3.45

20 CANADIAN SPECIAL EMPLOYMENT COMPANY

20S/2/FGCM/1
14 June 45

Canfor
(Exfor Rear)

H.116646 Rfn GRANT, R R
X-9 list att 20 Cdn Special Emp Coy

Ref your A-2262 RESTRICTED, D/12/Jun/45.

2. Herewith information as requested re the m/n.

Committed 28 April 45 to 1 Cdn Fd Punishment and Detention Camp on Sentence on 1 yrs Detn 19 Apr 45.

3. For information, please.

for(G.T.R. Fitzsimon),Maj,
Officer Commanding
20 Cdn Special Emp Coy

JW/gam
HAND/DRLS/POST/

Enclosures 1

ARMY FORM C2136 (Small)

MESSAGE FORM510/GRANT RR/1

Register No. (AG 1

Call | Stl. No. | Priority | Transmission Instructions

9

ABOVE THIS LINE FOR SIGNALS USE ONLY

Office Date Stamp

FROM (A) Originator: CANFOR (EXFOR REAR)

Date-Time of Origin: 16 1045 B JUN

For Action: 1 CDN DETN & F P BKS

TO (W) For Information (INFO)

Message Instructions | Info

Originator's No.

A. 82308 UNCLASSIFIED (.) EXPEDITE REPORT
REVIEW OF SENTENCE H.116646 RFN GRANT R R

This message may be sent AS WRITTEN by any means except * wireless

If liable to be interrupted or to fall into enemy hands, this message must be sent IN CIPHER

Originator's Instructions Degree of Priority

Time | System | Op.

THI or TOR

Time cleared

Signed

Capt

Signed

ARMY FORM C2136 (Small)

MESSAGE FORM 5-10/Sentence

Call | Srl. No. | Priority | Transmission Instructions | Register No.

8

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: HQ 3 CDN BASE RFT GP

Date-Time of Origin: 121350B JUN

For Action

TO: CANFOR (EXFOR REAR)

(W) For Information (INFO)

Message Instructions | GR

Originator's No.

Q-31 (.) Ref your A2262 of 111740B (.) H-116646 Rfn GRANT R R 20 Cdn Spec Emp Coy SOS X-9 to X-2 list 24 Apr 45 to 1 Cdn Detn & FP Bks (.)

C.R. 15 JUN 1945 CDN SEC GHQ 1 ECH 21 ARMY GROUP

C.R. 14 JUN 1945 CDN SEC GHQ 1 ECH 21 ARMY GROUP

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS (EXPLAIN) SWIFTLESS

SIGNED: H.H. Street Capt.

IF LIABLE TO BE INTERCEPTED OR TO FALL INTO ENEMY HANDS, THIS MESSAGE MUST BE SENT IN CIPHER

SIGNED

Time	System	Op.
THI or TOR		
Time Cleared		

ARMY FORM C2136 (Small)

MESSAGE FORM 510/GRANT RR/1

Register No. (AG 12

Call | Srl. No. | Priority

Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: CANFOR (EXFOR REAR) Date/Time: 11 [illegible] B JUN

Office Date Stamp: 7

For Action: HQ 3 CBRG

TO (W) For Information (INFO)

Message Instructions | CR

Originator's No.

A.2262 RESTRICTED (.) H.116646 RFN GRANT R R 20 CDN SPEC EMP COY SENTENCED ONE YEARS DETENTION 19 APR 45 (.) ADVISE WHERE COMMITTED

This Message may be sent AS WRITTEN by any means (except) wireless

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Originator's Instructions Degree of Priority

Time | Message | Op.

THI of TOE

Time cleared

Signed Capt

Signed

ARMY FORM C2136 (Small)

MESSAGE FORM

Register No.

Call	Srl. No.	Priority	Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: 1 CDN DISCIPLINE CENTRE

Date-Time of Origin: 081500 B Jun

Office Date Stamp: 6

For Action: CANFOR (EXFOR REAR)

TO (W) For Information (INFO)

Message Instructions | GR

Originator's No.

CDC 222 (.) RESTRICTED (.) Ref A 2230 (.) NO RECORD H-116646 Rfn GRANT R.R.

C.R.
10 JUN 1945
CDN SEC BHQ 1 SCH
21 ARMY GROUP

This Message may be sent AS WRITTEN by any means. Except

Signed

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Signed

Time | System | Op.

THI or TOR

Time cleared

ARMY FORM C2130 (Small)

MESSAGE FORM 510/GRANT R R/1

Register No. (AG 1

Transmission Instructions

Call	Srl. No.	Priority

ABOVE THIS LINE FOR SIGNALS USE ONLY

Office Date Stamp

FROM (A) Originator: CANFOR (EXFOR REAR)

Date-Time of Origin: 06 11 B JUN

5

For Action

TO 1 CDN DIS CENTRE

(W) For Information (INFO)

Message Instructions | Ch

Originator's No.

A.2230 RESTRICTED (.) H.116646 RFN GRANT R R SENTENCED
1 YEARS DETENTION 19 APR 45 (.) ADVISE WHERE COMMITTED

This Message may be sent AS WRITTEN by any means | EXCEPT | WIRELESS

Signed: Capt

If enabled to be interrupted or to fall into enemy hands, this message must be sent IN CIPHER

Signed

Originator's Instructions Degree of Priority

Time	System	Sig.
THI or TOR		
Time cleared		

GRANT R R 12 (4)

AG12

3 Jun 45



H.116646 Bdsn GRANT R R

II
AAG
Cdn Sec 1 Ech HQ 21 A Gp.

Records this HQ show m/n - X-2 List RRR (on comm to 1 Disciplinary Centre) 24 Apr 45.



(M.A. UNSWORTH) Capt.
for Officer i/c Cdn Sec
2nd Ech HQ 21 Army Gp.

for E.C. Clapperton Capt

GRANT R R 12

3

3 Jun 45

H.116646 Rfn GRANT R R

for E.B. Capt

510/GRANT R R /1 (NS 11) 2

CDN SEC 1 ECH HQ 21 ARMY GP

(2)

2 Jun 45

Comd
1 Cdn Detn & F P Barracks

Sentence Under Review
B.116646 Rfn Grant RR

1. The m/n soldier was sentenced by FGCM on 19 Apr 45 to undergo detention for one (1) year.

2. May a report be forwarded to this HQ on his conduct and behaviour since date of commitment to assist in reviewing sentence.

for (J.T. Harvey) Major
DAAG 'Dis'
Cdn Sec 1 Ech HQ 21 Army Gp

SDS/APO/HAND

529/GRANT RR/1 (DJA-Rev)

Cdn Sec 1 Ech HQ 21 Army Gp
31 May 45

PFR & PFL

DAAG 'Dis'

FGCM - 19 Apr 45(29/91)
B-116646 Rfn Grant R.R.
X-9 List R Regt C, att 20 Cdn Spec Emp Coy

1. Certified true copy of the m/n proceedings is forwarded herewith together with AFA 3104.

2. It will be noted that the plea by the Def Offr contains considerable information in mitigation of the punishment, and the MFM 6 does not indicate a chronic offender. The sentence is normal for absences of the length of time shown, but you may wish to consider suspension at an early date in view of all the circumstances.

(W.H.Waugh) Major
DJA (Rev)
Cdn Sec 1 Ech
HQ 21 Army Gp

Encl
HAND.

C.R. 2 JUN 1945 CDN SEC GHQ 1 ECH 21 ARMY GROUP

NOTICE

1. File should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B F it for two or three days than keep it out of Central Registry indefinitely. This ensures its being completed and kept in order, and also gives other offices an opportunity.

2. Central Registry should be notified whenever a file is passed direct to another branch.

3. All outgoing letters should bear the official file number.

99/37/GRANT RR/B116646/1 (A8)

HQ

3/64 MFB 367 40/P&S/58 (3781)

DEPARTMENT OF NATIONAL DEFENCE—CANADA

CROSS REFERENCE

B116646 Pte GRANT, R.R.

4/QOR of C CAOF

Central Registry	Date	P A or B F	Initials	Referred to	For Remarks	Initials	Date
					(If purpose for which referred cannot be expressed on one line, add minute to file, and enter here "With Minute")		

HQ

DO NOT WRITE BELOW THIS LINE

NOTICE

1. File should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B F it for two or three days than keep it out of Central Registry indefinitely. This ensures its being completed and kept in order, and also gives other offices an opportunity.

2. Central Registry should be notified whenever a file is passed direct to another branch.

3. All outgoing letters should bear the official file number.

HQ

REVIEW OF SUSPENDED SENTECE

3/64 MFB 387 40/P&S/58 (37001)

DEPARTMENT OF NATIONAL DEFENCE—CANADA

CROSS REFERENCE

PROSICK, C.J. Pte.

H-40612

Central Registry	Date	F A or B F	Initials	Referred to	For Remarks	Initials	Date
(If purpose for which referred cannot be expressed on one line, add minute to file, and enter here "With Minute")							
Received 3104 from CMHQ							
Sent to CBRD for review						JMJ	22-3-44
Returned from HQ 1 CBRGp (see Nickerson)						JMJ	10-4-44
Forwarded to GOC 1 Corps (See Nickerson)						JMJ	17-4-44

HQ

DO NOT WRITE BELOW THIS LINE

GRANT NR

99/37/ /1 (AS)

2ND ECHELON
HEADQUARTERS CANADIAN ARMY OCCUPATION FORCE

DATE 17 April 46

Canadian Military Headquarters
2 Cockspur St
London, SW 1

(Attn: AAG Dis)

[illegible]
[illegible] of C [illegible]

1 Barcroft AF [illegible] in respect of the sentence set forth below for custody:

Sentence	Date	Suspended	Remitted by
1 yr detention	19 Apr 45	30 Sep 45	COO 3 Cdn Inf Div CAOF on 15 Apr 46

[illegible]

for (J P de Salaberry) Major
DAAG Pers
for OIC 2nd Ech HQ CAOF

A.S _____

Please ensure that correct casualty return has been rendered and documentation of remission is completed.

Locate & let
to me for Pub of Commission

99/24/Injuries/1 (A8)

CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE

Notification of Accidental Injuries

Date _____

To:

220/SUS/7 Bde/1

HQ 3 Cdn Inf Div CAOF
18 Apr 46

4/QOR of C CAOF

REVIEW OF SUSPENDED SENTENCE
B 116548 Rfn GRANT R R

1. The marginally named soldier was sentenced by FGCM on 19 Apr 45 to undergo detention for one year for offences under AA Secs 15(1) and 11. This sentence was suspended wef 30 Sep 45.

2. The suspended sentence has recently been reviewed and the GOC directs that the remainder (that is the unserved portion) of this sentence be remitted wef 18 Apr 46.

3. This letter will be your sufficient authority for promulgation and documentation in accordance with para 9(d) of Appx to Overseas RO 4732.

4. Your attention is directed to 3 DRO CAOF No 118 for instrs concerning non-CAOF volunteers.

(C. VOKES)
Maj-Gen
GOC 3 Cdn Inf Div CAOF

(Capt E.H. KING-HILL)

EHKH/b

Copy to: 2 Can HQ CAOF (AF A3104 attached)

REGISTERED

8



88/87/ GRANT RR /1 (AG)

2ND ECHELON
[illegible] CANADIAN ARMY OCCUPATION FORCE

DATE ~~17 April 46~~

Canadian Military Headquarters
2 Cockspur St
London, SW 1

Pers

(Attn: AAG Dis)

B116648 Rfn Grant R.R.
4/QOR of C CAOF

1. Herewith AF A810 in respect of the sentence set forth below for custody.

Sentence	Date	Suspended	Remitted by
1 yr detention	19 Apr 45	30 Sep 45	GOC 3 Cdn Inf Div CAOF on 15 Apr 46

[redacted]

(J. H. Salsberry) Major
DAAG Pers
for CIC 2nd Echn HQ CAOF

c.c. _____

Please ensure that correct casualty return has been rendered and documentation of revision is completed.

Army Form A 310f

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-116668 Pte Grant, Ronald Robert; Rank Private; Name Rifles. Unit A.H. H.Q. Coy Spec. Employ

Sentenced to 1 YRS - Detention on 18 April 43

Age on, and date of, enlistment 23½ yrs. 15 Aug 43 Term of service 1 YR. Months

FIRST TRIAL.

For details of officers, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....
Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....
Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....
(3).

Place .....

Date .....
Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of officers, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....
Superior Military Authority.

This man was again convicted on ..... and sentenced to .....
and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....
(3).

Place .....

Date .....
Superior Military Authority (4).

(1) Terms words not required, and initial omission.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left entirely unfilled unless a third form, a fresh form, using only paragraphs IV and V, will be made and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment, or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(1)2000 (W.)18340-155 20,000 1.44 A.A.E.W.1.116 Gp.655
(2)7000 (W.)22500-2141 20,000 7.44 ,, Forms.A.310-1

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57 of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks.
	No remission BF 30 Sep 45	E. L. Burns Major-General, GC Un Cdn. Sec. Exh. HQ 21 Army Gp.	
27 Sep 45	Suspend wef 30 Sep 45	(J. F. A. Lister) Brig. C of S/DA & QMG Cdn. Forces in the Netherlands	Sentence suspended wef 30 Sep 45 Marks earned 1320 Days in suspension:- 200 Major COMMANDANT 1 CDN DETN & FF BES C PRO C
	REMAIN IN SUSPENSION B/F 1 Apr 46	(C VOKES) Maj-Gen GOC 3 Cdn Inf Div CAOF 1 Feb 46	
	REMIT REMAINDER OF SENTENCE	(C VOKES) Maj-Gen GOC 3 Cdn Inf Div CAOF 16 Apr 46	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

REVIEW OF SENTENCE

DATE: 12 Apr 46

FILE: 220/SUS/7 Bds/1

1. NO RANK AND NAME — B 116846 Rfn GRANT R R

2. UNIT — 4/QOR of C CAOF

3. REVIEW — SECOND

4. AWARD — 19 Apr 45 - detention for one year.

5. CHARGE

AA SEC 15(1) — AWL from 0845 hrs 21 Jan 45 to 1400 hrs 10 Mar 45. (absent 48 days 5 hrs 15 mins)

AA SEC 15(1) — AWL from 1300 hrs 18 Mar 45 to 1445 hrs 26 Mar 45. (absent 8 days 1 hr 46 mins)

AA SEC 11 — Neglect to obey part 7 orders. Unauthorised possession of pistol (P.M. Automatic J.4678).

6. PREVIOUS RECOMMENDATIONS

8 Jan 46 - remain in suspension

7. AGE — 25

8. REPORT AND RECOMMENDATION OF CO:

The m/n soldier was TOS this unit wef 19 Mar 46. Rfn Grant was interviewed and it was found that this unit has no infm on him at all. We are not in possession of his LFsE 6 and 14. The m/n has not been with this unit long enough to submit a report.

9. RECOMMENDATION OF BDE COND

10. RECOMMENDATION

This soldier served five months of his sentence in detention and has now completed six and a half months under suspended sentence.

Since suspension he has two minor offences, the last one in Feb 46 when he was awarded 28 days forf of pay.

He has been on strength X-4 List CFN and X-4 List CAOF and has only recently been posted to 4 QOR of C.

It is not possible to obtain a full report on this soldier's conduct covering the last two and a half months due to numerous postings.

In view of period served under suspended sentence it is considered that sentence should be remitted.

I recommend - REMIT REMAINDER OF SENTENCE.

A.H. Smedmor

(A.H. SMEDMOR) Major
DAAG 3 Cdn Inf Div CAOF

15 Apr 46

No. B-116646 Name GRANT R R Sqn, Battery, or Company Corps CIC Date of enlistment 13.9.43 GC Badges Service or Proficiency Pay 1.50 3/17 MFM & (AFB 122) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Dates of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
X-3 List RRR				Awd forf 22 days pay for AWL 10 days 7 hrs 15 min Forfs 11 days pay FRAI 149(1)(a) Forfs 22 days pay FRAI 149(2) Total forf 33 days pay			8Nov44	75)44	
X-4 List RRR				Awd forf 28 days pay for an off under AA40 Forfs 28 days pay FRAI 149(2)			9Jan45	13/45	
X-9 List RRR				Tried by FGCM CHARGE: AA15(1) AWL from 0645 hrs 21 JAN 45 to 1400 hrs 10 MAR 45 (49 days 5 hrs 15 min) AA11 AA15(1) AWL from 1300 hrs 8 MAR 45 to 1445 hrs 26 MAR 45 (8 days 1 hr 45 min) SENTENCE: 1 yr det FINDINGS: Guilty on all charges CONFIRMATION: Conf by Comd 3 CBRG 21 MAR 45 CLOSE ARREST: from 1400 hrs 10 MAR 45 to 1300 hrs 18 MAR 45 and from 1445 hrs 26 MAR 45 to date of trial FORFEITURES: Forfs 58 days pay FRAI 149(1)(a)					

(PTO)

Fine	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Forfs 365 days pay FR&I 149(1)(b) Forfs 30 days pay FR&I 149(1)(c)(i) Total forf 439 days pay (16 days conc with awd of 9 JAN 45)			19Apr45	43/45	
	X-2 List RRR			Sent of 1 yr det awd on 19 APR 45 by FGCM is susp by auth 1 ECH 510/Pers Files/1 (AG12) d/28 SEP 45			30SEP45	108/45	
	3 TRANSIT CAMP			On 14 FEB 46 awd 28 days det for an off under AA15(1) AWL from 0830 hrs 25 JAN 46 to 1610 hrs 12 FEB 46 (18 days 7 hrs 40 min) Under Close arrest from 1610 hrs 12 FEB 46 to date of awd Forf 1 days pay under FR&I 149(L)(c)(ii) Forfs 19 days pay ~~XXXXX~~ FR&I 149 (1)(a) Forfs 28 days pay FR&I 149(1)(b) Total forf 48 days pay			14Feb46	2/46	

DUPLICATE CREATED FROM MFM 4

Record of Conduct in Canada not available.

[signature]

Officer I/c Records,
Cdn. Sec. 2nd Ech. HQ. 21 A GP.

No. B.116646 Name GRANT, Ronald Robert

Sqn, Battery, or Company

Corps CIC

Date of enlistment 13 Sep 43

GC Badges

Service or Proficiency Pay

3/17 MFM 6 (AFB 122) 40/P&S/126 (5433)

Date of last entry in Company Conduct Sheet N/A

No. and date of last drunk N/A

Period not reckoning towards freedom from extra fine N/A

Sheet No One

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27Dec45	Rfn		Sentence suspended wef 27 Sep 45 Marks earned 1320 Days in suspension:- 200 AWL 1 day 7 hrs AA Sec 15 (1)	L/Cpl. E. Ostrapolski,	3 Dys C.B. Forf 2 days pay	29 Dec 45	Major M.A. Frank	Forf 2 dys pay FR&I 149 (1)(a)

Certified true copy of original

R. [illegible] Capt.

Officer i/c Regimental Books

(PTO)

REVIEW OF SENTENCE

DATE: 31 Jan 46

FILE: 220/SUB/Misc/1

1. NO RANK & NAME: B 116646 Rfn GRANT RR

2. UNIT: 13 CDN Bn

3. REVIEW: FIRST

4. AWARD: 10 Apr 45 - Detention for one year

5. CHARGE:

AA Sec 15(1) AWL from 0645 hrs 21 Jan 45 to 1400 hrs 10 Mar 45. (Absent 48 days 5 hrs 15 mins)

AA Sec 15(1) AWL from 1300 hrs 16 Mar 45 to 1445 hrs 26 Mar 45. (Absent 8 days 1 hr 45 mins)

AA Sec 11 Neglect to obey Part I Orders, improper possession of pistol (P.38 Automatic J.4076)

6. PREVIOUS RECOMMENDATIONS:

NIL

7. AGE: 25

8. REPORT AND RECOMMENDATION OF CO:

Since coming here Grant's conduct has been very good, with the exception of a short period of AWL of 1 day and 7 hrs. He was on pass to see his fiancee (a CWAC whom he has applied for permission to marry) and while there she received a posting to CACF, and to see as much as he could of her before she left he was AWL.

It is very strongly recommended that this his sentence continue in suspension.

9. RECOMMENDATION OF BDE COMD:

10. RECOMMENDATION:

This soldier has completed four months under suspended sentence. During this period he has committed one offence AWL (1 day 7 hrs) in Dec.

In view of the nature of the original offence and punishment awarded it is considered that this soldier should be required to redeem himself by six months satisfactory service.

I recommend - REMAIN IN SUSPENSION - B/F 1 Apr 46.

(A.H. SMEDMOR) Major
DAAG 3 Cdn Inf Div CACF

1 Feb 46

4TH BATTALION
THE QUEEN'S OWN RIFLES OF CANADA
CAOF

5 - 4/GEN
8 Apr 46



HQ
3 Cdn Inf Div CAOF

REVIEW OF SUSPENDED SENTENCE
B-116646 Rfn GRANT, R. R.

1. Reference your 220/SUS/Misc/1 dated 5 Mar 46.

2. The m/n soldier was TOS this unit wef 19 Mar 46.

3. Rfn Grant was interviewed and it was found that this unit has no infmn on him at all. We are not in possession of his MFsM 6 and 14. The m/n has not been with this unit long enough to submit a report.

Lt-Col
(E. A. Cauthiset)
Officer Commanding
4 QOR of C CAOF

/en

3 CANADIAN TRANSIT CAMP - C.F.N.

3 CTC/5-4
16 Mar 46

220/SOS/1
AD

Officer Commanding
3 Div Reception Camp
CAOF

REVIEW OF SUSPENDED SENTENCE
B.116646 Rfn. GRANT, R.R.

1. Att hereto the m/n form for completion with regard to the m/n OR, SOS to your unit wef 15 Mar 46.

2. For your disposal, please.

for (H.A. Frank) Major
Officer Commanding
3 Cdn. Transit Camp

JHR/ccm

ENCS: 1

Copy to: AA & AEG 3 CID CAOF

RECEIVED
27 MAR 1946



220/SUS/Misc/1

HQ 3 Cdn Inf Div CAOF
5 Feb 46

13 CBR Bn

REVIEW OF SUSPENDED SENTENCE
B 116648 Rfn GRANT H R

1. The marginally named soldier was sentenced by FGCM on 19 Apr 45 to undergo detention for one year for an offence under AA Secs 15(1) and 11. This sentence was suspended wef 30 Sep 45.

2. The suspended sentence has recently been reviewed and the GOC directs that it remain in suspension with a further review on 1 Apr 46.

(C.M. PARADIS) Lt-Col
AA & QMG 3 Cdn Inf Div CAOF

MMKH/b

Copy to: 2 CBR Gp

1 CDN BASE RFT COY - 13 CDN BASE RFT BN

2 C.B.R. Gp.

13 CBRBn/6-O/G
8 Jan 46.

C.M.H.Q.

Attn: AAG DISC

STATEMENT OF CONDUCT
B.116646 Rfn GRANT, R.R.

Ref 2 Ech HQ, CAOF 99/37/Grant RR/1 (A8), d/5 Jan 46.

1. The m/n was TOS this unit wef 11 Oct 45.

2. Since coming here Grant's conduct has been very good, with the exception of a short period of AWL of 1 day and 7 hrs. He was on pass to see his fiancee (a CWAC whom he has applied for permission to marry) and while there she received a posting to CAOF, and to see as much as he could of her before she left he was AWL.

3. It is very strongly recommended that his sentence continue in suspension.

M.A. Frank

(M.A. Frank) Major
Commander
1 CBR Coy - 13 CbRBn.
2 C.B.R. Gp.

RVS/rh
Encl

10/Grant, R.R/1
(AG Rev a)

16 Jan 46.

220/545/ Misc 1

HQ 3 Cdn Inf Div,
CAOF

B 116646 Rfn Grant, R.R.

1. Further reference to this HQ letter 10/Grant, R.R/1 d/14 Jan 46.

2. Herewith statement of the m/n soldier's conduct together with copy of MFM 6 for use on review of his suspended sentence.

J.J. Kerr Capt
(W.H.S. Macklin) Brigadier
Deputy Adjutant General
Canadian Military Headquarters

Encs 2

10/Grant R.R/1
AG Rev

HQ, 3 Cdn Inf Div,
CAOF.

14 Jan 46

220/SUS/Misc/1.

B.116646 Rfn Grant, R.R.

1. This HQ is advised by 2 Ech that the m/n soldier, under suspended sentence, is on strength of the Stragglers' Unit, that is, 15 CHRBn. This unit has been requested to forward to CMHQ a statement of Grant's conduct while employed in that unit but such statement has not been received. If it is received after this date, it will be forwarded to you. Herewith AFA 3104 for use on review of sentence and return to your holding authority.

(W.H.S. Macklin) Brigadier
Deputy Adjutant-General
Canadian Military Headquarters

Enc.



Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.—(1) AA 15(1) + AWL FROM 1400 HRS 21 JAN 45 TO 1400 HRS 10 MAR 45 (ABSENT 48 DAYS 6 HRS 15 MIN)	21 JAN 45	
(2) AA 15(1) AWL FROM 1300 HRS 18 MAR 45 TO 1445 HRS 26 MAR 45 (ABSENT 8 DAYS 1 HR 46 MIN)	18 MAR 45	19 Apr 45
(3) AA-11 NEGLECT TO OBEY PART I ORDERS, IMPROPER POSSESSION OF PISTOL (P.35 AUTOMATIC J4676).	10 MAR 45	
J. Pacchington Lt and Adj Signature of Officer making entry. 2d Coal Open Emp Coy		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
23 Apr 45	Recommend that case be reviewed in 4 months from date of trial (14 Aug 45) (23 Apr 45)	W.W. Glover CAPT A/O.C. 20 CDN. SPECIAL EMP. COY.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
27 Apr 45	Recommend that full sentence be served	J. S. Lind (JSH Lind) Brig Comd 3 C.B.R.Gp.

10/Grant, R.R/1
(AG Rev a)

7

16 Jan 46.

HQ 3 Cdn Inf Div,
CAOF

B 116646 Rfn Grant, R.R.

1. Further reference to this HQ letter 10/Grant, R.R/1 d/14 Jan 46.

2. Herewith statement of the m/n soldier's conduct together with copy of MFM 6 for use on review of his suspended sentence.

(W.H.S. Macklin) Brigadier
Deputy Adjutant General
Canadian Military Headquarters

Encs 2

1 CDN BASE RFT COY - 13 CDN BASE RFT BN

2 C.B.R. Gp 13 CBRBn/6-0/3
6 Jan 46.

C.M.H.Q.

Attn: AAG DISC.

STATEMENT OF CONDUCT
B.116646 Rfn Grant, R.R.

Ref 2 Ech HQ, CAOF 99/37/Grant RR/1 (AG),
d/5 Jan 46

1. The m/n was TOS this unit wef 11 Oct 45

2. Since coming here Grant's conduct has been very good, with the exception of a short period of AWL of 1 day and 7 hrs. He was on pass to see his fiancee (a CWAC whom he has applied for permission to marry) and while there she received a posting to CAOF, and to see as much as he could of her before she left he was AWL.

3. It is very strongly recommended that his sentence continue in suspension.

Signed M.A. Frank
(M.A. Frank) Major
Commander
1 CBR Coy - 13 CBRBn.
2 C.B.R. Gp.

RVS/rh
Encl.1.

CERTIFIED TRUE COPY
15 Jan 46

(J.J. Kerr) Captain

5

10/Grant R.R/1
AG Rev

HQ, 3 Cdn Inf Div,
CAOF.

14 Jan 46

B.116646 Rfn Grant, R.R.

1. This HQ is advised by 2 Ech that the m/n soldier, under suspended sentence, is on strength of the Stragglers' Unit, that is, 13 CHRBn. This unit has been requested to forward to CMHQ a statement of Grant's conduct while employed in that unit but such statement has not been received. If it is received after this date, it will be forwarded to you. Herewith AFA 3104 for use on review of sentence and return to your holding authority.

(W.H.S.Macklin) Brigadier
Deputy Adjutant-General
Canadian Military Headquarters

Enc.

Copy 3104 duplicated

99/37/GRANT RR/1 (A8)

4

2ND ECHELON HEADQUARTERS CAOF

5 Jan 46

CMHQ

(Attn: AAG Dis)

2 C B R Bn

B116646 Rfn Grant R.R.
PE Stragglers' Unit (13 Bn)

1 The m/n SUSS is presently on strength of the PE of Stragglers' Unit (13 Bn).

2 As this is a CFN unit, the m/n AF A3104 is forwarded herewith for review in accordance with Overseas RO 4732 para 4 (b).

3 OC 13 CBRBn is requested to forward direct to CMHQ (Attn: AAG Dis), for use of the reviewing authority, a statement of Rfn Grant's conduct while employed with that unit.

4 On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ, please.

Send to COAF

WHP/LPB

COURIER

ENCL(1)

COPY TO: OC 13 CBRBn

for (J J P de Salaberry) Major
DAAG Pers
for Officer i/c
2nd Echelon Headquarters CAOF

10/ Grant RR/1 3

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

REVIEW SHEET

~~PRE~~-POST CONFIRMATION

FGCM. 19 Apr 45 (21AGp ~~(Med~~ ~~(UK~~
(Date of Sentence)

No B.116.46 Rank Rfn

Name Grant RR

Unit 20 Cdn Spec Emp Coy

Charge(s)	15(1)	15(1)	1	1
Plea	G	G	G	
Finding	G	G	G	

Sentence 1 year detention

Received from CR 4 June 45

Passed to Rev Offr 7 Jun 45

Passed to Rev 1 7 Jun 45

Passed to .....

Passed to .....

Returned to Rev Clerk .....

Record & ~~Pass AGS~~ File 7 June 45 L J Brody Capt

RECOMMENDATION OF INITIAL REVIEWING OFFR

Pass ~~Confirm~~ as to 1st & 2nd charge

Quash ~~Non-confirm~~ 3rd Charge

Date 7 Jun 45 E K Drynan Lt.
(Reviewing Officer)

FINAL JAG OPINION

Pass ~~Confirm~~

~~Quash Non-confirm Charge~~

Date 7 June 45 L J Brody Capt

OBSERVATIONS:

1 In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea as to 1st & 2nd charge NOT as to 2nd charge.

~~In the case of pleas of not guilty:- There is legal evidence to justify the finding.~~

~~No substantial injustice to the accused.~~

2. Rev. sheet 1 Ech noted.

Para 2 disagreed with: No admissable evidence as to orders in question

Para 4 " " " : A soldiers duty under K.R. Can 1491 to familiarize himself with unit orders is limited to "orders so published", i.e. as provided for in this article. There is no evidence as to publication within the meaning of 1491. The Court was fixed with notice that publication had NOT been proved in the summary since, added to the summary is purported notice under R.P. 76 that a witness, named, will appear to prove publication of the Unit Orders. From the address in mitigation the Court was fixed with notice that the accused was away from his unit & presumably not on strength from Aug 44 to Jan 45 and so that Unit Order 27 Nov. 44 had been issued during his (perfectly legal) absence. From the particulars of 1st charge the Court was fixed with notice that the accused was A.W.L. at the time of the issuance of Unit order of 6 Mar 45. Accordingly the Court was fixed with knowledge that responsibility for breach of these orders was based on a conditional duty under K.R. Can 1491, and since it knew that the conditions of this duty had not been established, should have refused the plea, &/or advised accused to change his plea following address in mitigation. (over)

RECORDED AT CMHQ IN AB 160.
5J-97

(Continue over if necessary)

3. Summary: This consists of a list of exhibits, A to K, with a marginal notation as follows "Cdn R.O. (21 Gp) No 774 (ee)" This R.O. is a reprint of P.C. 8563 10 Nov. 44 relating to documentary evidence.

The exhibits attached to the summary are not signed or initialled by the Officer taking the summary nor are they identified in any other way as being part of the summary except by marks "Exhibit A" etc.

Exhibits A, B, C, D, H & J are described in summary as certified true copies: they are NOT certified true copies. They are NOT admissable under the a/m R.O.

Exhibits E and J are described in summary as certified true copies of AFs B 252. They are NOT ~~certified~~. They are NOT admissable under the a/m R.O. The reverse of these (NOT marked as Exhibits) could have been introduced under R.P. 46 as signed statements of evidence, but they were NOT so produced.

Exhibit G is stated to be "certified true copies of extracts" from the Unit orders in question. They are NOT expressed to be "extracts". They are NOT certified true copies.

4. Defence: Address in mitigation. Very full. This soldier appears to have had an extraordinary series of misfortunes quite sufficient to demoralize anyone and to explain his conduct from Jan 45 on. Note par 6 1 Ech rev. sheet

B

1. In my opinion the finding of "guilty" on the 3rd charge should remain. The prosecution had given notice before the trial under R.P. 76 that a witness would be called at trial to give evidence as to the publication of the orders so that it [illegible] evidence of [illegible] publication would have been called at trial [illegible] may be [illegible] that the necessity of proving such publication was known to the accused & the Def off at the time the accused pleaded guilty to the charge. Altho the accused could not have had notice of the order of 6 March 45 being AWL from the time of its publication until the time ~~of the~~ was found in possession of the pistol on 10 March 45. he should have had notice of the order dated 27 Nov 44. As the order of 10 March 45 merely repeated the prohibition against the carrying of weapons which was already in force under the order of 27 Nov 44, the substantial injustice has resulted to the accused from his plea of guilty to the 3rd charge which refers to both orders.

2. Pass

[illegible] June 45

L J Brody Capt

529/GRANT RR/1 (DJA-Rev)

Cdn Sec 1 Ech HQ 21 Army Gp
31 May 45

2

REVIEW SHEET

FGCM - 19 Apr 45 (29/91)
B-116646 Rfn Grant R.R.
X-9 List R Regt C, att 20 Cdn Spec Emp Coy

1. The m/n soldier was charged with two offences of absence without leave and disobedience of Part I Orders. He pleaded guilty to all 3 charges and was found guilty by the court.

2. The particulars of the 3rd charge allege that on 10 Mar 45 the accused was in possession of a P35 automatic pistol contrary to 20 Cdn Spec Emp Coy orders dated 27 Nov 44 and 6 Mar 45. Both Part I Orders referred to are produced in the summary of evidence without proof of posting or that the accused was award of the existance of the orders, or their contents.

3. The plea in mitigation states that the accused was in hospital installations from Aug 44 until sometime in Jan 45, when he went to 10 CBR Bn and then to 20 Cdn Spec Emp Coy. He remained with this latter unit a few days and then went AWL, remaining absnet until 10 Mar 45, the date of the offence concerning the pistol.

4. As the soldier was with 20 Cdn Spec Emp Coy for a period after 27 Nov and prior to his absence, under KR (Can) 1491 it was his duty to make himself acquainted with published orders. Ignorance of such orders is no excuse unless a mis-apprehension arose through lack of clarity. Therefore the accused could be found guilty of neglect in relation to the order of 27 Nov 44 provided posting were proved. As he was not with the unit from the issuance of the order d/6 Mar 45 until the commission of the offence, breach of this latter order should not have been alleged in the particulars of the 3rd charge.

5. By his plea in mitigation the def offr stated "As far as the charge of being in improper possession of revolver is concerned - it so happened that afriend brought it down from his regiment along with several other personal items, that he had left there, just two days previous to giving himself up, and being AWL at the time he had not had a chance to turn it in". This, of course, is no excuse in law, as the failure to turn in the pistol was due to the fault of the accused in remaining absent and the statement can be considered only one in mitigation and not in exculpation.

6. The plea of guilty can be accepted as a judicial confession of the offence, and on that basis alone the 3rd charge has been passed. Attention of appropriate authorities has been drawn to the record of service of the accused as outlined by the defending offr.

7. The ADJA 3 Cdn Base Reinf Gp should in future return defective summaries for correction such as the present for adequate proof of posting or notice of orders before trial is advised.

(W.H. Brough) Major
DJA (Rev)
Cdn Sec 1 Ech
HQ 21 Army Gp

DISTRIBUTION
Proceedings
DJAG Cdn Sec 1 Ech HQ 21 A Gp
ADJA 3 CBRG
President - Major D C MacDougall 9 CHR Bn
Confirming Offr - Comd 3 CBRG
OC Unit - Offr Comd 20 Cdn Spec Emp Coy

529/GRANT RR/1 (DJA-Rev)

Cdn Sec 1 Ech HQ 21 Army Gp
31 May 45

JAG
CMHQ (Attn: JAG-Rev 1)

FGCM - 19 Apr 45(29/91)
B-116646 Rfn Grant R.R.
X-9 List R Regt C, att 20 Cdn Spec Emp Coy

1. Enclosed herewith are the m/n proceedings for custody.

(W.H.Waugh) Major
DJA (Rev)
Cdn Sec 1 Ech
HQ 21 Army Gp

Encl
SDS.

5 J 97

Rfn. Grant R.R.

10

35 files

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B/116646 Rfn Ronald Robert Grant

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15(1) AA	Guilty	Guilty	
2nd	15(1) AA	Guilty	Guilty	
3rd	66(1) AA	Guilty	Guilty.	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 133, and in lieu of RP 44 fn 6.)

~~21~~ to remain under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or MF B296 admitted in evidence under £2.)

Sentence Awarded by the Court:

To undergo detention for one (1) year.

(Sgd) ~~Judge-Advocate, if any.~~ Date awarded 19 Apr 45 (Sgd) L. T. MacDougall Maj President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed.

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~ (1) dm

(1. AA 57A. Delete if not used.)

(Sgd) J. J. Lind Brig

Date 21 Apr 45 Commanding 3 CBR Gp.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-116646 Rfn GRANT R.R. X-9439 (R22R) AN DOGLEC	23 Apr 45	W. W. Glover CAPT MAJOR

A/ O.C. 20 CDN. SPECIAL EMP. COY.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5J-97.

FIELD GENERAL COURT-MARTIAL 4/388

Convened by Order of Brig J.J.H. Lind Comd 3 Can Bde Gp dated 16 Apr 45

ACCUSED.

(Note: As to the trial of two or more charged jointly see RP 45, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B/116646	Rfn	Ronald Robert	Grant	Royal Regina Rifles attd 20 Can Spec Emp Coy.

PROCEEDINGS REVIEWED
7 Jun 45
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 19 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Columns do NOT include all relevant from RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML, pp 741 to 759. A brief record of such variation will be made and given a number having reference to appendicate at preceding para number herein. See back of Convening Order, CF A95, for cards and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes", by to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 108, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 52, RP 105-107. 3. RP 11-12, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. AA 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 363(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to an interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to an shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr~~, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.T. MacDougall	4 CBR Bn.
Member	Capt	H.J. Lowday	4 CBR Bn.
Member	Capt	R. Roberts	4 CBR Bn.
Judge-Advocate			
Prosecutor	Lieut	J.R. Judd	4 CBR Bn.
Defending Offr	Lieut	W.R. Travis.	20 Can Spec Emp Coy

Questions by President: Is the Prosecutor a lawyer? Ans no Is the Defending Offr a lawyer? Ans no.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ~~before arraignment make(s) (no)~~ (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressum made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in this sp RdP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (severally) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 28, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 52, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1-8 3 CBR Gp Nil P 26

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 105; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witness from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85–85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 1. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans 720 Sec ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

Prov B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

Mem B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, any such charge(s) by use of pparas D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.~~(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 556. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence (or accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(4). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans 720 Sec
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(3)(j) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 335 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I do not propose to call any witnesses in mitigation of punishment (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

Prov E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the ~~JA, if any~~.(2)
(*1. When several accused tried separately see RP 79 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its juniors, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 332, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(2)(b), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.116646 Rfn Ronald Robert GRANT, X-9 1st Royal Regina Rifles, attached 20 Cdn Special Emp Coy, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 0845 hrs 21 Jan 45 until apprehended at 1400 hrs 10 Mar 45. (Total time absent: 48 days 5 hrs 15 mins)

SECOND CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1300 hrs 18 Mar 45 until apprehended at 1445 hrs 26 Mar 45. (Total time absent: 8 days 1 hr 45 mins)

THIRD CHARGE
Army Act
Sec 11

WHEN ON ACTIVE SERVICE NEGLECTING TO OBEY PART I ORDERS

in that he

In the Field, on 10 Mar 45, was in possession of P.35 automatic pistol No. J.4676 contrary to 20 Cdn Special Employment Coy Part I Order dated 27 Nov 44 and 20 Cdn Special Employment Coy Part I Order No 47 dated 6 Mar 45 directing all persons to abstain from the carrying of weapons when off duty.

In the Field,
9 Apr 45.

A.E. Kelsey
(A.E. Kelsey) Major,
Officer Commanding,
20 Cdn Special Employment Coy.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
16Apr 45.

J.S.H. Lind
(J.S.H. Lind) Brig
Comd
3 Cdn Base Rft Gp

Dr Mac Dougall may preside.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-116646	Rfn		Ronald Robert	GRANT	Royal Regina Rifles 20 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Apr 45 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D C MacDOUGALL	CAC 9 CBB Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by ? Cdn Base Rft Bn	
Capt or Lt	To be detailed by ? Cdn Base Rft Bn	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by ? Cdn Base Rft Bn	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 16 Apr 45

(Signed personally. RP 105 fn 2.)

J S Lind Brig (Rank.)

(J S H Lind)

Commanding 3 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 66 (In lieu of AFA 3) 40/F & S/1697 (6543)

D MacDougall may preside

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined B.116646 (No)

Rfn (Rank) GRANT, H.R. (Name) and in my opinion he is fit ~~unfit~~

to undergo trial by Court-Martial.

Station In the Field

Date 19 April 45

(Sgd)
Medical Officer

(Unit) 20 Cdn Special Emp Coy

PLEA IN MITIGATION

Plea in Mitigation of B.116646 Rfn Ronlad Robert GRANT, X-9 List RHR, attached 20 Cdn Special Emp Coy.

Rfn Grant joined the R.A.F. in March 1939 as ground crew. In June 1939 he was transferred to air crew and started to train as a pilot. In March 1940 he was sent to Canada on the Air Training Scheme and in May 1941 he received his commission as an officer and afterwards did instructional work.

In October 1942 his chum whom he had knownfor years was killed when his plane which was in front of Grants, crashed as they were taking off the field. Grant's mind went blank and his plane crashed into a hanger. After four months in Hospital mostly for nerves he was posted to ground work which was a keen disappointment to him, so much so that in July 1943 he asked for a discharge so he could join the Canadian Army. This was granted in August 1943 on medical grounds and he was taken in the Canadian Army as a Sgt, instructing on aircraft recognition.

Being anxious to get overseas he reverted voluntarily to the Rank of Private and was sent over as a reinforcement in April 1944. On the way over three of his friends were killed in front of him when they were caught in the closing of a watertight doors. This affected him so much that he was taken off the boat in a stretcher and spent a month in the Hospital for nerves.

In June 1944 he received word that his father who was commander of a Corvette had been killed in action and on D plus 6 Grant arrived in France where he joined the Regina Rifles in the line.

He was sent out of the line in the latter part of August for Battle Exhaustion, after having been nearly hit by a 88mm shell. He then spent six weeks in the mental ward at 10 Cdn General Hospital from where he was transferred to the Surgical ward for an operation for Haemorrhoids, after convalescence. He was then sent to 10 Cdn Base Rft Bn, then to 20 Cdn Special Emp Coy in January 1945.

While at 10 Cdn Base Rft Bn in January he received word that his mother had died in December. He tried to get a week compassionate leave to England but was unable to do so and after a few days at 20 Cdn Special Emp Coy went A.W.L. and again in March, when, after a few days he pulled himself together and gave himself up voluntarily to the Provost Corps in Ghent.

Whilst with the R.A.F. Rfn Grant always had a clean record, but having once held a commissioned rank in the R.A.F., life in the Army hasn't been easy for him as he has had to take a lot of razzing Grants one wish now is to take his punishment so that he can make a fresh start then return to Canada to live and marry the girl he is engaged to.

Grant was born and brought up in Scotland and only went to Canada when he went over with the R.A.F. in 1940. His only relative now is a sister who is in the A.T.S. and is married to a Canadian Sgt. Grants present category is M-2, S-3.

In my opinion Grant has undergone considerable mental anguish and punishment prior to going AWL and it is hoped that the Court will take this into consideration. As far as the charge of being in improper possession of revolver is concerned - it so happened that afriend brought it down from his regiment along with several other personal items, that he had left there, just two days previous to giving himself up, and being AWL at the time he had not had a chance to turn it in. From the history of this soldier the Court can see that besides being a naturally high strung and nervous soldier, he has had more than his share of bereavements and hard knooks. I hope the Court will consider the difficulty this man has had in adjusting himself in the Army as another rank after serving as an officer in the R.A.F. He has certainly proved his patriotism and good intention by joining the Canadian Army voluntarily after getting his discharge from the R.A.F. The fact that he gave himself up indicates, I believe, that he intends to turn over a new leaf and I believe he has suffered punishment mentally in deciding to surrender himself and take the consequences of his wrongdoing and start afresh with a clear conscience.

(W.P. TRAVERS), Lieut
20 Cdn Special Emp Coy

SUMMARY OF EVIDENCE

Case of B .116846 Rfn GRANT, R.R., X-9 1ist Royal Regina Rifles, attached 20 Cdn Special Emp Coy, a soldier of the Canadian Army Overseas. Charged with absence without leave and neglect to obey 20 Cdn Special Emp Coy PART I ORDERS, dated 27 Nov 44, No 47 d/6 March 45 and No 55 d/19 March 45.

R.P. 4(f) The Commanding Officer directs that the evidence shall be taken on oath.

Exhibit "A"	Certified true copy of CR AFW 3012A Serial No 212 page 2 of 5 d/6 Feb 45
Exhibit "B"	Certified true copy of CR AFW 3012A Serial No 217 page 3 of 4 d/13 Feb 45
Exhibit "C"	Certified true copy of CR AFW 3012A Serial No 224 page 7 of 7 & last d/22 Feb 45
Exhibit "D"	Certified true copy of CR AFW 3012A Serial No 242 page 1 of 2 d/17 March 45
Exhibit "E"	Certified true copy of AFB 252 d/10 March 45
Exhibit "F"	Certificate under Army Act. Section 163 (1)(j)
Exhibit "G"	Certified true copies of extracts from Part I Orders 20 Cdn Special Emp Coy d/27 Nov 44 No 47 d/6 March 45 No 55 d/19 March 45
Exhibit "H"	Certified true copy of CR AFW 3012A Serial No 244 page 3 of 6 d/21 March 45
Exhibit "I"	Certified true copy of CR AFW 3012A Serial No 252 page 1 of 3 d/31 March 45
Exhibit "J"	Certified true copy of AFB 252 d/26 March 45
Exhibit "K"	Certificate under Army Act Section 163 (1)(j)

Cdn RO (21 A Gp) No 774(ee)

The accused was cautioned as follows:

"Do you wish to make any statements or to give evidence on oath? You are not obliged to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Ex A
D MacDougall
Lieut

I certify that the foregoing Summary of Evidence consiting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure (4) (c), (d), (e),(f) and (g) have been complied with.

In the Field
2 April 45

P A Thurrott
(P.A. THURROTT),Lt,
Officer detailed to take
Summary Of Evidence

UNDER R.P. 76
D-3030 SGT ANDERSON K.H
WILL APPEAR TO PROVE PUBLICATION OF
PART I ORDERS

ACKNOWLEDGEMENT BY THE ACCUSED.

I hereby acknowledge that I have been served with a true copy of the Original Summary Of Evidence, and also a true copy of the charge which is brought against me.

I desire the services of.....
.....if he is available, or I request that an officer be appointed to represent me at my trial.

.....
B.116646 Rfn Grant, R.R.

X-9 List

Wt. 15403/2528 72,000 Pads 6-44 JH 51-770

MARGIN FOR FILING PURPOSES CERTIFIED TRUE COPY

Army Form W. 3012 A.

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)— OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Serial No. 212

No. of Sheets to this Return 2 of 5

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
ABSNET WITHOUT LEAVE				OFFICERS				
B.116646	Rfn	GRANT, R.R.	RRRR	Absent without leave from 0845 hrs 27 Jan 45 0845 hrs 28 Jan 45 (1st day)				Still absent
				OTHER RANKS				
		EXHIBIT A	RTM					

X-9 List 20 Cdn Special Rep Coy (Unit)

Date 6 Feb 45 19

(Signature and appointment of Officer)

HQ 2 CDNS (Bde., Div., Area, etc., with which Unit is serving)

Forms/W3012A.1

X-9 List

Wt. 15403/2528 32,000 Pads 6/44 (H 51-770)

MARGIN FOR FILING PURPOSES

CERTIFIED TRUE COPY Army Form W. 3012 A.

Serial No. 217

No. of Sheets to this Return 3 of 4

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)— OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				OFFICERS				
ABSENT WITHOUT LEAVE								
B.116646	Pte	GRANT, R.R.	RCR	Absent from 0845 hrs 21 Jan 45		Still absent 0845 hrs 29 Jan 45 (8th day)		
				OTHER RANKS				

EXHIBIT 'B' [illegible]

20 Cdn Special Emp Coy (Unit)

[illegible] CMG (Bde., Div., Area, etc., with which Unit is serving)

Date 15 Feb 45 19

[signature] (Signature and appointment of Officer)

Form W3012A.1

X-9 List

MARGIN FOR FILING PURPOSES

CERTIFIED TRUE COPY

Army Form W. 3012 A.

Wt. 15403/2520 72,000 Pads 6/44 (H 51-7701)

Serial No. 224

No. of Sheets to this Return 7 of 7 & Last

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—
OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				OFFICERS				
ABSENT WITHOUT LEAVE								
B.116646	Rfn	GRANT R.R.	RRR		Cease att from and SOS X-9 List as a deserter wef 18 Feb 45 having been declared illegally absent ~~xxxx~~ by a Ct of Inq from 0845 hrs 27 Jan 45.			
				OTHER RANKS				

EXHIBIT "C" [illegible]

Date 22 Feb 45 19

Forms/W3012A/1

[signature]

(Signature and appointment of Officer)

[illegible] Con Special Emp Coy (Unit)

HD 2 CHRG

(Bde. Div., Area, etc., with which Unit is serving)

CERTIFIED TRUE COPY

Army Form W. 3012 A.

X-9 List

MARGIN FOR FILING PURPOSES

Wt. 15403/2528 32,000 Pads 6/44 (H 51-770)

Serial No. 249

No. of Sheets to this Return 1 of 2

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)— OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				OFFICERS				
(1) STRENGTH INCREASE (a) B.116646	~~XX~~ Rfn	GRANT, R.R.	RRR	TOS X-9 List on returning from desertion wef 1400 hrs 10 Mar 45.				
				OTHER RANKS				

EXHIBIT D

20 Cdn Special Emp Coy (Unit)

No. 3 Cdn Special Emp Co (Bde, Div, Area, etc., with which Unit is serving)

(Signature and appointment of Officer)

Date 19 Mar 45 19

Form W3012A/1

CHARGE

Army Form B 252
(See King's Regulations)

20 Cdn Special Employment Coy — Regiment / Battery / Squadron / Troop or Company

CHARGE against No. B.116646 Rank Pte

Name Grant, R.R.

Place Ghent Date of Offence 10 Mar 45

OFFENCE W.O.A.S.

1. A.W.L. from . . . . . .
Until Apprehended be Member Cdn Provost Corps at approx 1400 hrs 10 Mar 45

2. Improper Possesion of a Weapon, P.35 Automatic Pistol J.4676

GHENT DET. 2 CON. L. of C. PROVOST COY

I/c Ghent Detachment

Names of Witnesses :—

C.4920 Cpl Mitchell, R.W.

C.3529 L/Cpl Cayouette, A.L.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded EXHIBIT "E"

Adjutant.

Disposal of charge to be forwarded to formation H.Q.

30420 W.E.W.15452/2262 1,750,000 5/44 K.A.H., Ltd. 665047 P.T.O.

EVIDENCE in the Case of

Statement of
B.116646 Pte Grant, R.R.

1. At approx 1400 hrs 10 Mar 45, On information received, accompanied by L/Cpl Cayouette I proceeded to the Michel Cafe, Wilson Plaats Ghent, I there accosted a soldier whom I now know as the m/n O.R., He could not produce authority allowing him to be absent from his Unit.

2. I placed him under close arrest, escorted him to Det H.Q., Where it was established that he was a Deserter., His particulars were taken, when searched he had a weapon to which he could not produce authority to carry., Later he was escorted to the Town Guard Room Ghent, where a live body receipt was obtained and is now held at this Det H.Q.,.

R. Mitchell Cpl
C.4920 Mitchell, R.J.

I have read over the above statement and corroborate same.

A. Cayouette L/Cpl
~~C.3529~~ Cayouette, A.L.
E.48560

REMARKS

CERTIFICATE ND[illegible]RMY ACT. SECTION 53 (i) (j)

Certified that No. B.116646 Rank Pte Name Grant, R.R.

of the 20 Cdn Special Employment Coy Regt., ~~[illegible]~~ No. C.4920

Rank Cpl Name Mitchell, R.J. was apprehended by 2 Cdn L of C Provost Coy of the

Detachment at Ghent at 1400 hrs, on the 10th

day of March as an absentee without leave.

He was wearing Military Uniform at the time of his ~~[illegible]~~ arrest.

~~Civilian Clothes.~~

Place Ghent Belgium

Date 10 March 45

Capt

(G Wood) DAPM 2 CBRG

Canadian Provost Corps.

CERTIFIED DET. 2 CON. L of C PROVOST COY

EXHIBIT 'F'

20 CANADIAN SPECIAL EMPLOYMENT COMPANY

PART I ORDERS ISSUED BY
MAJOR A.E. KELSEY OFFICER COMMANDING

Last Order #19
dated 20 Nov 44.

#20
dated 27 Nov 44

(Excerpt from Part I Order No 20)

Para (6)
CARRYING OF WEAPONS

(a) The carrying of weapons by Officers and ORs when off duty is strictly forbidden.
(b) All souvenier weapons suchs as Lugers, P-38 pistols and all types of non-issue firearms as wells as large knives daggers or bayonets which are not regular issue type will be turned into the respective QMs where a receipt will be given for same.
(c) Effective immediately, personnel found in possession of weapons other than those issued through the normal channels will be subject to severe disciplinary action, and such souvenier weapons discovered may be confiscated.

Signed (HA Edwards) Lt
for (AE Kelsey) Major

Officer having custody of original order

(J. Worth'ngton) Lieut.

---

20 CANADIAN SPECIAL EMPLOYMENT COMPANY
PART I ORDERS ISSUED BY
MAJOR A.E. KELSEY OFFICER COMMANDING

Last Order N o 46
dated 4 Mar 45

Order No 47
d/6 Mar 45.

(Excerpt from Part I Order No47
Para 19
WEAPONS-CARRYING OF

(a) The carrying of weap ons by Officers and other ranks when off duty is strictly prohibited.
(b) Attention of units is drawn to Cirdular Letter 2 CBRG/9-1 dated 24 Nov 44 in this respect and to souvenier weapons with instructions re disposal of same.
(c) Weapons will only be carried by Officers and other ranks when on duty, or when given explicit instructions by their Commanding Officer.
(d) The fore-going will be re-published weekly in unit orders and unit COs willensure that this information is made known to all ranks.

Signed (J. Worthington Lt.)
for (A.E. Kelsey) Major

Officer having custody of original order

(J. Worthington) Lieut.

EXHIBIT "G" Dmm

20 CANADIAN SPECIAL EMPLOYMENT COMPANY

PART I ORDERS
ISSUED BY
MAJOR A.E. KELSEY OFFICER COMMANDING

Last Order No. 54
dated 18 Mar 45

Order No. 55
d/ 19 Mar 45.

Para 59

WEAPONS' CARRYING OF

(a) The carrying of weapons by Officers and Other ranks when off duty is strictly prohibited.

(b) Attention is drawn to Circular Letters 2 CBRG/9 -1 dated 24 Nov 44 in this respect and to souvenir weapons with instructions re disposal of same.

(c) Weapons will only be carried by Officers and Other ranks when on duty , or when given explicit instructions by their Commanding Officer.

(d) The fore-going will be re-published weekly in unit orders and units COs will ensure that this information is made known to all ranks.

Signed (J. Worthington) Lieut.
for (A.E. Kelsey) Major

Officer having custody of Original Order

(J. Worthington) Lieut.

EXHIBIT 'G' 2nd

Wt. 15403/3528 32,000 Pads 3/44 JH 51-7701

MARGIN FOR FILING PURPOSES

CERTIFIED TRUE COPY

Form W. 3012 A.

X-9 List

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—

OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Serial No. 244

No. of Sheets to this Return 3 of 6

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				OFFICERS XXXXXXXX				
(2) ABSENTEES AND DESERTERS								
(b) B.116646	RFN	GRANT R.R.	RRR	AWL from 1300 hrs 18 Mar 45 - 1300 hrs 19 Mar 45 (1st day)			Still absent	
				OTHER RANKS XXXXXXXXXXX				

EXHIBIT H' Dm

X-9 List/ 20 CDN SPECIAL EMP COY (Unit)

NO. 3 CDN SPECIAL EMP GP (Bde., Div., Area, etc., with which Unit is serving)

Date 21 Mar 45 19

(Signature and appointment of Officer)

Forms 1/1/1/1A

CERTIFIED TRUE COPY

Wt. 15403/1528 32,000 Pads 6/44 JH 51-7701

X-9 List

MARGIN FOR FILING PURPOSES

Army Form W. 3012 A.

Serial No. 252

No. of Sheets to this Return 1 of 3

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—
OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS

Personal or Army No.	Rank	Name and Initials	Corps or Regt.	Unit from which Detached	Casualty: Nature of Casualty	Casualty: Date	Replacement required? Yes or No.	Remarks
				XOFFICERSX				
(ABSENT WITHOUT LEAVE								
B.116646	RFN	GRANT R.R.	RRR	Returned from AWL being apprehended wef 1445 hrs 26 Mar 45 (Absent from 1300 hrs 18 Mar 45)				
				XXOTHERXRANKSX				

EXHIBIT I Dm

X-9 List 20 Cdn Special Emp Coy (Unit)

HQ 3 Cdn Special Emp Gp (Bde., Div., Area, etc., with which Unit is serving)

Date 31 Mar 45 19

Forms/W3012A.1

(Signature and appointment of Officer)

CHARGE

Army Form B 252
(See King's Regulations)

20 Spec. Employment Coy. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. R.116646 Rank Pte.

Name GRANT R.

Place GHENT Date of Offence 26 Mar 45.

OFFENCE WAS: AWL from ?? until apprehended by the Con. Provost Corps, at 14.45hrs, 26 Mar 45.

O. Matheson Dm
Sgt.
i/c Ghent Detachment.

Names of Witnesses :—

C.4920 Cpl. Mitchell R.J.
C.38350 L/C. Andrew H.W.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

GHENT D
2 CON. L
PROVOS
2

Adjutant.

Disposal of charge to be forwarded to formation HQ.

P.T.O.

[illegible]

Statement of **EVIDENCE** in the case of:

B.116646 Pte. GRANT R.

At approx. 1745 hrs 25 Mar 45, I was on duty in company with L/C. Andrew H.W., Upon information received I proceed to Cafe Wilson Plasts, Ghent Laboureu There I observed ~~xx~~ a soldier, whom I now know as the ~~x~~ soldier. I asked him for his pass, which he failed to produce. He was A&L.

I placed him under close arrest and escorted him to the Town Guard Room, where he was handed over to the Guard. A live Body Receipt was obtained.

Cpl.
C.[illegible]0 Mitchell R.J.

I have read over ~~xxx~~ the above statement and corroborate same.

L/C.
C.30350 Andrew H.W.

REMARKS

CERTIFICATE UNDER ARMY ACT, SECTION 163 (i) (j)

Certified that No. B.116646 Rank Pte. Name GRANT R.

of the 20th Spec. Employment Coy. Regt, ~~surrendered to~~ No. C.4920

was apprehended by

Rank Col. Name Mitchell R.J. of the 9 Sec. 2 Cdn. Log. Spp. Coy.

Ghent Detachment at Ghent at 1445 hrs, on the 25th

day of March 1945 as an absentee without leave.

He was wearing Military Uniform at the time of his ~~Surrender~~ Arrest.

~~Civilian Clothes.~~

Place Ghent

Date 26 Mar 45

(C.Wood) DAPM. 2 C.B.R.G.
Canadian Provost Corps.

Capt.

GAY DET
2 CON. L
PROVOST

EXHIBIT K

ARMY FORM B. 256.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.116646	Rfn	GRANT, R.R.	X-O 11st RRR att 20 CSEC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since Enlistment.
For AA [illegible]	2 times	times.
For AB [illegible]	CB times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused.

Note.—At a trial by field general court martial this summary may be supplied from the field conduct sheet.

The conduct sheet(s) produced should be produced in court with this statement and not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the numbers in entries in the conduct sheets, punishments being given by the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

2. ~~The accused has not been previously convicted, or~~ RRR .

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~ Nil

~~3. The accused is not under sentence at the present time, or~~ The accused at the present time is under ~~sentence of~~ detention beginning on the ____ day of ____

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 34 days in military custody, making a total of 34 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25

6. The date of his ~~commission~~ attestation ~~specified~~ in his record of service ~~attestation paper~~ is 15 AUG 1943

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 YR 7 MOS 20 DAYS

8. ~~The accused is entitled to deferred~~ pay or gratuity in respect of 1 YR 7 MOS 20 DAYS service.

9. The accused is entitled to reckon 1 YR. 7 MOS. 20 DAYS service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of, or~~ entitled to (*state any military decoration or reward*)). CVSM + Clasp

11. (*If the accused is a warrant officer.*) ~~The accused before he was~~ made a warrant officer last held the regimental rank of ____

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of~~ ____ dated ____

and in his regiment (or corps or department) the rank of ____ dated ____

(20000) W1.34600/1781 30,000 10/43 A. & E. W. Ltd. Gp.498
(20000) W1.35416/1499 15,000 5/44 " "

Ex. B.
Thomas Douglas Murray
President

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.116646 Rank Rfn Name GRANT, R.R. of X-2 1st RRR Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~[illegible]~~ 19th day of April 45

[illegible] Lt & Adj
Officer Army Custody Court Records

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.

No B11646 Name GRANT Ronald Robert | Sqn, Battery, or Company | Corps CIC | Date of enlistment 13 Sep 1943 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/1201(10433)

Date of last entry in Company Conduct Sheet n/a | No. and date of last drunk N/a | Period not reckoning towards freedom from extra fine N/a | Sheet No One | Signature OC Company, etc D.J. Ryham Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original Sheet destroyed on completion of 6 mth service Date of Last entry 8 Oct 43 cases of Drunkenness:Nil (18 Mar 44.									DJ Ryham Cap
Voluntary Blood donor 16 Nov 43 H.J. Ryhman Capt.									
Field	24 Oct 44	Rfn		AWL from 0845 hrs 24 Oct 44 to 1600 hrs 3 Nov 44	Documentary	22 days pay	8 Nov 44	Lt-Col JR CALKIN	Total forf o 33 days pay
Field	3 Jan 45	Rfn		Sect 40 AA Neglect ..etc. Neg to carry out duties of room orderly and 15 Blankets were stolen	Cpl Woloshyn CQMS Brash	Forfeits 28 days pay	9 Jan 45	Lt/Col GH Logie CO	"JDR"
Field	9 Jan 45	RFn		AWL-from 1915 hrs 9 Jan 45 to 2200 hrs 9 Jan 45. AA Sec 15(1)	Sgt Bratley Sgt Pateman MM	7 Days C.B.	11 Jan 45	RW Kelly	Capt.

CERTIFIED TRUE EXTRACT FROM THE REGIMENTAL BOOKS HELD IN MY CUSTODY

Ex. C. Dhnse Dougall maj president ~~(C.D. [illegible]) Capt. & Adjt. 9 Bn. 3 C.B.R.C.~~ W Bravett Lo for J.W. Worthington Lt & adjt. 20 Cdn Spec Emp Coy

(PTO)

RECEIPT FOR CHARGE SHEET AND SUMMARY OF EVIDENCE (MML Ch 5 Sec 5 SS 24)

I hereby acknowledge that I have this date 3 Apr 45 194_ received from 20 Con Spec Emp Coy (unit) one copy of Charge Sheet and Summary of Evidence referring to charge(s) of (1) AWL - 48 days 05 hrs - 15 min (2) Neglecting to Obey Standing Orders (3) AWL - 8 days - 1 hr 45 min for which I was remanded for Court Martial.

R R Grant
(Signature of Accused)

REQUEST FOR DEFENDING OFFICER (MML Ch 5 Sec SS 27)

I hereby request that N/A if avaialble, act in my defence. If this officer is not available, I request that the Commanding Officer of 20 Con Spec Emp Coy (unit) appoint an to act on my behalf.

LIEUT. W.R. TRAVERS
20 CON Spec Emp Coy

R R Grant
(Signature of Accused)

I hereby certify that LIEUT W.R. TRAVERS was appointed to defend B-116646 REN GRANT RR (number, rank, and name) at his forthcoming trial by Court Martial and that the said LIEUT. W.R. TRAVERS (rank and name) was notified that he was to act as Defending Officer on 3 Apr 45 (date)

J W Fortlington Lt
(Adjt of Unit)

WHEN PROSECUTING OFFICER POSSESSES LEGAL QUALIFICATIONS (MML Ch 5 Sec 5 SS 25)

I hereby certify that I have been duly warned that the Prosecutor is an officer possessibg legal qualifications

[signature]

(Signature of Accused

20 CANADIAN SPECIAL EMPLOYMENT COMPANY

20S/2/FGCM/1
9 Apr 45

ADJA
HQ 3 Cdn Base Rft Gp
Cdn Army Overseas

APPLICATION FOR FGCM
D 116646 Rfn Grant, R.R.

Ref your 5/FGCM/7 6/7 Apr 45.

1. Pte Grant has been warned that under RP 76, a witness will be called against him at his trial to prove publication of the orders mentioned.

2. The witness is:

D 30340 Sgt Anderson, K.A.
Orderly Room Sgt
20 Cdn Special Emp Coy

JM/cgk

(J.M. KELSEY), Major
Officer Commanding
20 Cdn Special Emp Coy

TTT-116

Sgt. Grant. W H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 11007 Sgt Grant W.H.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 9	not Guilty	not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 44(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting~~ present trial is total of ~~days, of which days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~Judge-Advocate, if any.~~ ~~Date awarded.~~ (Sgd) Lt Col Brigadier President. (RP 43, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 3 Aug 44 (Sgd) Commanding C.R.A. 3 CDN. INF. DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 14 AUG 1944 JAG BRA

TTT-116

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig E.A.S. Sadd Comd 6 Cdn Inf Bde dated 23 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 11007	Sgt	William Harvey	Grant	12 Fd Regt RCA

PROCEEDINGS REVIEWED 17 Aug 44 J.G. Campbell Major REVIEWING OFFICER JAG BRANCH G.H.Q.

PROCEEDINGS RECEIVED 21 Army Gp Cdn. Sec G.H.Q. 17 AUG 1944 D.J.A.G.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 27 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which matrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter? Ans~~ ~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.A. Blakely	13 Cdn. Fd. Regt. RCA.
Member	Capt.	G.P. Rees	17 Cdn. Fd. Regt. RCA.
Member	Capt.	G.R. Dickinson	3 A/Tk. Regt. RCA.
~~Judge-Advocate~~			
Prosecutor	Capt.	J.E. Harrison	19 Cdn. Fd. Regt. RCA.
Defending Offr	Lieut.	F.G. Bell	19 Cdn. Fd. Regt. RCA.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 31.)

A8. The accused B 11007 Sgt Grant W.H. before arraignment makes(s) ~~no~~ plea. (3) ~~of not guilty~~

(1. If a special plea is made for separate trial on one of more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

France I page 23

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur is a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*I. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*I. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*I. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*I. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*I. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea of Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*I. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans Yes (1)
(*I. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*I. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(2)
(*I. RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the One charge(s).(2) The Court is closed, and considers the submission.(3) ~~The Court is re-opened, and the President announces that the submission~~ is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(*I. Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

~~D5. President to accused : You will now proceed with your defence.(1)~~ You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ! Ans .....
(*I. RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fn* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*I. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*I. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), ~~of~~ of Not Guilty, ~~and states to the accused that the finding(s)~~ of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, ~~and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*I. AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*I. MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*I. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*I. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*I. Where several accused tried separately see RP* 77(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 48-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *RP* 48. *As to sentences assigned for civil offences by the law of England see AA* 40(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 66(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B11007 Sjt. GRANT, William Harvey, 11 Fd Bty, 12 Cdn Fd Regt a soldier of the Canadian Army Overseas, being on Active Service, is charged with

WHEN ON ACTIVE SERVICE

First Charge
A.A. Sec 19

Drunkenness

in that he

in the field, at B Troop gun position, while in charge of B4 gun, at 2300 hrs 20 Jul 44, was drunk.

.....Lt-Col
(R.H. WEBB)
OC 12 Cdn Fd Regt

IN THE FIELD
22 July 1944

To be tried by F.G.C.M.

(PAS Todd) Brigadier
CRA 3 Cdn Inf Div

In the Field
23 Jul 44

CFA85 (In lieu of AFA3)
4M/P&S/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his command or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/B or A/Appmt.	Full Christian Names.	Surname.	Unit.
B11007	Sjt		William Harvey	GRANT	12 Fd Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [redacted] committed the offence(s) set forth in the Charge Sheet(X) attached and on (date) 23 July 44 endorsed by me, [redacted], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	S.A. BLAKELY	13 Fd Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	J.C. BEEB	12 Fd Regt RCA
Captain	J.R. DICKINSON	3 ATk Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieutenant	D.J.K. FROST	12 Fd Regt RCA

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (Country.)

Date 23 Jul 44

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(P.A.S. Todd) [redacted]

Commanding CRA 3 Cdn Inf Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

(K.R. (Can) Para. 557

I certify that I have this morning examined

No. B11007 Rank Sjt Name GRANT, W.H.

and in my opinion he is fit to undergo trial by Court Martial.

Date 28 Jul 44

0570 hrs.

(Wm. E. Finkelstein) (Capt.)

R.M.O. 12 Can Fd Regt RCA.

B.11007 Sgt. Grant, W.H. 27 July 44

FIRST WITNESS FOR THE PROSECUTION - Capt. L.F. Kirkpatrick, 12 Cdn Fd Regt RCA, having been duly sworn, states:-

I am Capt L.F. Kirpatrick, O.C. "B" Tp, 12 Cdn Fd Regt RCA. Shortly after 2200 hrs, on 20 July 44, I went to B.4. gun position which gun had been reported out of action. At that time I thought there had been drinking among the members of the crew of B.4. I warned Sgt. Grant who was in charge of B.4 and his two Bombardiers, that there was to be no further drinking at the gun. I left and returned there again at 2300 hrs, at which time Sgt. Grant definitely showed evidence of having had too much to drink and he was placed under open arrest by T.S.M. Kukulski.

EXAMINED BY THE PROSECUTION:-

Q. Do you hold your Sgt. responsible for what happens on your guns 24 hrs a day?

A. Yes, sir.

Q. Was Sgt. Grant in charge of the gun to the extent that he was in charge both times you visited the gun?

A. He was on the gun itself and I don't recall him giving orders.

Q. Was "B" Tp in action and responsible for fire from 2000 to 2359 hrs?

A. Yes, sir.

Q. In your opinion was Sgt. Grant drunk?

A. I would say he was drunk.

Q. What evidence in particular made you draw this conclusion?

A. His movements were very uncertain; he was rather boisterous.

CROSS-EXAMINED BY THE DEFENCE:-

Q. Was the gun out of action for a logic reason when you first went to it?

A. Yes it was.

Q. Had drinking been prohibited in "B" Tp by any previous order?

A. Not to my knowledge.

Q. Was the Sgt. on his tour of duty on the gun when placed under arrest?

A. I don't know, that is something that is worked out between the No.1. and his Bdr.

Q. Have you sufficient knowledge of Sgt. Grant to conclude that his boisterousness and uncertain movements were due to too much to drink rather than over fatigue and strain?

A. Yes I think so.

Q. How long have you known Sgt. Grant?

A. Over a month.

Q. How long have you been personally in touch with Sgt; Grant during that month?

A. Less than two week's time.

c o n t i n u e d

EXAMINED BY THE COURT:-

Q. Drunkenness, insofar as the A.A. is concerned, is vaguely defined. In fairness to the accused whom the court must assist if any doubt exists relative to the charge, the court would point out in their opinion an individual is said to be drunk if he is incapable of carrying out his duties and orders given to him. I will allow you after having made your statement to reconsider an answer to your previous question and ask having heard the court's opinion of drunkenness, was the accused drunk while in charge B.4 Gun at 2300 hrs 20 July 44.

A. No, the accused was not drunk but under the influence of liquor.

QUESTION BY PROSECUTION:-

Q. Would you have been willing to go up with the Infantry while Sgt. Grant's gun fired a close D.F. Task with Sgt. Grant i/c Gun?

A. I think there would have been a certain amount of risk to it, above the normal risk due to the fact he had been drinking.

Q. If that risk was involved do you think he was fit for duty?

A. No, not if his 2 i/c was there and could have done the job.

SECOND WITNESS FOR THE PROSECUTION - Lt. W.D. Cook, 12 Cdn Fd Regt RCA, having been duly sw orn states:-

I am Lt. W.D. Cook, Tp Ldr, "B" Tp, 11 Bty, 12 Cdn Fd Regt RCA. The accused Sgt. Grant is a # 1 on B.4. Gun. At 2300 hrs on 20 July 44, I went to B.4. Gun to see what I would do about putting B.4. on line. Coming up to the gun, I heard T.S.M. Kukulski put Sgt. Grant under arrest. At that time Sgt. Grant had, in my opinion, been drinking previously but was not drunk.

EXAMINED BY PROSECUTION:-

Q. Would you have been willing to go up with the Infantry while Sgt. Grant's gun fired a close D.F. Task with Sgt. Grant i/c Gun?

A. No, sir.

Q. Why not?

A. In my opinion, the gun crew under and including Sgt. Grant would not be operating 100% efficient.

Q. Do you then think he was fit for duty?

A. In my opinion, the duties that Sgt. Grant would perform would not be performed with 100% efficiency.

Q. From the basis of the court's opinion of drunkenness, or what constitutes drunkenness, was Sgt. Grant drunk?

A. No, sir.

c o n t i n u e d

#3

THIRD WITNESS FOR THE PROSECUTION - B.11042 T/BSM Kukulski, S. having been duly sworn states:-

I am B.11042 T/BSM Kukulski, Tp Sgt Major of "B" Tp, 11 Fd Bty, 12 Cdn Fd Regt RCA. The accused, Sgt. Grant, is No.1. of B.4. Gun. I returned on the night of 20 July 44 from a recce, reported in to our Tp Command Post, and heard from Lt. Cook and Bdr. Millar that B.4. Gun had been reported out of action. I went over to B.4, which was No.1 on that position, and noticed that Sgt. Grant had had a few drinks. I placed him under arrest.

EXAMINED BY THE PROSECUTION:-

Q. In your opinion, was Sgt. Grant drunk?

A. No, sir.

CROSS-EXAMINED BY THE DEFENCE:-

Q. Did you have any further trouble with B.4. Gun?

A. No, sir.

SUMMARY OF EVIDENCE IN THE CASE OF B11007 Sjt. GRANT, W.H., 11 Fd Bty 12 Cdn Fd Regt a member of the Canadian Army Overseas.

The CO directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution - Capt. L.F. KIRKPATRICK 11 Fd Bty, 12 Cdn Fd Regt having been duly sworn states:-

I am Capt L.F. Kirkpatrick, troop commander, B Troop 11 Fd Bty 12 Cdn Fd Regt. Sometime after 2200 hrs 20 Jul 44 B 4 gun was reported out of action. I was in the troop command post at the time, and I went to B 4 to investigate. Sjt. Grant reported trouble with his buffer and recouperator system, and they were working on it at the time. I thought that some of them had been drinking, and I warned Sjt. Grant and his NCOs before I left the gun. At 2300 hrs I returned again to B 4 to see if the "Tiffy" who had been sent for had anything to report. At this time Sjt. Grant definitely showed signs of drink, and Sjt/Major Kukulski, who was there at the time placed Sjt. Grant under open arrest. In my opinion Sjt. Grant was NOT in fit condition to carry out his duties as a No. 1.

Q.1 - Who was the Sjt. in charge of B 4?

A.1 - Sjt. Grant

Q.2 - Was he on duty, and in charge of the gun between 2200 hrs and 2359 hrs 20 Jul 44?

A.2 - The duty shift on the guns are arranged between the No. 1 and his NCOs. Both times that I visited B 4 Sjt. Grant was on the gun.

Q.3 - Were B Troop guns in action, and engaging targets between 2000 hrs and 2359 hrs?

A.3 - Yes.

Q.4 - What led you to believe that Sjt. Grant, and at least part of his crew had been drinking?

A.4 - The actions and speech of Sjt. Grant and some members of his crew did not appear normal.

Q.5 - What was not normal about Sjt. Grant's action and speech?

A.5 - Sjt. Grant's movements and actions were uncertain.

Q.6 - What in particular led you to decide that Sjt. Grant was unfit for duty?

A.6 - His uncertain movements led me to believe that he was not in a fit condition to carry out his duties.

The accused declines to cross-examine the witness.

L.F. Kirkpatrick

SECOND WITNESS for the prosecution - Lt. W.D. Cook, 11 Fd Bty, 12 Cdn Fd Regt having been duly sworn states:-

I am Lt. W.D. Cook, Troop Leader, B Troop, 11 Fd Bty, 12 Cdn Fd Regt. On the night 20 Jul 44 I was on duty at B Troop command post. B 4 had reported to me over the Tannoy System, that it was out of action, due to difficulty with the recoil mechanism. At approx 2300 hrs, B 4 reported to me over the Tannoy System that this trouble had been fixed, and also that they needed new line as the recordings to the GAP 1 and 2 had been rubbed out accidentally while working on the recoil mechanism. I went out to see what I would do about putting B 4 on line. When I arrived at B4 I heard Sjt/Major Kukulski talking to Sjt. Grant. I went over to them, and heard Sjt/Major Kukulski tell Sjt. Grant that he

SUMMARY OF EVIDENCE IN THE CASE OF B11007 Sjt. Grant, W.H., 12 Fd Bty, 12 Cdn Fd Regt a member of the Canadian Army Overseas

SECOND WITNESS for the prosecution (Cont'd)

was under open arrest. By Sjt. Grant's speech and manner, I think that he had been indulging in alcoholic stimulents, and in my opinion was not in condition to control B 4.

Q.1 - During the 2 or 3 hours previous to 2300 hrs was B Troop in action, and engaging any targets?

A.1 - Yes.

The accused declines to cross-examine the witness.

W.H.

THIRD WITNESS for the prosecution - B11042 TBSM Kukulski, S. 11 Fd Bty, 12 Cdn Fd Regt having been duly sworn states:-
I am B11042 T/BSM Kukulski, S., T/BSM of B Troop, 11 Bty, 12 Cdn Fd Regt. I returned at approx 2230 hrs 20 Jul 44 from a recce of the new position, and reported into the Troop Command Post. Lt. Cook told me that B4 pivot gun in this position had been reported out of action. I went to the gun to find out what had gone wrong. I noticed that Sjt. Grant had been drinking. I concluded this from the fact that I smelled alcohol on his breath, and his speech was not normal. I placed him under open arrest.

Q.1 - How long have you known Sjt. Grant?

A.1 - I have known Sjt. Grant since July 1940 when we were members of the then 11/69 Battery.

Q.2 - How long have you been T/BSM of B Troop?

A.2 - Since January 1942, at which time Sjt. Grant took over a gun.

Q.3 - Did you consider Sjt. Grant unfit for duty?

A.3 - Under the circumstances of darkness, his gun not being on correct Zero Line and having close targets to fire upon, I do not think he was fit for duty.

The accused declines to cross-examine the witness.

S.S. Kukulski

The accused having been duly cautioned in accordance with RP 4 (E) says - "I do not wish to make a statement at this time"

W. Harry Grant

FIRST WITNESS for the defence - B11124 Bdr. McILREAVEY, J. 11 Bty, 12 Cdn Fd Regt having been duly sworn states:-
I am B11124 Bdr. McIlreavey, J. B Troop, 11 Fd Bty, 12 Cdn Fd Regt. About 2300 hrs 20 Jul 44 I was on B4 and Sjt.-Major Kukulski came over and called Sjt. Grant off the gun. Sjt. Grant went down and the next thing I heard was Sjt.-Major Kukulski placing him under arrest, and telling him he was unfit for duty. Sjt. Grant came back to the SP and he called up to Troop Command Post on the tannoy and asked for line to No. 2 gun. They passed the line back and Sjt. Grant put angle on dial sight and layed the gun. I put out the night picquet then both of us remained on duty until the battery moved.

Q.1 - Was Sjt. Grant on duty and in charge of the gun when Sjt.-Major Kukulski put him under arrest?

A.1 - No Sir. He went off duty at 2200 hrs.

SUMMARY OF EVIDENCE IN THE CASE OF B1100/ Sjt. GRANT, W.H., 11 Fd Bty 12 Cdn Fd Regt a member of the Canadian Army Overseas."

FIRST WITNESS for the defence (Con) -

Q.2 - Did Sjt. Grant take charge of the gun during fire orders after 2200 hrs?

A.2 - Yes, part of the time. I acknowledged some of the orders myself, as we were alternately helping top up the gun.

Q.3 - Had Sjt. Grant been drinking during the evening?

A.3 - Yes, he had a little cider.

Q.4 - When did he have the cider?

A.4 - He had several small glasses during the evening, from 1900 hrs on.

Q.5 - Did you consider he was unfit for duty?

A.5 - I consider he was fit for duty, which is shown by the fact that he laid the gun after he was placed under arrest.

Q.6 - Was there any check to prove the gun was laid properly?

A.6 - Yes, Lt. Cook checked it by compass, and declared it was OK. We did not fire again on that position.

The accused declines to cross-examine the witness.

CERTIFIED THAT RP 4 complied with.
In the Field
22 Jul 44.

W.H. Grant

J. E. Harrison A/Capt.
(J.E. HARRISON)
Officer detailed to take Summary

SS-112

TPK GRANT N.H.

RECORDED AT CMHQ IN AB 160 SSS-102

FIELD GENERAL COURT-MARTIAL

(Page 1 to Instr of AFA55 40/P.S. & B./1868 (1/43))

4/388

RECEIVED 1 AUG 1944 C.M.H.Q.

Convening Officer of Brigadier A.W. BEAMENT Comd Can Section GHQ 1 Echn. dated 14 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 81972	Tpr.	William Henry	GRANT	12 CBR Bn.

PROCEEDINGS REVIEWED

J. K. Mitchell Capt

3 Aug 44. PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, AG BRANCH C.M.H.Q.

Held in the Fd in (*country*) ENGLAND on (*date(s)*) 18 Jul 44.

PROCEEDINGS REVIEWED Date 9 AUG 1944 D.J.A. Can. Sec. G.H.Q. 21 Army Gp.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Jdv if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding item number herein. See back of Convening Order, CF AA5 for books and instrs on how to record addresses, evidence, etc., which insrts are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 105, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the C.O.~~(2) DNC

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ DNC ~~an interpreter~~ / ~~A/Sjt~~ DNC

~~The Interpreter is sworn (1).~~ Do you object to ~~a shorthand writer~~ / ~~A/Sjt~~ DNC ~~a shorthand writer is sworn.~~(1) DNC

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 23, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.W.M. COOPER RCA	12 Bn 2 CBRG.
Member	Lieut.	G.L. GRANT RECS	13 Bn 2 CBRG.
Member	Lieut.	R.P. St Pierre RECS	13 Bn 2 CBRG.
~~Judge Advocate~~ DNC			
Prosecutor	Lieut.	F.C. BLATCHFORD RCA	12 Bn 2 CBRG.
Defending Offr	Lieut.	E.W. SMITH CAC	12 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See Instr p 2.)

A8. The accused ~~_____~~ before arraignment makes (no) ~~objection~~ plea. DNC (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in RP words and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~as follows~~) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. DNC.

(1. RP 37, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AA5 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

A 31.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 81972 Tpr. William Henry GRANT 12 CBR Bn.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Charge.	NOT Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for 35 days FP beginning on (date) 27 June 44.(1)

(1. Insert sentence being served, or delete if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

50 days detention

18 Jul 44 (Sgd) Donald McCuaig Maj. President. (RP 45, 47.)

(Rank) DNC ~~Judge Advocate, if any~~ Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53, fn 4. The Confirming Offr must sign here personally. AA 172 fn 1.)

I confirm the finding (and sentence) and sentence set forth in Part I as the decision of the Court.

I direct that the accused be not committed to prison or the common [illegible] (1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Officer i/c Capt. Section G.H.Q. 1 Echn.

Date _____ Commanding _____ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

D 81972 Gnr William Henry Grant 27 July 44 M.A. Frank Capt. Adjt. 13 C.B.R. Bn.

C.R. Serial 1 (CBR Regts) d/27 July 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35(*B*) fn 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* E2 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides to advise accused to change his plea of Guilty to Not Guilty on 1st charge. The accused is so informed, and he changes his plea on 1st charge. Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the Court records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by means of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge for which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fm here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO, SIR.(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes an (his) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*2*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(s) but allowed on the .
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans NO, SIR. Do you intend to call witnesses on your behalf ?
Ans NO, SIR. ~~witnesses as to character only ?~~
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E3 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*B*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s) of Not Guilty~~ states to the accused that the finding(s) of the Court on the 1st charge(s), being subject to confirmation, will be promulgated later.(1) ~~On the President announcing that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated, but if not the recital is altered and signed.~~
(1. *AA* 54(*D*) (*iii*), *RP* 45, *120*(*A*). 2. *AA* 54(*3*), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO, SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 3. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 160(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFS* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES, SIR.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer as to anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP* 71 (*2*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 45. *As to sentences see AA* 64, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 1325, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Convening Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DHC

CHARGE SHEET

The accused D.81972 Trooper William Henry GRANT
58 Coy., on the strength of 12 Cdn. Base Rft. Bn.,
a soldier in the Canadian Army Overseas, is
charged with :-

FIRST CHARGE: When On Active Service, Absenting Himself Without Leave,
ARMY ACT
SEC 15 (1)

in that he,

In the Field, whilst undergoing Field Punishment,
did absent himself without leave from 2200 hours
8th. July 1944, until surrendering himself to his
Unit at 1540 hours, 9th. July, 1944.
(Total Absence:- 17 hours and 40 minutes.)

In the Field
11 July 44

.....Lt-Col.,
(A.O.Hood)
Commanding 12 Bn.,2 Cdn.Base Rft.Gp.

AOH

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
14 Jul 44

(A. W. Beament) Brigadier,
Officer i/c Canadian Section
G.H.Q. 1 Echn.

14 JUL 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-81972	Tpr		William Henry	GRANT	12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Jul 44 endorsed by me, (~~or by an offr of my staff by me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~"I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D W M COOPER,	BCA, 12 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Lieutenant	(To be detailed by)	OC, 13 CBR Bn
A Lieutenant	(To be detailed by)	OC, 13 CBR Bn

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 14 Jul 44

(Signed personally. RP 105.) (Rank.)

Commanding (Convening) (Substantive) Brigadier, Officer i/c Canadian Section

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS Edh.

(See overleaf for oaths and notes for use on trial.)

14 JUL 1944

4/38A (Y.A.G. i/c DMS of APAS) 30/9/43 & 8/1897/14031

Approved
B Montgomery

DMC.

DMC.

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined B81972 (No.)

Spr. Grant W.H. (Rank) (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field

Date. 18 July

H Noble Capt. (Sgd)
Medical Officer
(unit) 12 C.B.R.B.

D3/DMe

When the Prosecutor called as first witness B16247 Sgt MacDonald, D.I. 12 CBR Bn the accused was asked whether an adjournment was required before the evidence of this witness was given. Accused replied no adjournment was desired.

FIRST WITNESS

B-16247 Sgt. MacDonald, D.I., 12 CBR Bn, having been duly sworn states:

I am Regt Provost Sgt. 12 CBR Bn and I deal with men sentenced to Field Punishment. I recognize the accused as Tpr Grant. I personally instructed Tpr Grant to report to the Guard Commander at 2200 hrs 8 Jul 44.

Court — The accused was now asked whether an adjournment was required before cross examination of the first witness. The accused did not desire an adjournment.

CROSS EXAMINATION

Q. Does the Guard Commander know who is undergoing F.P. and who is to report to him at 2200 hrs?
A. Not to my knowledge, Sir.

COURT

Q. Was the accused man instructed concerning his duties on 8 Jul 44?
A. No Sir. He was instructed on the 7 Jul 44 as there are special duties over Saturdays and Sundays.
Q. How do you know who is undergoing F.P.?
A. I have a list Sir.

SECOND WITNESS

H-77213 Sgt Buckwold, H.K. 12 CBR Bn having been duly sworn states:

I recognize the accused as Tpr Grant having recognized him since 11 Jul 44. On 8 Jul 44 I was Unit Guard Commander. I had a paper on which the men signed their names when they reported. I turned it into the Guard Room when I was relieved. I did not see the accused either that night or in the early part of the following morning.

CROSS EXAMINATION

I did not have a list of the personnel undergoing F.P. There is nothing in Guard Standing Orders Concerning personnel under F.P. to my knowledge. I believe it is a weekend arrangement.

COURT

I was in the Guard Room personally. I received the passes and had the defaulters sign the list as they reported to me at 2200 hrs. I didn't know the defaulters were to report until the first one actually came in.

D3
Bnl

THIRD WITNESS

H-26005 S.S.M. Holliday H.B., 12 C.B.R.Bn., having been duly sworn states;

I recognize the accused as Tpr Grant. Tpr Grant reported to me at Coy office shortly after 1530 hrs 9 Jul 44. Previous to this I made a number of tours of the lines, I did not see Tpr Grant. When Tpr Grant reported to me he was sober and properly dressed.

E3
DMC

Plea For Mitigation of Punishment

1. The evidence on this charge shows a lack of supervision of troopers under going F.P. which is a temptation to them.

2. His Crime Sheet shows no detention - bigest crime A.W.L. 1 day 8 hrs all in nearly 4 years service in this country.

3. For his crime he has already spent 11 days in detention for which he automatically loses 11 days pay. This should be enough for 17 hrs A.W.L.

Exhibit. A

DRC.

SUMMARY OF EVIDENCE

IN the case of

D.81972 Tpr Grant, W.H., 58 Coy, on the strength of
12 Cdn Base Rft Bn, Canadian Army Overseas.

BY DIRECTION OF THE COMMANDING OFFICER EVIDENCE IS TAKEN ON OATH.

First Witness
For The
Prosecution: H.77513 Sgt Buckwold, H.K., 57 Coy, 12 C B R Bn,
being duly sworn states:

I was N C O in charge of Unit Guard on 8 July 44. As such I took the names of the defaulters of 12 Bn who reported in to the Guard Tent at 2200 hrs. The accused's name was not signed on the list, and I am positive he did not report in at that time. I do not think I have ever seen the accused until now.

H K Buckwold

H.77513 Sgt Buckwold, H.K.
12 Cdn Base Rft Bn

THE ACCUSED DECLINES TO CROSS EXAMINE THE ABOVE WITNESS.

Second Witness
For The
Prosecution: H.26005 S S M Holliday, H.B. 58 Coy, 12 C B R BN
being duly sworn, states:

At 1540 hrs 9 July 44 the accused reported to me in 58 Coy Office. He was a defaulter at the time of his going absent, and I placed him under close arrest, immediately upon his return.

H B Holliday

H.26005 S S M Holliday, H.B.
12 Cdn Base Rft Bn

THE ACCUSED DECLINES TO CROSS EXAMINE THE ABOVE WITNESS.

The Accused Was Cautioned As Follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you may give will be taken down in writing and may be given in evidence".

THE ACCUSED DECLINES TO MAKE ANY STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

In the field
11 July 44

N C Mulloch

(N.C. Mulloch) Lieut, R.C.A.
12 Cdn Base Rft Bn,
(Officer detailed to take
down Summary of Evidence).

Exhibit B
2 Mc

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
D.81972	Tpr.	GRANT W.H.	12 Cdn Base Rft Bn.

1. The following is a fair and true summary of the entries in the regimental ~~and ...~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment
For A.A. Sec. 15(1)	4 times	12 times
For A.A. Sec. 40	2 times	3 times
For A.A.Sec 24 (?)	2 times	2 times
For A.A.Sec 11	------ times	2 times
For ~~xxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of July.1944

(L.B.Skinner) Capt. Adjt.12C B R Bn.

To The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years.

In the rank of _____ years.

In the rank of _____ years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, explanation in the case of a trial by field general court-martial the information may be collected from such oneself as are available and the paragraphs concerned amended accordingly.)

CERTIFIED TRUE COPY Exhibit C

First Sheet Destroyed 10 Oct. 40 on completion of six months service

No D 81972 Name Grant W.H. | Sqn, Battery, or Company | Corps CAC | Date of enlistment 10 Apr. 40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove	5 Jan 41	Pte		WOAS.AWL from 2359 hrs 3 Jan 41 to 2000 hrs 5 Jan 41 Absent 1 day 20 hrs 1 min. Sec 15(1)A.A.	CSM.Hogur	Admonished	8 Jan 41	Major M Forget	Forfs 2 days pay
Guillemonte	5 Mar 41	Pte		WOAS. AWL from 2230 hrs to 2330 hrs 5 Mar 41 Absent 1 hr.	L/Cpl Tuesnel	2 days C.B.	6 Mar 41	Lieut. Hogur	
Guillemonte	23 Apr 41	Tpr		WOAS AWL 2230 hrs to 2320 hrs Absent 50 mins Sec 15 (1) A.A.	Cpl Cardinal	7 days C.B.	24 Apr 41	Major C.A.Lynden	
Aldershot	17 July 41	Tpr		WOAS AWL from 0600 hrs 17 July 41 to 0930 hrs 17 July 41 absent 3 hrs 20 mins.	Cpl Canning	14 days C.B 5 days pay	18 July 41	Lt-Col C.C. Mann	
In the Field	2 Feb 42	Tpr.		WOAS neglect to the pred. etc. using a W.D. vehicle without permission Sec 40 A.A.	Cpl Smith H. W. Sgt Walthe	28 days F.P.	6 Feb 44	Lt-Col F.A. Vokes	Forfs 28 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	20 July 42	Tpr		WOAS. AWL from 2230 hrs to 2330 hrs 20 July44 absent 1 hrs Sec 15 (1) A.A.	L/Cpl Johnston Cpl Bucholtz	3 days C.B.	22 July 42	Capt. A.F. Buchan	
In the Field	11 Aug 42	Tpr		WOAS AWL 2359 hrs 11 Aug 42 to 0810 hrs 12 Aug 42 Absent 8 hrs 11 mins.	SSM Allison A.M.	5 days C.B.	13 Aug 42	Capt D.B. Francis	Forfs 1 days pay
In the Field	8 Aug 42	Tpr		WOAS driving to an excess rate of speed in a W.D. vehicle Sec 11 A.A.	L/Cpl Harren L/Cpl Geddes	14 days F.P.	14 Aug 44	Major A.A.Ballachey	
In the Field	13 Oct 42	Tpr		WOAS neglected to wear his respirator SEC 11 A.A.	Sgt Curtis	3 days C.B.	14 Oct 42	Major A.A. Ballachey	
In the Field	27 Oct 42	Tpr		WOAS AWL from 2230 hrs 27 Oct 42 to 0130 hrs 28 Oct 42 Absent 3 hrs Sec 15 (1) A.A.	Cpl O'Connor	7 days C.B.	28 Oct 42	Major B.M.Alway	Forfs 1 days pay
In the Field	19 Dec 42	Tpr		WOAS AWL from 2359 hrs 19 Dec 42 to 2359 hrs 20 Dec 42 absent 1 day Sec 15 (1) A.A.	Sgt Clarke	Admonished	23 Dec 42	Lt-Col P.A. Vokes	Forfs 1 days pay

MFM 6
(AFB 122)
40/P&S/128 (34388)

No | Name | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	20 Nov 43	Tpr		WOAS Conduct etc. in that he was apprenhended by the Military Police at Portsmouth without a pass A.A. Sec 40	Doc'y	7 days C.B.	9 Dec 43	Major A.A. Ballachey	
In the Field	18 Dec 43	Tpr		WOAS AWL from 2359 hrs 18 Dec 43 to 0800 hrs 19 Dec 43 (Total time absent 8 hrs 1 min A.A. Sec 15(1) A.A.	L/Sgt Vandruff	7 days C.B. 7 days pay	20 Dec 43	Lt-Col F.A.Vokes	1 days pay F R & I 149 (1) a
In the Field	1 Jan 44	Tpr		WOAS Losing by neglect in that he lost his hat badge valued at £ 0-S-0-4½ A.A. Sec 24(2)	Doc'y	Admonished	7 Jan 44	Lt-Col F.A. Vokes	Placed under stop. of pay to make good loss

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	12 Feb 44	Tpr		WOAS Conduct etc. in that he while driving a W.D. vehicle became involved in an accident A.A. Sec 40	Doc'y	14 days C.B. 14 days pay	15 Feb 44	Lt-Col P.A.Vokes	
In the Field	23 May 44	Tpr		Sec 15(1)A.A. WOAS AWL from 1700 hrs 23 May 44 to 1000 hrs 25 May 44 (1 day 23 hrs)	Lt Cowling Sgt Melcombe S/Sgt Gardiner	14 Days F.P.) 14 days pay))	3 Jun 44	Lt-Col A.C.Hood	Forfs 14 days pay F R & I 149(1)c
In the Field	25 May 44	Tpr		Sec 24 (2) A.A. WOAS Losing by neglect 1 blanket value £2-26-0	)))		3 Jun 44	Lt-Col A.C. Hood	Auto.forf 2 days pay F R & I 149 (1) a
In the Field	25 Jun 44	Tpr		Sec 15 (1) A.A. WOAS AWL from 0700 hrs 25 Jun 44 to 2330 hrs 26 Jun 44 (1day 16 hrs 30 min.	Sgt Gibson Sgt Ford	28 days F.P. 28 days pay	27 Jun 44	Lt-Col A.C. Hood	Forfs 28 days pay F R I 149 (1). b Forfs 2 days pay F R & I 149(1) a
In the Field	6 July44	Tpr		SEC 15(1) A.A. AWL from 1345 hrs 6 July44 to 1600hrs 6 Jul44(4hrs 15 min	L/Cpl Keddy L/Cpl Schmit SSM Halliday	7 days F.P. 8 July 7 days pay 44		Lt-Col A.C.Hood	

CERTIFIED TRUE COPY J.B.Skinner (J.B. SKINNER) CAPT. ADJT 12 CDR Bn, OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT

LIST OF WITNESSES

in the case of:

D.81972 Tpr Grant, W.H.

For The Prosecution:

1. Sgt Buckwold, H.K.
   12 Cdn Base Rft Bn

2. S S M Holliday, H.B.
   12 Cdn Base Rft Bn.

For The Defence:

NIL

(L.B. Skinner) Capt, R.C.A.

18/7/44

Officers attending F.C.C.M.
for Instruction

N. C. MALLOCH	LIEUT	12 BN.
L. W. LEWIS	LIEUT.	~~Lo Coy~~ 12 Bn
H. S. THOMPSON	Lieut.	~~Lo Coy~~ 12 Bn
L. W. ANDERSON	Lieut	12 Bn
M. J. FRASER	Lieut	12 Bn
G. HOULE	Lieut.	12 Bn.
M. VIMINITZ	Lieut.	12 Bn

D M Cooper Maj.

CC-32
GNR GRANT W.J

CC-32

Robinson Major

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 2 Cdn Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ PCT

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint ---~~

~~*(1. Three Officers to form the Court.)~~ PCT

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

Proceedings Reviewed

RECEIVED 20 APR 1943 Legal Branch Cdn. Corps.

(92)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.F.M. Robinson	3 Cdn LAA Regt

Members.

Rank.	Name.	Regiment.
Capt.	J.L. Dreary	4 Cdn Fd Regt
Lieut	E.H. Jater	6 Cdn Fd Regt
Waiting Member Lieut	D.F. Burrows	6 Cdn Fd Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Engineer

Commanding C.R.A., 2 CDN. DIV.

Convening Officer

SCHEDULE.

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D118181 Gunner William Joseph GRANT 4 Cdn Fd Regt, RCA	FIRST CHARGE A.A. Sec 15(1) Absenting himself without leave. (See Charge Sheet)	Guilty	guilty to undergo 90 days detention ~~Forfeiture [illegible]~~ ~~FIRST [illegible]~~ 12 Apr 43 E.M. Robinson Major	Confirmed P.C. Dees Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) P.C. Dees (P.C. Tees) Brigadier Commanding 2 Cdn Div Arty, Convening Officer (e)

(Signed) E.M. Robinson Major 3rd LT AA Regt RCA President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(~~4. The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 12th day of April 1943.

E.M. Robinson Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

* See footnote (b) on page 702 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) PCD

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 15th day of Apr 1943.

P.C. Dees
Confirming Officer. (P.C. Tees) Brigadier C.R.A. 2 Cdn Div.

Promulgated and extracts taken in the case of Gnr. H.J. Grant

(a) (Dated) 16 ~~[illegible]~~ Apr 43. (Signed) Lorilliard Newby

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2
Lt M Robinson
Maj

CHARGE SHEET

The accused, D116181 Gnr Grant, William Joseph of the 26th Fd Bty, 4 Cdn Fd Regt, R.C.A., a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

W.O.A.S. "ABSENCE WITHOUT LEAVE", in that he, In the Field, on 18 Mar 43 did absent himself without leave from 2300 hrs 18 Mar 43 until returning at 1310 hrs 5 Apr 43. Absent 17 days, 14 hrs, 10 min.

8 day of Apr 1943
In the Field

William R. Lewis
(W.E. Fleury) Lt.-Col.
Commanding Officer
4 Cdn Fd Regt, R.C.A.

9 day of Apr 1943
In the Field
To be tried by F.G.C.M.

R C Dees Brigadier
C.M.A. 2 Cdn Division

MEDICAL CERTIFICATE (K.R.(Can) 557) M. E. H. Robinson Maj

I certify that I have this morning examined No. D118181 Cnr Grant, W.J.

of 26 Bty, 4 Cdn Fd Regt, RCA and, that in my opinion

he is fit to undergo trial by Court-Martial.

Station In the Field

Date 12 Apr 43

R. Cheney Capt

Medical Officer

B2 H.M. Robinson Maj.

CHARGE SHEET

The accused, D116161 Gnr Grant, Willian Joseph of the 26th Fd Bty, 4 Cdn Fd Regt, R.C.A., a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

W.O.A.B. "ABSENCE WITHOUT LEAVE", in that he, In the Field, on 18 Mar 43 did absent himself without leave from 2300 hrs 18 Mar 43 until returning at 1310 hrs 5 Apr 43. Absent 17 days, 14 hrs, 10 min.

William R. Fleury

(W.R. Fleury) Lt.-Col.
Commanding Officer
4 Cdn Fd Regt, R.C.A.

8 day of Apr 1943
In the Field

9 day of Apr 1943
In the Field
To be tried by F.G.C.M.

R.O. Dees Brigadier
C.R.A. 2 Cdn Division

I desire the services of Lt. Cameron, if he is available.

W. J. Grant

In the Field
7 Apr 43

MEDICAL CERTIFICATE (K.R. (Can) 557) M. E.H. Robinson Maj'r

I certify that I have this morning examined No. D118181 Gnr Grant, W.J.

_____ of 26 Bty, 4 Cdn Fd Regt, RA and, that in my opinion

he is fit to undergo trial by Court-Martial.

Station In the Field

Date 12 Apr 43

R. Cherry Capt

Medical Officer

2. The method does not claim to give the exact gun data to ensure a hit with the first round. Its use [illegible] is rather to avoid waste of ammunition, by ensuring that the opening round of a shoot is close enough to the target to make sure of its being observed and to enable fire to be corrected quickly on to the target.

In unmapped country, or in country where observation is particularly difficult, the method should save both time and ammunition in addition to allowing surprise to be achieved more easily.

3. The method can be used equally well with ground bursts instead of air burst, provided that there is suitable open country on which the percussion rounds will be observed from both posts.

4. The procedure to be followed is laid down in an addendum to "Flash Spotting Training Pamphlet No. 2" (in preparation), and all observation

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at 2Bty, 4 Cdn Fld/Bgt. H.Q. on the 12th day of April 1943 by order of Brigadier P.C. Tees Commanding Royal Canadian Artillery, 2 Can/Div. dated the 8th day of April 1943.

President.
Major E.F.N. Robinson, 3 Cdn Lt.AA.Regt.

Members.
Capt. J.L. Drewry, 4 Cdn Fld Regt.
Lieut. E.H. Jater, 6 Cdn Fld Regt.

Trial of* D118181 Gnr. Grant, William Joseph. 4 Cdn Fld Regt., R.C.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut. L.M. Harvey, 4 Cdn Fld Regt.

Counsel or defending officer† Lieut. A.J. Cameron, 4 Cdn Fld Regt.

At 1130 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. "No, Sir"

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9670)
B.Q. 1772-39-224

B

The President, members and [redacted] are duly sworn.

[redacted]

Charge-Sheet

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

"Guilty" *Answer.*

[redacted]

Answer.

[redacted]

Answer.

[redacted]

Answer.

The accused having pleaded Guilty to the First charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~[illegible]~~] [illegible]

The accused D118181 Gnr. Grant, William Joseph.
4 Cdn Fld Regt., R.C.A.
is found guilty of Absence without Leave.

*The summary (or abstract) of evidence is read, marked "L" and , signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. ~~[illegible]~~ [illegible]

"No, Sir."

[~~or hands in a written statement, which is read, marked ——, signed by the President, and attached to the proceedings.~~] [illegible]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

"No, Sir"

Answer.

Evidence as to character.

Closing Address by Defendign Officer.

I was Troop Leader of "P" Troop when I first came to the Regiment in July 1942. At that time Gnr. Grant was a signaller in the troop. While I was with the troop I found Gnr. Grant to be a conscientious and willing worker, with no crimes to his discredit while I was there.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*~~The Court being reopened, the accused is again brought before it~~

Lieut L. M. Harvey, Prosecutor is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness* AFB 296 + MFM6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked Z, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer* yes

Not Cross-examined by the accused.

Illustration.—If by reason of the nature of the crime of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer* yes (see page DD)

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused to undergo 90 days detention. ~~Forfeiture of 18 days pay FACT [illegible]~~ EMR Sentence.

E F M Robinson Major

L. A.N. Robinson Major

Summary of Evidence in the case of No D118181 Gnr Grant W.J. 26 Field Battery 4 Cdn Field Regt, a soldier of the Canadian Army Overseas. The C.O. directs that the Evidence be taken on Oath. The accused is informed of his rights.

First Witness for the Prosecution: A17192 Bdr Urie H.D. having been duly sworn states.

"Sir on the night of March 18th, 1943 as Orderly NCO of Fox Troop I called Tattoo roll call at 2300 hours and found gunner Grant absent. This was telephoned in by myself to the Battery orderly Sgt.

The accused declined to cross examine.

H. Urie Bdr.

Second Witness for the prosecution: C18506 L/Sgt Crossett S. having been duly sworn states:-

"I am No 1 B Sub Fox Troop 26 Bty. Gnr Grant is a gunner in my sub. On calling the roll at 0830 hours March 19, 1943 Gnr Grant W was absent and has been absent on all troop parades since

that time.

The accused declined to cross examine.

S. Everett

Third Witness for the prosecution:-

B914 9 Bdr Cronk. M.W. having been duly sworn states:-

On the 5th April 1943 I was Battery guard commander. At 1400 hours Gnr Grant reported in to me. He was sober and properly dressed.

The accused declined to cross examine

W.K. Cronk Bdr.

The accused having been duly cautioned in accordance with RP 4F says.

"I don't think I will"

W. J. Grant

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 compiled with.

L. Harvey Lt.

Officer detailed to take Summary

In the Field
7 April 1943.

[illegible] Robinson Major

Z D H Robinson Major

(Substitute for AFB 295)
or MFB 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D118181 NAME Grant, W.J. UNIT 26 Bty, 4 Cdn Fd Regt, RCA

AGE 22 MARRIED OR SINGLE Single NO. OF DEPENDENTS Nil

DATE OF ATTESTATION 17 Sep 1940

CIVIL --- MILITARY 7 days HOSPITAL --- TOTAL 7 days

DATES OF PROMOTIONS, APPOINTMENTS & DECONFIRMATION OF RANK, IF ANY

A CERTIFIED TRUE COPY OF THE M.F.T. 5 MUST ACCOMPANY THIS FORM

L Harvey Jr
(Officer Ofc Records)

4 Cdn Fd Regt, R.C.A. UNIT

Dated at In the Field
This 12th day of April 1943
(To be dated and signed as of date of trial)

M.F.M. 6
(A.F.B. 178)
37834 7-41 (1219-20)
B.Q. 1772 39-1652

No. D118181 Name Grant, W.J. Sqn., Battery, or Company Corps R.C.A. Date of enlistment 23 Jan41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries from previous sheet destroyed 24 Jul 41. (Sgd) W.E. Fleury Major					
Field	9Nov41	Gnr		1. Sec 15(2) AA Failed to appear on 1330 hrs training parade	Lt Gillingham		13Nov41	Major Smart	Forf 2 days pay - FBI
				2. Sec 15(2) AA Failed to appear on 1745 hrs training parade	A/Sgt Whitcombe A/Sgt Whitcombe				

CERTIFIED TRUE COPY

L Harvey Lt.

Adjutant 4th Fd. Regt. R.C.A. C.A.

(P.T.O.)

JJJ-99

PTE GRANTHAM N W

D097 d/28Apr44

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: P-22266 Pte N.W.Grantham 1 CIRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~No percent under sentence for~~ beginning on (date) ~~etc.~~
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for two (2) years

(Sgd) ..... Judge-Advocate, if any. 22 Apr 44 Date awarded. (Sgd) F.D. Tweedie Lt Col President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 7.)

My decision on the finding(s) and sentence set forth in Part I is: I Confirm the Finding and Sentence of the Court but mitigate the Sentence to read "To undergo detention for one (1) year"

Pm I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 25 Apr 44 Commanding "B" Gp-CRU (P.R.Shields)Brigadier Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
P-22266 Pte Grantham N.W. P.P.C.L.I. - 1 C.I.R.U. Promulgated in Part II D.O. 97 dated 28 Apr 44	26 Apr 44	(H. Sharp) Commander 1 C.I.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 JJJ 27

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) (C.F. (G.S.) No. 71/608 (2864))

Convened by Order of P.R. Shields, Brigadier Comd "B" Gp CRU dated 19 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-22266	Pte	Norman Woodrow	Grantham	1 CIRU

PROCEEDINGS REVIEWED 6 May 44
R. Beaurille
Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 22 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER: NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see fums for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for words and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0730 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 44(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans. ~~The Interpreter is sworn.(1)~~ Do you object to Lt. Hulty as shorthand writer? Ans. No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans. N.A. (2)
(1. RP 102. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	F.D. Tweedie	H.Q. C.R.U.
Member	Capt	K.J. Rootes	1 C.I.R.U.
Member	Lieut	W.J. Wagstaff	1 C.E.R.U.
Judge-Advocate			
Prosecutor	Lieut	P.A Bonnellie	1 C.I.R.U.
Defending Offr	Capt.	R. Dawson	1 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (8) and fn 2 were not followed. See DI p 31)

A8. The accused before arraignment makes(s) (no) (~~a~~) plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(8), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 26, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.O.C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 68(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans N.O. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him/(them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial is resumed proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 38. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A93. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans N.O.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(*1. When several accused tried separately see RP 78(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 328, 563-566, Overseas RD 309, 232), MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The Accused, No. P-22266, Private Norman Woodrow GRANTHAM, Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, absented himself without leave from 2355 hours on the 5th day of April, 1943 until apprehended at 1100 hours on the 12th day of April, 1944.

Total Absence: 372 days 11 hours 5 minutes.

H.Sharp Colonel
(H. Sharp) Commander,
1 Cdn Inf Rft Unit

Barrosa Barracks,
Aldershot, Hants.

18th day of April, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units

22 Apr 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA5)
40/PAS/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-22266	Pte		Norman Woodrow	GRANTHAM	1 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Arpil 1944 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	F.D.Tweedie	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by	1 CIRU
A Lieutenant	to be detailed by	1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 22 Apr 44

Commanding "B" Gp-CRU

(P.R.Shields)Brigadier
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No..P22266.Private.....
..Norman.Woodrow.GRANTHAM....and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station:.....1.CIRU.....

Date:.....22.Apr.44.....

FDT

I. Salkin Capt
.....
(Medical Officer)

PLEA IN MITIGATION

Mr President and members of the court. Pte. Grantham has pleaded guilty to the charge as read, but at the same time he would like you to bear in mind that during his period of absence he did not bring discredit on the Cdn Army, but conducted himself like a normal law-abiding citizen.

In spite of the fact that, when Pte. Grantham went away there was no indication, rumour or otherwise, that his unit was leaving for overseas, and at that time they were still stationed in Eastbourne, he was under the impression that should he return he would be charged with desertion, because his unit had left for the Mediterranean theatre during his absence.

I ask the court to remember that Pte. Grantham's knowledge of Military Law consists of a brief resume of Sec's 4-44 as laid down in K.R. para 420.

Pte. Grantham has wanted to come back many times but, due to the mistaken impression he has been labouring under, he has spent many a sleepless night wondering how he could make amends.

Consider also gentlemen, his MFM 6. It will be noted that this soldier is one of the first to join in the defense of his country and except for this unfortunate incident he has a comparatively clean record. This soldier admits that he has done wrong and now he is willing to pay for his misdeed. He asks the mercy of the court and their consideration to let him atone for his mistake by letting him fight for his country.

[signature] .....(Capt)
(R. Dawson)
Defending Officer.

22 Apr. 44.

Jul.J. R3 Exhibit "A"

RECORD of the DECLARATION of a Court of Inquiry assembled In the Field on the 28thday of April 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

RECEIVED
-3 MAY 1943
Canadian Records
Action

DECLARATION

The Court Declare,
Rpat No. P22266 Pte. Grantham N.W., Support Coy
Princess Patricia's Canadian Light Infantry, illegally absented himself without
leave at 2355 hrs on 5 Apr 43
[illegible] absent and that on 27 Apr 43 he was
[illegible] to be still deficient of the following articles.

ARTICLES		VALUE £	s	d	ARTICLES	VALUE £	s	d
Badges Cap PPCLI	1			4				3
Bags Kit Universal	1		5	3			3	6½
Boots ankle, prs	1	1	1	6			15	7½
Braces, prs.	1		1	3½			1	0
Brasses, cleaning	1			2				1½
Brushes blackening	1			8				6
" polishing	1			9				6½
" button	1			8				6
" Clothes	1		1	1				9½
" Hair	1		1	1				9½
" Shaving	1		1	4			1	0
" Tooth	1			4½				3½
Greatcoats DS Patt'	39	2	8	6		1	16	4½
Combs hair	1			2				1½
Drawers woollen prs	2		10	6			7	10½
Dressings field	1		1	1				9½
Holdalls	1			9				7
Housewives	1		2	3			1	8½
Jackets sweater	1		5	7			4	2
Knives clasp	1		5	2½			3	8
Razors safety sets	1		1	10			1	4½
Towels hand	2		1	11			1	6½
Respirators Anti-Gas:								
Outfits Anti-dim	1			2½				2
Ointment AG No.3	1			9½				7½
		5	13	3½		4	3	11½

JBT

Names of President and Members:
President: (Signed) L.G. BEAMISH, Capt. P.P.C.L.I.
Members: (Signed) C.S. Frost, Lieut. P.P.C.L.I.
(Signed) L.G. BURTON, Lieut. P.P.C.L.I.

Signature of Commanding, Officer: (Signed) C.B. Ware, Major
A/Commanding, P.P.C.L.I.

CERTIFIED TRUE COPY

C.B. Ware
(C.B. Ware) Major
A/Commanding, P.P.C.L.I.
Signature of Officer having custody of original record.

M.F.B. 375

JWJ Exhibit "B"

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr.42.

I Certify that No. P22266. Rank..Pte.. Name..Grantham..N..W..

Unit No..1 C..I..R..U..was arrested at....London....(Place)

at 11.00 (hour) on 12 Apr.44. (date) and that at the time of his arrest he was wearing (xxxxxxxxxxxxxxxx) or (Civilian Clothes). Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

[signature] LIEUT.
R. J. STINSON
ADMN. OFFICER
C.[illegible]

.....Capt.
(~~[illegible]~~ Holmes[illegible]
~~Cdn. Military Headquarters.~~

JDT

- -

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Barrosa Barracks, Aldershot, HANTS, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Aldershot, HANTS,
this 18th day of
April 1944

[signature]

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Capt. R. Dawson. if he is available.

SUMMARY OF EVIDENCE

In the case of P-22266 Pte. Grantham, H.W., Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

Lieut. J.W. Jackson, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn states as follows:

I am Lieut. J.W. Jackson, Canadian Infantry Corps. I produce M.F.B.375, Certified true copy of Record of the Declaration of a Court of Inquiry purporting to be signed by C.B. Ware, Major, A/Commanding, P.P.C.L.I. which relates to the accused. This document is marked Exhibit "A" and is duly initialled by me for purposes of identification. I also produce Certificate in Accordance with P.C.2797 of 10 Apr 42 purporting to be signed by R.J. Stinson, Lieut., Admn. Officer, D.P.M.'s Branch, C.M.H.Q. which relates to the accused. This document is marked Exhibit "B" and is duly initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

J.W. Jackson Lieut.
(J.W. Jackson)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

A.L. Gollnick Capt.
(A.L. Gollnick) Officer detailed to take the Summary of Evidence

Albuhera Barracks,
Aldershot, Hants.

18th day of April, 1944.

Ex A

MFM 6
(AFB 122)
40/PAS/136 (3438)

No P22266 Name GRANTHAM, N.W. | Sqn, Battery or Company | Corps C.I.C. | Date of enlistment 1-9-39 | OC Badges | Service or Proficiency Pay | Character

Company Conduct Sheet Date of last entry in: N11 | No and date of last drunk: N11 | Period not reckoning towards freedom from extra fine: nil | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cases of previous convictions	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Previous sheet destroyed 1-3-40 on completion of 6 mos service							
FOB Wpg	6.6.40	L/Cpl		AA.40 Neglect to the prej etc. Did not remove his arms and equipment from his quarters on posting and allowed his rifle to become dirty.	CQMS Smart Pte Wilson	Reprimanded	10.6.40	Lt-Col.EM McBrayne	
FOB Wpg	24.8.41	A/Cpl		AA.15(1) AWL from 0630 hrs 24.8.41 until 0850 hrs 24.8.41 (Absent 2 hrs 20 mins) and necessitating replacement for duty assigned.	A/Cpl Manten A/CSM Scott	Reduced to permanent grade	25.8.41	Lt-Col RG Graham	Forf 1 days pay 1513(3)
Field	2.8.42	Pte		AA.15(1) AWL from 2359 hrs 2 Aug 42 to 0740 hrs 3 Aug 42 (Absent 7 hrs 41 mins)	Sgt Papineau	Forf 2 days pay PR&I.149(2)	4 Aug 42	Lt Leach	Forf 3 days pay PR&I

OPO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29.12.42	Pte		AA.15(1) AWL from 0900 hrs 29 Dec 42 till 1040 hrs 29 Dec 42 (Absent 1 hr 40 mins)	Sgt Davidson	7 days C.B.	30 Dec 42	Major JRG Sutherland	

CERTIFIED TRUE COPY CONSISTING OF ONE PAGE
DATED: 16 Apr 44

(E.L. Beetlestone) Asst Records Officer
Officer in charge of Regimental Books

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
P-22266	Private	Norman Woodrow GRANTHAM,	P.P.C.L.I.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.A.Sec.15(1) times	3 times
For	A.A.Sec.40 times	1 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~-or-~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~-or-~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~-or-~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 9 days in ~~Air Force~~ military custody, making a total of 9 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 1 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 226 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or~~ entitled to). State any ~~air force decoration~~ military ~~reward~~. Cdn Voluntary Service Medal and clasp

~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of Apr 44 [signature]

(E.L. Beetlestone) Asst Records Officer

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

EEE-64

PIE GRASS C.F

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-7585 Pte Grass. C.F. 82 Cdn Sety Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~days~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months.

(Sgd) Gordon H. Jones Judge-Advocate, if any. 23 Feb 44 Date awarded. (Sgd) H.R. Slater Major President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Kar.

(1. AA 57A. Delete if not used.)

(Sgd) E.A. Rae Brig

Date 23 Feb 44 Commanding DDMS 2 Cdn Corps Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L 7585 Pte Grass C.F.	26 Feb 44	[illegible] Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

EEE-64

CPA96 (In lieu of AFA3) 40-P & S-1696 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. E.A. Rae Comd DDMS 2 Cdn Corps dated 21 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 162, 197, fn, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-7585	PTE	Charles Frederick	Grass	82 Cdn Sety Coy RCASC

PROCEEDINGS REVIEWED

J. Sutherland Capt
27 October 1944.
REVIEWING OFFICER, 1 CDN CORPS

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 23 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnd RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding paras number herein. See back of Convening Order, CF AFS, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~attached thereto~~. (1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~ fit to undergo trial by court-martial. (1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 40(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~Reporter~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.R. Slater	2 Cdn LAA Regt RCA
Member	Capt	E.T. Nunnyman	6 Cdn A Tk. Regt RCA
Member	Lt.	C.H.S. Starling	2 S.W. Inf CIS
Judge-Advocate	Capt	G.H. Jones	HQ 2 Cdn Corps
Prosecutor	Capt	H. Morey	82 Cdn Sety Coy RCASC
Defending Offr	Lt	C.R. Reid	82 Cdn Sety Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment whereas RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) ~~not guilty~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AFA to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to all,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will thereto, or,* (iii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decsion. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence in Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ JA, ~~if JA~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(1)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No S I R (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) (1) pleads (plead) not guilty to the charge(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by von of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans
Do you intend to call witnesses on your behalf ?
Ans
Are they witnesses as to character only ? Ans
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (i), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No S I R
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans yes sir by my defending Officer (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 240. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 302, 230, 583-586, Overseas AO 209, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CHARGE SHEET

The accused, L 7585 Pte Grass, Charles, Frederick, 82 Cdn Artillery Company RCASC, a soldier of the Canadian Army Overseas, is charges with:-

WHILST ON ACTIVE SERVICE

First Charge
A.A.Sec
15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,
in the Field, on 30 Jan 44 did absent himself without leave from 1700 hrs 30 Jan 44 to 0930 hrs 9 Feb 44, total time absent 9 days 16 hrs 30 mins.

Field
12 Feb 44

Remanded for trial by Field General Court Martial.

(B.L.Pryce) - Capt.
A/Officer Commanding
82 Cdn Arty Coy RCASC

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
21 Feb 44

(C. A. Rae) Brigadier
D.D.M.S., 2 Cdn Corps

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
L7585	Pte		Charles Frederick GRASS,	82 Cdn Arty Coy, R.C.A.S.C.	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Feb 44 endorsed by me, ~~for by an offr of my staff for me~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ CAR.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ CAR.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H. R. Slater	7 Cdn LAA Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	To be detailed by OC 6 Cdn A Tk Regt RCA	
A Lieut	To be detailed by OC #5 (Battle) Wing CTS	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	G. H. Jermyn	HQ 2 Cdn Corps

On Active Service in the Fd

in England (Country.)

C A Rae (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 21 Feb 44

~~Commanding~~ (C.A.Rae) D.D.M.S. 2 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. L 7585 Grass C.P.

of 82 Cdn Arty Coy RCASC *is in a* ~~good~~ *state of health,*

and fit *to undergo Trial by Court Martial.*

Medical Officer RCAMC

Station Field

Date 23 Feb 44.

M.F.B. 246
80 T A 8572

Defending Officer's Plea in Mitigation

82 CDN ARTY COY R.C.A.S.C.

I have known the accused for a considerable length of time-first with the 11th L A ARegt Pl RCASC and again with the 2nd H A A Regt Pl RCASC. During these times that he has come under my command he has been in trouble most of it, has served a lot of time in detention and has lost the greater portion of his pay. After some investigation I have found that this "crime wave", let us say, is not new, indeed it has been going on from the first day he joined the Army. Punishment does him no good whatsoever for he would, no doubt, as he has proven before, carry right on in his old rut as soon as he was released.

He has no reason for his actions, and I'M NOT saying he doesn't know what he is doing, because he does, its just that he cannot help himself. To him it's the natural thing to do, his only course. The force that drives him is something beyond deliberate malicious planning, he doesnit feel that the army is against him and he must get even. No Mr President, he is driven by something deep in his mind, which to him seems quite right, and over which he has no control at all. This man is absolutely of no use to the Army and of no use to himself. I believe that in some way he is mentally unbalanced and request that a Psychiatrist's examination be applied for as soon as possible.

O R Reed Lt.
82 Cdn Arty. Coy. R.C.A.S.C.
C.A.O.

"Exhibit A"

Copy No. 1

Summary of Evidence in the case of L 7585, Pte Grass C.F., 82 Cdn Artillery Company, R.C.A.S.C.

By direction of the Commanding Officer, Summary of Evidence is taken on oath.

1st Witness for the Prosecution

D 121580 Cpl Hampton W, 82 Cdn Artillery Company R.C.A.S.C. a soldier of the Canadian Army Overseas, having been duly sworn states:-

Sir: "I am D 121580 Cpl Hampton W, 82 Cdn Artillery Coy, R.C.A.S.C. On 30 Jan 44, in my official capacity as Administration Corporal of 82 Cdn Artillery Coy R.C.A.S.C. I had occasion to report L 7585 Pte Grass, C.F. whom I now recognize, absent without leave. Pte Grass had been given a pass from 1700 hrs 28 Jan 44 to 1700 hrs 30 Jan 44. On orders from the C.S.M. I was to see that all men who had been detailed for guards were available. At approx 1700 hrs when Pte Grass had not reported in I immediately carried out a search of the entire area but Pte Grass was nowhere to be found. I reported him A.W.L. and substituted another man to take his place on guard, at 0930 hrs 9 Feb 44 as I was going into the men's kitchen I met Pte Grass and asked him if he had reported himself back. He informed me that he had not and I immediately reported to the Orderly Room that Pte Grass had returned. I then got the R.P.Corporal who placed Pte Grass under close arrest, Sir.

Cpl H. W. Hampton

(D 121580 Cpl Hampton W)
82 Cdn Arty Coy R.C.A.S.C.

The accused declines to cross-examine this witness.

2nd Witness for the Prosecution

G 3629 Sgt Estabrooks, H. 82 Cdn Artillery Company R.C.A.S.C. a soldier of the Canadian Army Overseas, having been duly sworn states:-

Sir: "I am G 3629 Sgt Estabrooks H 82 Cdn Artillery Company R.C.A.S.C. At 1800 hrs 30 Jan 44 I was Orderly Sergeant and when mounting the Guard I noticed that Pte Grass who had been detailed for same was not present. The Guard Corporal, M 61636 Corporal Peterson W.E. informed me that he had to substitute someone else for Grass as he was A.W.O.L. since 1700 hrs, Sir.

G3629 Sgt Estabrooks H

(G 3629 Sgt Estabrooks H.)
82 Cdn Arty Coy R.C.A.S.C.

The accused declines to cross-examine this witness.

Third Witness for the Prosecution

D 26374 S/Sgt Bidner, M. 82 Cdn Artillery Company R.C.A.S.C. a soldier of the Canadian Army Overseas having been duly sworn states:-

Sir: " I am D 26374 S/Sgt Bidner,M. 82 Cdn Artillery Company R.C.A.S.C. At 1900 hrs 30 Jan 44, Sgt Estabrooks, reported to me that Pte Grass failed to report for Guard Duty and that he had substituted Pte Lauzon for him. In my capacity as acting C.S.M., I call the roll every morning and from 31 Jan 44 Pte Grass C.F. whom i now recognize failed to answer his name and I did not see him again until he reported back at 0930 hrs 9 Feb 44.

(D 26374 S/Sgt Bidner, M)
82 Cdn Arty Coy R.C.A.S.C.

M. L. Bidner

The accused declines to cross-examine the witness.

The accused was cautioned as follows:-

Do you wish to make any statement, or to give evidence, or both? You are not obliged to say anything or to give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence against you.

The accused declines to make any statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two(2) sheets was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) have been complied with.

Field
12 Feb 44

E. A. Baxter
(E.A.Baxter) - Lt.,
82 Cdn Arty Coy RCASC.

Exhibit "C"

No L 7585 Name Grass, C.F. Sqn, Battery, or Company RCASC Corps Date of enlistment 8 Jan 40 GC Badges Service or Proficiency Pay MFM 5 (AFB 1220 40/PAN/138 [illegible])

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc [illegible] Capt. Character Fair.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
On 8 July 40 this soldier completed 6 mos service and in accordance with R.O. 319 C.AS.F. (Overseas) the previous sheet, on which there were no entries, has been destroyed 9 Jul 40.									
Moor Park	6Sep41	Pte		Sec 15 (2) A.A Absent from parade	Cpl Burley	7 days C.B.	8 Sep 41	Lt. W.W.Porter	
Field	26Oct41	Pte		Sec 40 A.A. In that he did on 25 Oct 41, take without permission M.D.Vehicle C.C. 74987 Motorcycle using same for private purposes	Pte Richardson Pte Santeire L/Cpl Thornley	7 days F.P No 2	27 Oct 41	Capt. A.L. Morris	Forfeits 7 days Pay F.R.&I 449 (1) (15)
Bettingin Brks	15Nov4.	Pte		Sec 15 (2) A.A. In that he did fail to appear for Guard 5 Nov 41 after being duly warned	Sgt Sgt Holt F.J.	7 days C.B.	7 Nov 41	Lt. W.W. Porter.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Dettington Bks	16Nov41	Pte		Sections 40 Army Act. Conduct to the prejudice of good order and military discipline in that he did W.O.A.S. and while acting as a sentry in the vehicle park, ride M/C C C 75006 without authority.	Pte. Kelly	14 days F.P. No.2	21 Nov 41	A.L.Moore Capt.	Foreits 14 days pay F.R.&I. 149 (1) (b).
Dettington Bks	29Dec4,	Pte		Sec 15 (1) A.A. A.W.L. 50 Mins	Cpl Blackburn Documentary	10 days F.P.No.2	31 Dec 41	Major P.R. Beare	Forfeits 10 days pay F.R.&I. 149 (1) (b) Forfeits 2 days pay F.R.&I 149 (1) (c)
Seaford	21 Feb42	Pte		Sec 40 A.A. in that he did , at approx 1910 hrs, 21 Feb 42, take W.D. motor-cycle without proper authority using same for his personal use.	Sgt.Panlson Sgt. Holt	14 days F.P.No.2	24 Feb 42	P.R.Beuve Major	Forfeits 14 days pay F.R.&I 149 (1) (b)

Certified to be a true copy from the regimenatl books in my custody

E. Bartlett Officer Commanding
82 Cdn. Arty. Coy. R.C.A.S.C.

MFM 6
(AFO 122)
40/DASCM (2428)

NoL 7585 Name Grass C.F. Sqn, Battery, or Company RCASC Corps Date of enlistment 8 Jan 40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc [signature] Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7Apr42	Pte		Sec 9 (2) A.A.Disobeying a lawful command, in that he WOAS when ordered to go on parade at about 0800 hrs 7 Apr 42, failed to do.	L 7360 Cpl Clemenshaw L 7433 Cpl Benson F.G.W.	14 days F.P No.2	2 Apl 42	HGShephard Major	Forfeits 14 days pay FR&I 149 (1) (b)
Field	4May42	Pte		Sec 40 A.A. in that WOAS 4 May 42 he appeared on the morning parade with a very dirty rifle.	Sgt Shellard	7days F.P.No.2	7 May 42	HG Shephard Major	Forf 7 days pay F.R.I 149 (1)(B
Field	2-6-42	Pte		Sec 40 A.A.Absent 10 mins (2) on June 2 42 he did unlawfully use M/C CC 74929 for private purpose (3) Sec 40 A.A. On 1 June 42 he did without proper authority borrow another soldiers rifle	Cpl Fisher Cpl Fisher Cpl Rogers	On 4 charges awarded 28 days F.P.No.2			Forf 28 days pay FR&I 149(1)

(PTO)

contd

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-6-42	Pte		(4) Sec 40 A.A. On 2 June 42 his rifle was found in a filthy condition		Released from Detention barracks H.Downs on 12 Jan 43 sentence having expired. Remission earned under sentence Detention Barracks and Military Prisons 48 days. Commandants initials Sgd J.C.			
Field	2 1Aug42	Pte		1 Sec 15 (1) AWL 4 days 25 mins. 2 Sec 18 (4) A A Stealing Public Property in that he did 6 Aug 42 steal a revolver from the barrack room of C.Q.M.S.Clark T. the revolver being the property of C.Q.M.S. Clark,T. and cost of said revolver being £5-0-0.	Sgt Grass W.E. L/Cpl Hill C.N. CQMS.Clark T	awarded by FGCM 6 mo's detention & placed under stoppage of pay in the amount of 4s 8d for cost of apprehension and £5-0-0 for cost of revolver	FGCM 1 Sep 42 Certified correct Sgd A.L.Morris Capt.	Confirmed by COl P.R.Shields 1 Cdn Corps 2 Sep 42.	Forfs 192 days pay 181 FR&I 149(1)(b 5FR&I (1)(a) 6 FR&I (1) (c)1 Forfs 4s 8d FR&I 192 (8) Forfs £5-0-0- 158 (2.

Certified to be a true copy

from the regimental books in my custody

Officer Commanding
82 Cdn Army Coy. R.C.A.S.C.

MFM 6
(AFR 522)
40/PAN/126 (3138)

No L 7585 Name Grass C.F. Sqn. Battery, or Company RCASC Corps Date of enlistment 8 Jan 40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 3 Signature OC Company, etc [illegible] Capt. Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Apr43	Pte		Conduct to the prejudice etc., driving W.D. vehicle without authority Sec.40A.A.	Cpl Johnson	7 days C.B.	10 Apr 43	Major J.B.Macaulay	
Field	26May43	Pte		Absent without leave failed to appear on a parade Sec 15 (2)	A/Cpl J.Panton	7 days C.B.	29 May 43	Major J.B.MacAulay	
Field	31 May43	Pte		A A Sec 22 A A Sec 15(1) AWL from 1800 hrs 31 May 43 until 0930 hrs 6 Jun 43 (absent 5 days 15 hrs 30 mins)	Documentary	120 days Det	15 Jun 43	FGCM Confirmed by CCRA 1 Cdn Corps Promulgated Major J.B.MacAulay	Remission of 60 days.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26Nov43	Pte		A A Sec 15(1) in that he did absnet himself without leave from 2245 hrs 26 Nov 32 to 0700 hrs 27 Nov 43 T.T.A. 8 hrs 15 mins.	B 94840 Cpl Foulkes	Forf 1 days pay FR&I 149(1) (a) Forf 7 days pay FR&I 149 (2)	27 Nov 43	Capt A.L.Moore	
Field	1 Dec 43	Pte		Absent without leave WOAS in that he in the field on the 1 Dec 43 did absent himself without leave from 2245 hrs 1 dec 43 to 0800 hrs 3 Dec 43, T T A 33 hrs 15 Mins. A.A.Sec 15 (1)	Cpl Leavitt Cpl Burke Sgt Sanofsky	Forf 2 days pay FR&I 149 (1)(6) forf 12 days pay FR&I 149(1)(a)	3 Dec 43	Capt A.L.Moore	Capt A.L.Moore
Field	28 Dec 43	Pte		A A sec 15 (1) AWL 1400 hrs 20 dec to 1830 hrs 23 Dec 43 Absent 3 days 4 hrs 30 mins.	Sgt Barkley	28 days detention	28 dec44	Major C.O. Mellit	Forf 4 days pay 148 (1) (a) 28 days 149(1)(c). Total forf 32 days pay stoppages 8/FR&I 172(8)a

Certified to be a true copy
from the regimental books in my custody

Officer Commanding
81 Can. Arty. Coy. R.C.A.S.C.

Exhibit "B"

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L 7885	Pte	Grass, C.F.	11 Cdn Arty Coy R.C.A.S.C.

1. The following is a fair and true summary of the entries in the [illegible] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A.15 (1)	6 times	7 times
For A.A.40	1 times	8 times
For	times	times
For	times	times

—Number of instances of gallantry or distinguished conduct Nil

or,

[illegible]

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [illegible]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [illegible] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 3 days in military custody, making a total of 3 days in custody, of which None days were spent in hospital.

5. The present age of the accused according to his [illegible] attestation paper is 23

6. The date of his [illegible] attestation specified in his [illegible] attestation paper 8 Jan 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 1 month

8. The accused is entitled to reckon 4 yrs 1 month service for the purpose of determining his pension, etc.

9. The accused ~~is in possession of or entitled to~~ [illegible] military [illegible] is military in possession of ~~or entitled to~~ State any [illegible] military decoration or reward. The Cdn Voluntary Service Medal & Clasp.

10. [illegible]

11. [illegible]

[illegible]

[illegible] dated [illegible]

12. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number L 7586 Rank Army Pte

Name Grass, C.F. of 82 Cdn Arty Coy R.C.A.S.C. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	1 Sep 42 Field	Sec 15 (1) A.A. (AWL) Sec 18 (4) A.A (theft of public property)	Awarded 6 mths detention and placed under stoppages of pay in the amount of 4sx 8d for cost of app. and £5-0-0 for cost of revolver	
F.G.C.M.	15 Jun 43 Field	Sec 15 (1) A.A. (AWL)	120 days det.	Remission of 60 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 day of Feb 44 [signature] Officer Commanding 82 Cdn. Arty. Coy. R.C.A.S.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

GG-79

PTE GRASS C.L.

GG 79

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 11th day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*(I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—)~~

24 Jun 43

(121)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.H. Lowe	32 Cdn Recce Regt (RMR)

Members.

Rank.	Name.	Regiment.
Captain	A. Hutchison	11 Cdn Fd Security Sec HQ 1 Cdn Corps
Captain	S. Beatty	1 Cdn Corps Def Coy (Lorne Scots)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E. A. McCusker (E.A.McCusker) Brigadier

Commanding D.D.M.S. 1 Cdn Corps

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-7585 Private C.L. GRASS 82 Cdn A.A. Bde Coy, R.C.A.S.C.	First Charge A.A. Sec 22	Guilty	Guilty of the alternative charge 120 days Detention	I confirm the finding but remit only 90 days of the sentence J.H.P.Vien
	Second Charge A.A. Sec 15(1)	Guilty		
	Third Charge A.A. Sec 15(4)	Not Guilty	Not Guilty No Prima Facie Case R.P.A.(cold)	
	(as per charge sheet attached)		J.H.Stone Major 15 June 43.	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) E.A. McCusker (Signed) J.H.Stone Major
(E.A.McCusker) Brigadier
Commanding D.D.M.S. 1 Cdn Corps — *Convening Officer (e)*
32 Cdn Recce Regt RMR — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 14th day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses

*Omit if not applicable.
~~*3. The Interpreter.~~ N/A
~~*4. The officers under instruction~~ N/A

were duly sworn.

Signed this 15th day of June 1943.

J.H.Stone Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ~~day of~~ 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 17th day of June 1943.

E.L.M.Burns Brigadier
Confirming Officer. 1 Cdn Corps

Promulgated and extracts taken in the case of

(a) (Dated) 21 June 1943 (Signed) J.H.Stone Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33579) 01.44178-900 10,000 2-43 A.H.Q. W.118. Gp.688

Charge Sheet

The accused L-7585 Pte. Grass C.L.
82 Cdn A.A.Bde Coy RCASC
a soldier of the Canadian Army Overseas
is charged with:-

Whilst on Active Service

First Charge
A.A. Sec.22

WHEN IN CONFINEMENT ESCAPING,

in that he,
in the field at 1800hrs 31st May 43 when in confinement in unit area escaped.

Second Charge
A.A. Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,
in the field,did absent himself without leave from 1800 hrs 31st May 1943 until put under close arrest at 0930 hrs.6th June 1943.Total time absent 5 days 15 hrs. and 30 mins.

Third Charge
A.A.Sec 18 (4)

STEALING PUBLIC PROPERTY,

in that he,
in the field,during the night of June 4th did steal a pistol,S & W #833510 .38 calibre a holster and web belt, public property,on charge to B-85899 Pte Paisley M.M. while at the Men's Mess at Hayes, Kent.

Field
9 June 43

(W.S.MacAulay) Major
Officer Commanding,
82 Cdn A.A.Bde Coy RCASC

B2.

To be tried by Field General Court Martial.

(E.A.McCusker) Brigadier
D.D.M.S. 1 Cdn Corps

Field,
11 JUN 43

A.H. Howard, Major
32 Cdn Recce Regt (RMR)

MEDICAL OFFICERS CERTIFICATE

A. H. Ford, Major

K R (Can) Para 557

I certify that I have this morning examined No L 7585

Pte GRASS, C.F. of 82 Cdn AA Bde Coy ASC and in my opinion he is

Fit
~~Unfit~~ to undergo trial by court-martial.

Station 16 C.G.H.

Date June 14, 1943

[illegible]
Medical Officer

R. Cummings Capt
Sec.

A. H. Lowe Major

MEDICAL OFFICERS CERTIFICATION

K.R. (Can) Para 557

I certify that this morning examined No L 7585 Pte

GRASS, C.F. of 82 Cdn A A Bde Coy R C A S C and in my opinion he is

fit
~~unfit~~ to undergo trial by court martial.

Station 16 C G.H

Date 15-Jan-43.

[illegible]
Medical Officer

R G Cummings Capt

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at HQ 32 Cdn Corps Tps Coy RCASC on the 14th day of June 1943 by order of Brigadier E.A. McCusker, D.D.M.S. 1 Cdn. Corps

Commanding

dated the 12th day of June. 1943

President.

Major A.H. Lowe, 32 Cdn Recce Regt (RMR)

Members.

Capt. A. Hutchison, 11 Cdn Fd Security Sec

Capt S. Beatty 1 Cdn Corps Def Coy (Lorne Scots)

~~, Judge Advocates~~ [illegible]

Trial of* 4 75 85 Pte. Grass, Co 4 82 Cdn A.A. Bde Coy RCASC

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that — is not available to serve owing to~~ [illegible]

~~, waiting member takes his place as a member of the Court.~~ [illegible]

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. B.L. Price, 82 Cdn A.A. Bde. Coy RCASC

Counsel‡ or defending officer† Lt. E.A. Baxter 82 Cdn AA Bde Coy RCASC

At 1030 hrs clock the Trial commences.

The order convening the Court is read, and is marked / , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16638/78. 35,000 sets. 6/40. K. & H., Ltd. G657/11. Form A-9/55.

B

The President, 2nd members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 4(6) (B) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.* Guilty.

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Guilty *Answer.* Guilty

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Not Guilty. *Answer.* Not guilty.

~~Are you guilty~~ or not guilty of the fourth charge against you, which you have heard read ? *Question.*

~~Answer.~~

The accused having pleaded Guilty to 1st & 2nd charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

Instruction. (See R. P. 39 (A).)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

Trial of No. 4. 7585 Pte Grass L. L.

Prosecution - Capt. B. L. Price. 8 L Cdn. A.A. Bde Cay R.C.A.S.C.

Defending officer - Lieut E.A. Baxter 8 L Cdn A.A. Bde Cay. R.C.A.S.C.

Prosecution applies for adjournment of 24 hrs. on grounds that their Chief witness B 85899 Pte Hainley M. M. 11 Cdn L.A.A. Regt Pl. R.C.A.S.C. is under medical care

adjournment granted by court at 1100 hrs. 14th June 1943. Till 0900 hrs. 15 Jun-43.

Court assembled at 1920 hrs 15 June 1943.

First Witness for Prosecution.

B. 85899 Pte Daisley, M. M. 11 Cdn Light. A.A. Regt. Pln. R.C.A.S.C. being duly sworn states:-

~~On Saturday morning~~ On the night of 4th June I went to bed in Mess Hall at Hayes, Kent (Coney Hall) and undressed, wrapping my revolver in my tunic. ~~On~~ The next morning on dressing I found that my revolver was missing. I made enquiries upstairs in the kitchen but noone there knew anything about it. One of the cooks pointed out to me that Pte Grass was missing. Not being able to find Grass in the building I dressed and went out around town looking for him. I returned to mess hall not having found him. I then visited my

girl friend and later notified the Civilian Police ~~by telephone of the theft~~. at a local Police Box. They advised me to go into Bromley. I did so and gave them full details at the Bromley Police Station. I met Pte Grass in Bromley and asked him if he knew about my missing revolver, - but he denied any knowledge. Talking to Grass he told me later where I would find my revolver. I boarded a bus and returned to Long Hall and went to the place suggested by Pte Grass and found my revolver. I later advised Police by telephone of the finding of the revolver.

Examined by Prosecuting Officer.

Q. The troops in hall were Dear Party troops

A. That is right, Sir.

Q. Who slept next to you on the night of 4/5 June.

A. Pte Grass.

Q. Was there anyone else there.

A. Pte Duffey and Pte Hale

Q. Who was there in the morning.

A. Ptes. Duffey and Hale were still in Mers Hall

Q. Who was missing.

A. Pte Grass

Q. What else did you lose beside the revolver.

A. £2:10:-

Q. Did you get your money back when you found the revolver.

A. No. Sir.

Q. Is it true that your girl friend was with you when you met Pte Grass in Bromley.

A. Yes.

Q. Why did you accost Pte Grass.

A. I was told that Pte Grass was A.W.L. and therefor wished to question him.

Q. Have you had personal knowledge of Grass in the past.

A. No.

Q. Where did you find your revolver.

A. In a little room at the back stairs of the Mess Hall under a couple of boards.

Q. Did Pte Grass give you any reason why he would know where your revolver was.

A. He told me in Bromley that he took the revolver, but stated he had not taken it out of the building.

Grass recommended by Defence.

Q. In relation to your bed where was the table where you left your clothes for the night.

A. Krajian attached showing this.

4

Q. Could any outsider enter the building where you slept.

A. They could

Q. Do you know of civilians being in the Mess Hall Building.

A. There is a factory in the lower part of the building in which civilians are employed.

Questioned by Court.

Q. You first of all say that Pte Gross denied knowledge then you say he told you where to find it. Were you talking to him long

A. About 4/5 minutes.

Second Witness for Prosecution. M.42009 Sgt Clarke, J.H. 82 Bn A.A. Bde. Corp. R.C.A.S.C. being duly sworn states:— On Saturday 5 June I was in Hyes, Kent as N.C.O. in charge of Rear Party 82 A.A. Bde Corp. The C.I.D. office phoned the orderly room at approx. 1500 hrs reporting that Pte. Daisley had laid a complaint that he had ~~lost~~ had his revolver stolen and suspected Pte Gross. I tried to locate Ptes Gross & Daisley but could not do so. Reported this to Police ~~when they notified me that the revolver had been found. Pte Daisley told the C.I.D. officer that Pte Gross had admitted to Pte Daisley that he had taken the revolver and where to find it.~~

I later met C.S.M. Wiley and reported the incident to him. ~~He told me then that~~ He instructed me to place Pte Grass under arrest as soon as I could find him as he was A.W.L. from his platoon. I placed Pte Grass under arrest at approx. 0900 - 6th June 1943. I telephoned his unit notifying them of his arrest. He made no comments when he was arrested.

Under R.P. 40 Note (1) the Defence entered a plea of not sufficient evidence to establish prima facie case.

The Prosecuting Officer when advised of the decision of the Court to acquit the accused on the third charge (A.S. 18(4)) wished to have the following points recorded which he had pointed out to the court in rebuttal in evidence produced by Defending Officer under his plea under R.P. 40 Note 1

1. That Pte Daisley makes a sworn statement that he recovered the revolver on being told by Pte Grass where it was located.
2. That Pte Grass admitted to Pte Daisley that he had taken the revolver but not out of the building.

3. That the Grocer left himself open to suspicion by being absent in the morning of June 6th.

4. That Pte Lyons was absent without leave from his unit.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused 47585 Pte Grass, C.4.
is found guilty of First and Second Charges.

†The summary (or abstract) of evidence is read, marked 8
signed by the President, and attached to the proceedings.

Question to the accused.

Do you wish to make any statement in mitigation of punishment?

Yes No

Answer.

~~The accused in mitigation of punishment says:—~~

[or hands in a written statement, which is read, marked ~~8~~, signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

No

Evidence as to character.

I.

The Defending Officer wishes to address the Court.

~~Pte Gross has been in the Army for six years and for the first two years and a half he had a clear record. From that time on he has been a habitual offender.~~

Pte Gross enlisted in the Army 8 June 1940. and came overseas two weeks later. From that time until 8 Sept. 41 he had not had a crime. From that time on he has been a habitual offender. The main reason being that he has never been actually employed in the capacity for which he enlisted. He has became homesick "browned off" resulting in his present record. In determining sentence I would like to point out to the Court that while punishment of the same nature as has already been meted out to this man is advisable.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

[illegible]

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

~~*The Court being re-opened, the accused is again brought before it.~~

Evidence of character, &c.

The Prosecutor is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes MFB 353 and MFM6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 9/10 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes True and Certified.

~~Cross-examined by the accused.~~ [illegible]

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* Yes.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused 4 7585 Pte Grass, C.4. 82 Cdn A.A. Bde Coy RCASC. Sentence.

To 120 days detention.

[illegible], Major

15 – June – 43.

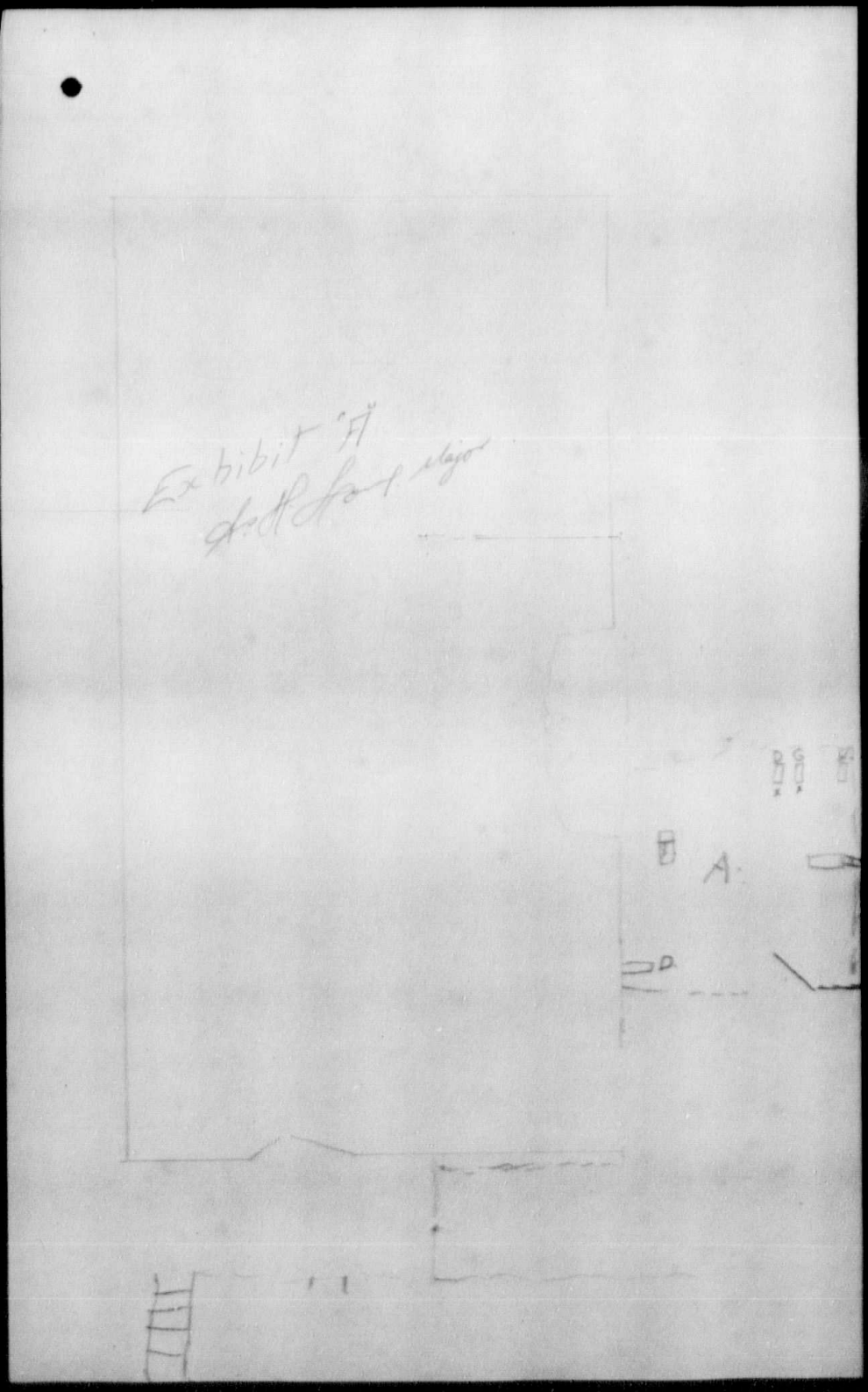
Exhibit "A"
A.
D.

Exhibit #1 attached

Field. 6 June. 43.

My name is Sgt. J.H. Clarke, M-42009. I was acting as N.C.O. i/c Rear party ,82 Cdn AA Bde Coy RCASC at 1700 hrs 5 June 43 when I received a phone call from C.I.D. Office, Becksnham, concerning the loss of a pistol revolver on charge to Pte. Daisley. I tried to locate Pte Daisley and Pte. Grass, identified by the police to me as a suspect. Neither one was to be found at the time. Through a later conversation with C.S.M. Wiley, 82 Cdn AA Bde Coy RCASC, I found that Pte Grass was A.W.L. from his unit, 11 Cdn LAA Regt. Pl. RCASC. At approximately 0900 hrs 6 June 43, I located Pte. Grass and placed him under close arrest on a charge under A.A. Sec. 15(1). I phoned Coy. H.Q. for an escort to remove Pte. Grass to Coy. H.Q. Pte. Grass made no statement to me regarding the lost revolver of Pte. Daisley.

J.H. Clarke

(M-42009 Sgt. J.H. Clarke)
82 Cdn AA.Bde. Coy RCASC. Rear Party.

Witnessed.
G. Mackinnon
(B-89139 L/Sgt. G. Mackinnon).
6th Cdn Lt.A.A. Regt. Pl. RCASC.

Exhibit "A" to my Affidavit

Field. 6 June 43.

My name is Pte. M.M. Daisley, B-85899. I belong to 11 Cdn LAA Regt. Pl. RCASC. On the night of 4 June 43, while on leave and having permission to stay at the Mens Mess while on leave, I slept in the a/m Mens Mess. On awaking on the morning of 5 June 43, I found that my money (£2-10) cash, my revolver (#833510), .38 S&W, my holster and web belt were missing. I immediately reported it to the cook in charge of the kitchen, C-33356, Pte M.J.L. Duffey. I suspected L-7578 Pte Grass, C.F. who had been sleeping next to me the previous night. I attempted to find Pte Grass, but could not locate him. I then notified the police in Bromley, Kent. They took a statement from me. On my way from Bromley to Coney Hall, I met Pte. Grass near the Gaumont Theatre in Bromley. I asked him if he had seen my revolver but he denied seeing it. I then told him that I suspected he had stolen it. He then told me where I could find my revolver. I went to the place he told me in the Mens Mess and recovered my revolver, holster and web belt. I never recovered my money. I phoned the police and told them that I had recovered my revolver. Sgt. Clarke and C.S.M. Wiley asked me for the details and I made this statement.

M Daisley

(B-85899 Pte. M.M. Daisley).
82 Cdn AA Bde Coy RCASC.
11 Cdn Lt.A.A. Regt.Pl. RCASC.

Witnessed.
G Mackinnon
(B-89139 L/Sgt. G. Mackinnon)
6th Cdn LAA Regt. Pl. RCASC.

Summary of EVIDENCE in the case of L-7585 Pte.Grass C.L. of the IIth L.A.A.Regt Plm R.C.A.S.C.

The Commanding Officer directs that the evidence be taken on oath.

First Witness A-9252 Cpl .Bateman E. having been duly sworn states:

"I am A-9252 Cpl.Bateman E..On the 31st May 1943 I was on duty as Orderly Corporal.At 1600 hrs the Coy Orderly Sgt.inquired for the accused,L-7585 Pte.Grass C.L. who had been awarded C.B. and was a defaulter, to perform duty for him. Knowing that Pte. Grass was detailed for kitchen duty,I immediately went there to notify him and found the accused to be absent from duty. I informed the Orderly Sgt. of his absence and then made a thorough search of the camp area for the accused. Pte .Grass could not be located within the area,therefore I laid the charge of breaking confinment and escaping.

At 2230 hrs when the tattoo reports were turned in,the accused was still absent. Therefore I turned in the the charge of A.W.L. "

E. Bateman

A-9252 Cpl.Bateman E.

The accused declines to cross-examine this witness.

Second Witness (Documentary) Statement by M-42009 Sgt.Clarke J.H. 82 Cdn A/A Bde Coy R.C.A.S.C. Exhibit #I attached.

" My name is Sgt J.H.Clarke,M-42009.I was acting N.C.O. i/c Rear Party 82.Cdn A/A Bde Coy R.C.A.S.C. at 1700hrs 5 June 43 ,when I received a phone call from C.I.D. Office Beckenham,concerning the loss of a pistol revolver on charge to Pte Daisley . I tried to locate Pte Daisley and Pte Grass ,identified to me by the police as a suspect. Neither one could be found at the time.Through a later conversation with C.S.M. Wiley 82 A/A Bde Coy R.C.A.S.C. I found that Pte Grass was A.W.L. from his unit the IIth Cdn L.A/A Regt Plm.R.C.A.S.C. At approximately 0900hrs 6 June 43 I located Pte Grass and placed him in close arrest on a charge under A.A. sec.15(1). I phoned Coy H.Q. Pte Grass made no statement to me regarding the lost revolver of Pte. Daisley.

Signed J.H.Clarke

Witnessed
B-89139 L/Sgt G.Mackinnon

Second Witness
Continued

I do not require the presence of this witness for the purpose of cross-examination.

L-7585 Pte, C.L. Grass

L-7585 Pte Grass C.L.

Due to the exigencies of the service, and the loss of time and the expense involved, I do not consider the attendance this witness necessary.

A.R. Mumford Lieut

A.R.Mumford Lieut.

Third Witness (Documentary) Statement by B-85899 Pte Daisley M.M. IIth Cdn L.A/A Regt Pln. R.C.A.S.C. Exhibit #2

"My name is Pte M.M.Daisley, B-85899. I belong to the IIth Cdn L.A.A. Rgt.Pl.RCASC. On the night of 4 June 43 while on leave and having permission to stay at the Men's Mess while on leave, I slept in the a/m Mens Mess. On awaking on the morning of 5th June 43 I found that my money(£2-10) cash, my revolver #8335IO .38 S.A.W., my holster and web belt were missing. I immediately reported it to the cook in charge of the kitchen, C-33356.Pte M.J. L.Duffey. I suspected L.7578 Pte Grass C.L. who had been sleeping next to me the previous night. I attempted to find Pte.Grass but could not locate him. I then notified the police in Bromely Kent. They took a statement from me ON my way from Bromely to Coney Hall, I met Pte Grass near the Gaumont Theatre in Bromely. I asked him if he had seen my revolver, but he denied seeing it. I then told him that I suspected that he had stolen it. He then told me where I could find my revolver.. I went to the place he told me in the Men's Mess and recovered my revolver holster and web belt. I never recovered my money. I phoned the police and told them that I had recovered my revolver. Sgt Clarke and C.S.M. Wiley asked me for the details and I made this statement.

Signed 'M.Daisley'

Witnessed
B-89139 L/Sgt G.Mackinnon
6th Cdn LAA Regt PL& RCASC

I do not require the presence of this witness at this time for cross examination.

Due to the exigencies of the service, the loss of time and expense involved, I do not consider the attendance of this witness necessary.

A.R. Mumford Lieut

(A.R.Mumford) Lieut.

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence yougive will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of three sheets was taken down by me in the presence and hearing of the accused and that theRules of Procedure 4 (c) (d) (e) (f) have been complied with.

A.R. Mumford Lieut.

(A.R.Mumford) Lieut.
II Cdn L.A/A Regt Pl. RCASC

Certified true copy Original
[illegible]
(A.R.Mumford) Lieut.

Name Pte. Grass G.L. | Sqn., Battery, or Company | RCASC | Corps 1st C.A.P. | Date of enlistment 8/I/40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Appeal along with Min)	By whom awarded	Remarks
On 8th July 40 this soldier completed 6 mons. service and in accordance with R.C.J.I9 CASF(OS) the previous sheet on which there were no entries has been destroyed 9th July 40.									
Moor Park Field	8/9/41	Pte.		Sec I5(2) A.A. Absent from parade	Cpl. Burley	7 days C.B.	8/9/41	Lieut.W.W	
	25/10/41	Pte		Sec 40 A.A.- in that he did on the 25/IO/4I take, without permission W.D.vehicle CC-74987 motorcycle using same for private purpose.	Ptes. Richardson Santerre L/C Thomley	7 days F.P. #2	27/IO/4I	Capt A.Morris	Frts 7 dys pay F.R.&.I.
Dettingen Bks	I6/II/4I	Pte		Sec I5(s) A.A. in that he failed to appear for guard 5/II/4I after being duly warned.	Sgt Holt F.J.	7 dys C.B.		Lt.W.W.Po	Frt.I4 dys pay
Dettingen Bks	I6/II/4I	Pte		Sec40 A.A. Conduct to the prej. good order and Military discipline in that he while acting as sentry in vehicle park did ride m/c CC75006 without authority.	Pte Kelly	I4 Days F.P. #2	20/II/4I	Capt Morris	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petti ngen Bks.	29/12/41	Pte		Sec15(1) AWL 50 min.	Cpl Blackburn Documentary	10 dys F.P #2	31/12/41	Major P.R. Beare	Forfeits 10 dys pay F.R.&.I 2 dys Pay
Seaford	21/2/42	Pte		Sec40 A.A. in that he did at approx. 1910 hrs. 21/2/42 take W.D. Motorcycle without proper authority, using same for his personal use.	Cpl. Clements Cpl Bensley	14 dys F.P.#2	24/2/42	Maj.P.R. Beare	Forf.14dys pay.
Field	7/4/42	Pte		Sec 9(2)A.A. Disobeying a lawful command in that he, when ordered to go on parade, at about 0800 hrs 7-4-42 failed to do so.		14 dys F.P.#2	8/4/42	Maj.Shephard	Forf.14 dys pay
Field	4/5/42	Pte		Sec 40 A.A. in that he WOAS, 4/5/42 he appeared on the morning parade with a very dirty rifle.	Sgt. Shellard	7 dys F.P.#2	7/5/42	Maj.Shephard	Forf.7 dys pay
Field	2/6/42	Pte		(1) Sec40 A.A. Absent 10 min. (2) On June 2 42 he did unlawfully use M/C C074929 for private purpose (3) Sec40 A.A. on 1/6/42 did, without proper auth. borrow another soldiers rifle.	Cpl Fisher Cpl Rogers	on 4 chgs awarded 28 dys F.P.#2			Forf.28 dys pay

Certified true copy of Original
M.F.M 6. (A.R. Mumford) Lieut.

No. L-7585 Name Pte Grass C.L. Sqn., Battery, or Company RCASC Corps Ist C.A.P. Date of enlistment 8/I/40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

M.F.M. 6
(A.F.B. 122)
1753M—7-41 (1910-20)
H.Q. 1772-30-1502

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2/6/42	Pte		Ctd. (4)Sec40 A.A. On 2 June 42 his rifle was found ina filthy condition.		6 mons detention and placed under stoppage of 4s8d cost of apprehension £5.0.0 cost of revolver	F.G.C.M. I/8/42	F.G.C.M. confirmed by Col.P.R.Shield I.Cdn Corps 2/8/42	Forfeits 192 days pay I&I F.R.&I. I49(b) 5 F.R.&I. I49(I)(A) 6 F.R.&I. I49(I)(C) Forfeits 4s.8d. Forfeits £5.0.0.
Field	2I/8/42	Pte		(I) Sec I5(I)A.A.-AWL 4 dys, 25 min. (2) Sec I8(4)A.A.-Stealing Public Property, in that he did, 6 thAug 42 steal a revolver from the barrack room of the CQMS Clarke T. the revolver being the property of CQMS Clarke T. and cost of said revolver being £5.0.0.	Sgt Grass L/Cpl. Hill CQMS Clarke				

Place	Date of offence	Rank	Corps or division-ance	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8/8/43	Pte		Sec 40 A.A. Conduct to the prejudice etc.driving W.D.vehicle without authority.	Cpl.Johnson	7 dys C.B.	10/4/43	Maj.MacAul	
Field	26/5/43	Pte		Sec 15 (1) A.A. Absent without leave Failed to appear on a parade	A/Cpl Panton	7 dys C.B.	29/5/43	Maj.MacAul	

A. H. Lord, Major.

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-75 5	Pte	Grass C.L.	82 Cdn A.A.Bde Coy

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. sec 40	4 times	8 times
For A.A. sec 15(1)	2 times	5 times
For A.A. sec 16(4)	1 times	1 times
For A.A. sec 9(2)	1 times	1 times

Number of instances of gallantry or distinguished conduct nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 2 days in military custody, making a total of 2 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 23 yrs 5 months

6. The date of his commission specified in his record of service is attestation paper 8th Jan 1940

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 5 months

8. The accused is entitled to reckon 3 yrs 5 months service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....

11. ([illegible]) The accused holds in the Royal Canadian Air Force the rank of [illegible] Permanent Force unit [illegible] dated [illegible] and in his regiment (or corps), the rank of [illegible] dated [illegible]

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

[illegible] Date of promotion.

In [illegible] years [illegible]

In [illegible] years [illegible]

In the rank of [illegible] years [illegible]

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number [illegible] Rank Pte Name Grass C.L. of 82 A.A.Bde Coy RCASC Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	21-8-42 Field	[illegible] IS (I) ANL Stealing Public Property A.A. Sec 18(4)	6 mons Detention	48 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of June 1943 [signature]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

VVV-74

Spr. Graton, J. S. M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 41044 TPR. GRATON J.L.M.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.S. 15(1)	GUILTY	GUILTY	
2nd A.A. S 15(1)	GUILTY	GUILTY	
3rd AA S 18(3)	NOT GUILTY	NOT GUILTY	
4th AA S 15(1)	GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ beginning on (date)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 92 days, of which 25 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR 18 MONTHS

(Sgd) ..... 3 Aug. '44 (Sgd) [signature] Lt/j.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence of the Court but remit six (6) months of the detention

~~I direct that the accused be not committed to prison or detention barracks but be released in full.~~ (1. AA 57A. Delete if not used.)

Date 6 Aug 44 (Sgd) [signature] Brig. Colonel

Commanding 1 COMMANDER 1 CDN BASE RFT GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-41044 Tpr Graton J L M	10 Aug 44	[signature] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 SEP 1944 JAG BR. C.M.H.Q.

RECORDED AT CMHQ IN AB 168, VOL 94

CPC825 (To Hdq of AFRS) 40/T Jo 8/168B (46760) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of BRIG. E.W. HALDENBY Comd 1 CDN BASE RFT GRP dated 31 JULY 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prtnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 41044	TPR.	JOSEPH LUCIEN MARCEL	GRATON	5 BN 2 CBRD.

PROCEEDINGS REVIEWED 12 Sep 44

[signature] Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 3 AUG. '44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF CT. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure where a variation in this form arises, see form for GCM in MML pp 741 to 755. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 72, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1420 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 527. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Capt. as interpreter? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	W. de L. HEPBURN	(CAC)	5 BN 2 CBRD
Member	CAPT.	T. H. WELLS	(RCA)	1 CDN REALLN CENTRE
Member	LIEUT.	G. H. HOROBIN	(CIC)	2 CDN REALLN CENTRE
Judge-Advocate				
Prosecutor	CAPT	R. D. SELLARS	(CAC)	5 BN 2 CBRD
Defending Offr	CAPT	B. G. DONCAN	(CAC)	5 BN 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (are) (a) plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 93(3), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 102. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 68(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex F, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charge(s) dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1) DLC
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114. KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement, or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Do you intend to call witnesses on your behalf ?
Ans YES DLC
Ans NO Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 395. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part II of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) DLC
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2) DLC
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3) DLC
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to produce on each anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 142, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 3049, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from custody by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

b.l.h.

CHARGE SHEET

The accused Number D-41044 Tpr Joseph Lucien Marcel GRATON a soldier of the Canadian Army Overseas, of 5 Battalion 2 Canadian Base Reinforcement Depot, is charged with:-

FIRST CHARGE
A A SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

IN THE FIELD, in Italy, absented himself without leave from approximately 2130 hrs 28 Jan 44, until apprehended at Avellino at 2100 hrs 3 Mar 44.

TOTAL Absence - 34 days, 23 hrs, 30 mins.

SECOND CHARGE
A A SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, In Italy, absented himself without leave from approximately 1900 hrs 3 Apr 44, until apprehended at Monteforte at 2030 hrs 21 Apr 44.

TOTAL Absence - 14 days, 2 hrs.

THIRD CHARGE
A A SEC 15 (1)

WHEN ON ACTIVE SERVICE, BEING WILFULLY GUILTY OF MISCONDUCT BY MEANS OF WHICH MISCONDUCT HE DELAYED THE CURE OF DISEASE

in that he

In the Field, in Italy, on or about 3 Apr 44, while undergoing treatment at the 15 Cdn C.C.S. Hospital, for recurrent V. D. C. went absent without leave from the hospital, thereby delaying the cure of the disease.

FOURTH CHARGE
A A SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, whilst in lawful custody at civil jail Avellino did absent himself without leave from about 0630 hrs 24 Apr 44, until apprehended at Torre Del Greco at about 2220 hrs 27 Apr 44, wearing civilian clothes.

TOTAL Absence - 3 days, 16 hrs.

(J. C. Tilley) Lt.-Col.,
Commanding
5 Battalion 2 C. B. R. D.

In the Field
27 Jul 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
31 Jul 44

(E. W. HALDENBY) Brigadier
Comd 1 Cdn Base Kft Gp
Cdn Army - CMF

b.h.q.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets RP 87(B).
see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/oppmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
D41044	Tpr		Joseph Lucien Marcel GRATON	5 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 Jul 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)			(Unit.)
Major	W. deC. HEPBURN (Must be named. RP 106.)	(CAC)	5 Bn 2 CBRD

MEMBERS.

(Rank.)			(Unit.)
Capt	J. H. WELLS	(RCA)	2 Cdn Reall'n Centre
Lieut	G. H. HOROBIN (Named or detailed. RP 106.)	(CIC)	2 Cdn Reall'n Centre

WAITING MEMBER.

(Rank.)		(Unit.)
Capt or Lieut to be detailed by OC 5 Bn 2 CBRD (Named or detailed, if any. RP 106.)		
~~JUDGE-ADVOCATE.~~		
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 31 Jul 44

(Signed personally. RP 105 fn 2.)

E. W. Haldenby Brigadier (Rank.)

(E. W. HALDENBY)

Commanding 1 Cdn Base Rft Gp - CMF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (AFAG (In lieu of AFAG) 46/F & S/1697 (48021))

bar[illegible]

MEDICAL OFFICER'S CERTIFICATE

(K.R. (Can) Para 557)

I certify that I have this morning examined No. D-41044 Tpr. Graton, J. of 5 Battalion 2 C.B.R.D. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station..field.....

Date.....3 August.....

F R MacRae Capt RCAMC
.....
(Medical Officer) 5 Bn 2 CBRD

15th D. Cells Proc.

Evidence of Capt. J. Balfour, RCAMC, 15 Cdn. Gen. Hospital. Duly sworn states -

D 3

Q - (Prosecutor) - Were you in charge of the V.D. ward, 15 Cdn Gen Hosp. during the period March and April?

A - Yes, I was.

Q - Do you recognize the accused as one of the patients you treated during that period?

A - No.

Q - When V.D. patients are in your ward are they fully aware of the nature of the disease they are being treated for?

A - Yes

Q - Are they aware of the length of time necessary for complete cure?

A - The time differs with individual cases. We can give an estimate of time to the patient.

Q - Would 21 days be sufficient for cure for V.D.?

A - The average time is five weeks.

Q - Would there be any way in which a patient could get word that he had been cured other than by official notification.

A - No.

Q - Will you tell us briefly what happens when a patient is notified?

A - As a general rule the man is not officially notified of discharge until he appears on a discharge parade. On my rounds I decide whether the man is or is not cured. The man is previously notified only under exceptional circumstances. In the case of soldiers under sentence the staff is always warned not to divulge to the patient the fact he is to be discharged.

Q - (Ordinary Officer) - Does the length of time to effect a cure depend upon where the disease is contracted?

A - Yes. The patient would more readily respond to treatment in England than he would in Italy.

Q - Would it be obvious to a patient that he is cured?

A - He might be convinced in his own mind a cure had been effected.

No re-examination

R.P. 83 (B) complied with

2nd Witness Proc.

Statement of Cpl. Butson, K.R., B 93697, 15 Cdn. Gen. Hospital
Duly sworn Evidence.

On the night of 3 April 44 I took over from Sgt. Baker. I was told that Tpr. Graton had been absent since 1300 hrs. that date and was still absent. I checked the ward every hour during the night and Tpr. Graton was still absent. I turned over the A.S.C. compound to Sgt. Baker on the morning of 4 April 44. I recognize the accused as Tpr. Graton, a patient in the V.D. compound at 15 Cdn. Gen. Hospital during the first few days of April.

Cross examination.

Q - How long have you been on duty at the V.D. Compound?

A - Approximately seven months

Q - Are you well acquainted with the general procedure?

A - Yes, sir.

Q - When a patient has been discharged as cured of V.D.G. or V.D.S. could he still remain in the compound?

A - Yes, up to about two days.

Q - Is a patient normally advised if his treatment has been completed.

A - Not until the day before his discharge

No re-examination

R.P. 82 (B) complied with

D 6 Tpr. Graton, having been duly sworn is questioned by the defense —

Q. - At the time you went AWL were you convinced you had been cured of V.D.G.

A. - Yes.

No cross examination

R.P. 83 (B) complied with.

The Pending officer & the prosecutor addressed the court briefly.

Exhibit: F.
Bad. Legal Maj.
Proc.

Summary of Evidence in the case of D-41044 Tpr Graton J. L. M. a soldier of the Canadian Army Overseas, 2 Canadian Base Reinforcement Depot.

The Commanding Officer directs that evidence be taken on oath.

FIRST WITNESS
For the Prosecution

A-103798 Cpl Moore M. R. of 5 Bn 2 C. B. R. D. a soldier of the Canadian Army Overseas, having been duly sworn states:

I am A-103798 Cpl Moore M. R. of 5 Bn 2 C. B. R. D. I am employed as a clerk in the Bn Orderly Room and handle all documents pertaining to Summaries of Evidence, Courts of Inquiry and Courts Martial.

I hereby produce the following documents purporting to be true copies in connection with the case of D-41044 Tpr Graton J. L. M. 5 Bn 2 C. B. R. D.

"A" Certified True Copy of Record of the Declaration of a Court of Inquiry assembled in the field on the 22 Feb 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-41044 Tpr Gratton J. L. M.

"B" Certificate of Apprehension in accordance with Army Act Section 163 (i) (jj) at Avella Prov Avellino, Italy, at approximately 2100 hrs 3 Mar 44.

"C" Part II Orders X List CAC "D" published by Cdn Section G. H. Q. 2nd Echelon AAI Order No. 27 dated 3 Apr 44.

"D" Certificate of Apprehension in accordance with Army Act Sec 163 (i) (jj) at Monteforte Avellino Prov. Italy, at approximately 2030 hrs 21 Apr 44.

"E" Certificate of Apprehension under Section 163 (i) (jj) Army Act. at Torre Del Greco at approx 2220 hrs 27 Apr 44, wearing civilian clothes.

The accused declines to cross-examine this witness.

A-103798 Cpl Moore M. R.

SECOND WITNESS
For the Prosecution:

B-93525 Sgt Baker of 15 Cdn Gen Hospital, a soldier of the Canadian Army Overseas, having been duly sworn states:

I, B-93525 Sgt Baker was in charge of S. C. at the Hospital on the 3 Apr 44. Tpr Graton was reported absent from his tent at 1300 hrs. I checked every hour until I went off duty at 1900 hrs, at which time I reported to L/Cpl Butson that said patient was absent from his tent.

B-93525 Sgt Baker

I certify that in my opinion the attendance of this witness is, owing to his being employed at a considerable distance from this HQ, not readily procurable and a written statement by him of his evidence, signed by him and read to the accused is attached hereto, as Exhibit "F".

[signature] Capt.
Officer Taking Summary of Evidence

I do not require the attendance of B-93525 Sgt Baker for the purpose of cross-examination.

[signature]
D-41044 Tpr Graton J. L. M.

RD WITNESS
For the Prosecution

B-93697 L/Cpl Butson K. E. a soldier of the Canadian Army Overseas, on strength of 15 Cdn Gen Hospital states:

I am B-93697 L/Cpl Butson K. E. night orderly at the 15th Canadian General Hospital RCAMC, C.M.F.

On taking over the compound from Sgt Baker on the night of 3rd April 1944, I was informed that the accused, B-41044 Tpr Graton J. L. M. was absent from the compound since 1300 hrs. I checked the ward every hour from the time I came on duty at 1900 hrs until 0800 hrs. The accused was still absent at 0800 hrs when I went off duty the following day.

B-93697 L/Cpl Butson K. E.

I certifiy that in my opinion the attendance of this witness is owing to his being employed at a considerable distance from this HQ, not readily procurable and a written statement by him of his evidence, signed by him and read to the accused is attached hereto, as exhibit "G".

Officer taking Summary of Evidence

I do not require the attendance of B-93697 L/Cpl Butson K. E. for the purpose of cross-examination.

B-41044 Tpr Graton J. L. M.

POURTH WITNESS
For the Prosecution

Capt. J. Boyer, an officer of the Canadian Army Overseas, on strength of No. 15 C. G. H. (C. M. F.) states.

The m/n soldier(Tpr Graton) was treated by me for recurrent V. D. C. from 12 Mar 44 to 3 Apr 44. He went A. W. L. from the hospital on the later date thus delaying his cure.

(J. Boyer) Capt RCAMC

I certify that in my opinion the attendance of this witness is, owing to his being employed at a considerable distance from this HQ, not readily procurable and a written statement by him of his evidence, signed by him and read to the accused is attached hereto, as exhibit "H".

Officer taking Summary of Evidence

I donot require the attendance of Capt J. Boyer for the purpose of cross-examination.

B-41044 Tpr Graton J. L. M.

FIFTH WITNESS:
For the Prosecution:

B-20059 L/Cpl McDonald H. a soldier of the Canadian Army Overseas, on strength of No. 1 Cdn L. of C. Provost Coy, having been duly sworn states:

I am B-20059 L/Cpl. McDonald H. of No. 1 Cdn L. of C. Provost Coy, stationed at Avellino. On the night of 11 Apr 44, I was instructed by the Officer i/c Lieut. W. Dick to assist him in the apprehension of two soldiers. At approximately 2030 hrs we stopped a truck containing two soldiers, one of whom I recognize as B-41044 Tpr Graton J. L. M. We arrested them and escorted them to the Avellino Provost Office where I assisted in the search of both prisoners. I was then

FIFTH WITNESS (Continued)
For the Prosecution

Instructed to take them to the Carabinieri jail, in company with L/Cpl Marcolin. We placed them in the cell. I stepped in the door, the room was dark, but to my knowledge there was nothing the matter with it.

The accused declines to cross-examine the witness.

K-20089 L/Cpl McDonald H.

SIXTH WITNESS
For the Prosecution.

B-50693 L/Cpl Marcolin C. a soldier of the Canadian Army Overseas, on strength of No. 1 L. of C. Cdn Provost Coy, having been duly sworn states:

I am B-50693 L/Cpl Marcolin C. of 1 Cdn L of C Provost coy stationed at Avellino. On 21 Apr 44 at approximately 2030 hrs, I assisted Lieut. W. Dick 2 i/c of our detachment to arrest D-41044 Tpr Graton J. L. M. whom I recognize. We took him to the Provost office in Avellino where he was searched, and questioned, and then escorted him to the Carabinieri station in Avellino where he was put in a cell. On the morning of 25 Apr 44, at about 0900 hrs I was informed by one of the Carabinieri that Tpr Graton and two other soldiers had escaped during the night 23/24 Apr 44. I immediately informed Lieut. W. Dick.

The accused declines to cross-examine this witness.

B-50693 L/Cpl Marcolin C.

SEVENTH WITNESS
For the Prosecution

Corporal CARLO GIORDANO, Carabinieri, stationed at Avellino, submits a statement which has been translated by Wm H. Hunston of the Town Major's Office, Avellino.

I certify that in my opinion the attendance of this witness is owing to his duties not readily procurable and a written statement by him of his evidence, signed by him and read to the accused is attached hereto as exhibit "I".

C. Rouse Capt
Officer taking Summary of Evidence

I do not require the attendance of Carlo Giordano, for the purpose of cross-examination.

D-41044 Tpr Graton J. L. M.

EIGHT WITNESS
For the Prosecution

Carabiniere Bellofiore Raffaele, stationed at Avellino, submits a statement which has been translated by L. S. Bell of the Town Major's office Avellino.

I certify that in my opinion the attendance of this witness is owing to his duties, not readily procurable and a written statement by his of his evidence, signed by him and read to the accused is attached hereto as exhibit "J".

C. Rouse Capt
Officer taking Summary of Evidence

I do not require the attendance of Bellofiore Raffaele, for the purpose of cross-examination.

D-41044 Tpr Graton J. L. M.

The accused was cautioned as follows:

Do you wish to make any statement or to give any statement upon oath? you are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing any may be given in evidence.

The accused declines to make a statement or to give evidence.

The accused declines to call witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of four (4) typewritten pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

(T. J. Greene) Capt
Officer detailed to take Summary of Evidence.

In the Field
27 Jul 44.

NOTICE TO ACCUSED UNDER R. P. 76 (Tpr Graton J. L. M.)

The prosecution will call at your F. G. C. M. the witnesses named on the attached sheets who will give the evidence as therein set out.

B-50893 C/Cpl Marcolin G. of the No. 1 L. of C. Cdn Provost Company, Avellino, states:

I am B-50893 L/Cpl Marcolin G. of the No. 1 L. of C. Cdn Provost Company, Avellino, Italy.

While on duty in the Provost Office in the town of Avellino, on the morning of the 24 April 44, at approx. 0900 hrs, I was notified by one of the Carabinieri that the three Cdn soldiers I had placed in their custody had escaped.

I immediately notified Lieut. Dick who was in charge of the party the night we apprehended them. We then went to the Carabinieri station and searched the cell and discovered that Tpr Graton was one of the prisoners who had escaped.

B-50893 L/Cpl Marcolin G.

Translation of statement made by Giuseppe Biondi of the Carabinieri Avellino.

Subject: Escape of Military deserters of the Allied forces, from the cell of the Carabinieri Station.
To - C. O. of the Cdn Police Avellino.

We inform you that during the night of 24 Apr 44, the three soldiers of the Allied Force, kept in custody in the safety room of this station, after making a hole in the wall adjoining the stable, they escaped after forcing the lock of the door that leads to the street of Via Mancini outside of this building.

Owing to the noise made by the feet of the horses in the stable, we could not hear the noise that these soldiers were making in digging the hole in the wall.

Signed:

(Giuseppe Biondi)
Carabinieri, Avellino.

I certify that the above is a true translation to the best of my ability.

Signed:

(Luigi Bell) Interpreter.

For your information,

Officer detailed to take the Summary of Evidence.

A.

CERTIFIED TRUE COPY

RECORD of the Declaration of a Court of Inquiry assembled in the Field on the 22 Feb 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-41044 Tpr Gratton J. L. M.

DECLARATION

The Court declare that No. D-41044 Tpr Gratton J. L. M. illegally absented himself without leave at 2130 hours on the 28 Jan 44 and that on the 22 Feb 44, was still absent and that on 30 Jan 44 was deficient, and that he is still deficient of the following articles:-

ARTICLES	No.	VALUE
		$c.18
Blouses, battle-dress	1	4.81
Boots, ankle, prs	1	1.00
Caps, tank, battalion	1	.46
Drawers, cellular, short, prs	2	1.61
Jersey, pullover	1	2.05
Shirts, angola, drab	2	6.24
Trousers, battle-dress, prs	1	.16
Badges, cap	1	1.75
Bags, kit, universal	1	.29
Braces, prs	1	.24
Brushes, clothes	1	.24
Brushes, hair	1	.30
Brushes, shaving	1	.08
Brushes, tooth	1	.04
Combs, hair	1	.17
Holdall	1	1.16
Knives, clasp	1	.42
Razors, safety	2	.42
Shorts, gymnasium, prs	2	.34
Vest, cotton, gym	2	.21
Towels, hand	1	.45
Carriers, water-bottle	1	2.14
Haversack	2	.46
Straps, shoulder, haversack	1	
Veils, face, camouflage	4	2.91
Blankets, G.S.	1	.13
Mugs, drinking	1	.06
Pullthroughs, single		

Signed PRESIDENT
(W. C. James) Capt (CAC)

Signed at Vimy Barracks, Italy.

this 23rd day of February 1944.

Signed MEMBER
(M. E. Sorenson) Lieut.(C. Int C.)

Signed MEMBER
(H. C. Cameron) Lieut.(C.A.C.)

Signature of Commanding Officer Signed
(V. E. Conran) Lt-Col.

I certify this to be a true copy of the above Record of the Declaration of Court of Inquiry as contained in the Regimental Books in my custody.

(W.J.M. Mogan) Capt & Actg Adjt 2 CSS

B.

Walk

CERTIFICATE OF APPREHENSION
~~XXXXXXXXX~~

IN ACCORDANCE WITH ARMY ACT SEC. 163 (1) (jj)

I, Capt. H.F. Law, Officer Commanding

No. 1 Cdn L of C Provost Coy., certify that Regt No.

D-41044 Rank Tpr. Name GRATON J.L.I.

Unit 5 Bn 2 C.B.R.D.

was apprehended by No. 1 Cdn L of C Provost Coy.,
~~xxxxxxxxxxxx~~

at Avella, Prov Avellino Italy, at approximately

2100 hours 3 March 1944

At the time of his apprehension he was
~~xxxxxxxxx~~

wearing Military Uniform

(H.F. Law) Captain,
Officer Commanding
No. 1 Cdn. L of C
Provost Company.

Last Order No. 26 2 Apr 44

"X" LIST - CANADIAN ARMOURED CORPS (SEC "D")
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q., 2nd ECHELON - C.M.F.

This Order No. 27 3 Apr. 44

"A" OFFICERS

1. HOSPITAL

Adm.	3 G.H.	18 Mar 44	Adm.	7 C.L.F.A.	16 Mar 44
Disch	3 G.H.	26 Mar 44	Disch.	7 C.L.F.A.	18 Mar 44
Capt.	D.L. Kropf		Lieut.	M.R. Reid,	
Adm.	2 C.L.F.A.	16 Mar 44			
Disch.	2 C.L.F.A.	20 Mar 44			
Major	A.W. LESLIE				

"B" OTHER RANKS

2. HOSPITAL

Adm. B 143103	3 G.H. Tpr. Alderson, B.S.	17 Mar 44	Adm. B 60774	1 C.C.D. Tpr. Brown, F.W.	14 Mar 44
Disch. A 24	8 C.D. L/Cpl Anderson, R.C.	2 Feb 44	Adm. B 102588	2 C.L.F.A. Tpr. Budge, F.F.	18 Mar 44
Disch. D 71052	4 F.A. Tpr. Baillie, D.M.	19 Mar 44	Disch. F 78415	14 G.H. Cpl. Buote, J.G.	1[illegible] Mar 44
Adm. B 131882	3 G.H. Tpr. Barill, W.J.	19 Mar 44	Adm. B 19048	1[illegible] G.H. Tpr. Burke, P.D.	25 Mar 44
Adm. L 2661	15 G.H. Tpr. Barr, H.A.	18 Mar 44	Adm. M 105552	3 G.H. Tpr. Campbell, L.J.	21 Mar 44
Adm. B 61679	3 G.H. Tpr. Beck, W.	24 Mar 44	Adm. B 17013	7 C.L.F.A. Tpr. Carter, C.J.	18 Mar 44
Adm. D 118149	14 G.H. Tpr. Becker, W.	19 Mar 44	Adm. Disch. K 66588	3 G.H. 3 G.H. Tpr. Chambers, J.E.	1[illegible] Mar 44 24 Mar 44
Adm.	25 RAF MFH	11 Mar 44	Adm. H 77960	14 G.H. Tpr. Chivers, [illegible]	19 Mar 44
Adm.	54 G.H.	12 Mar 44			
Adm. A 44618	5 Cdn G.H. Tpr. Benstead, M.C.	13 Mar 44	Adm. Adm. M 17502	7 C.L.F.A. 24 Cdn F.A. Cpl. Cosens, C.S.	16 Mar 44 18 Mar 44
Adm. M 103939	7 C.L.F.A. Tpr. Borowicz, S.L.	17 Mar 44	Adm. K 66639	7 C.L.F.A. Tpr. Crowther, R.P.	18 Mar 44
Disch. A 59248	2 C.L.F.A. Tpr. Bowman, H.C.	18 Mar 44	Adm. A 55044	5 Cdn G.H. L/Cpl. Cunningham, F.C.	1[illegible] Mar 44
Adm. A 59344	2 C.L.F.A. Tpr. Breen, S.L.G.	13 Mar 44	Adm. B 61874	15 G.H. Tpr. Dafoe, C.R.	11 Mar 44
Adm. A 27899	29 Ind.F.A. Tpr. Brodeur, R.G.	29 Feb 44	Adm. D 143	7 C.L.F.A. Tpr. De Bartok, R.A.	20 Mar 44
Adm. D 122895	1 C.C.D. Tpr. Brough, J.	21 Mar 44			

2. HOSPITAL (Continued)

Disch. H 102803	3 G.H. Tpr. Dobbyn, J.F.	24 Mar 44	Adm. G 49205	7 C.L.F.A. Tpr. Hartt, D.J.	17 Mar 44
Adm. D 36296	3 G.H. Sgt. Duhaime, J.L.	24 Feb 44	Disch. A 42161	1 C.C.D. Tpr. Hayock, T.W.	16 Mar 44
Disch. H 63946	1 C.C.D. Tpr. Ellerbeck, J.W.	21 Mar 44	Adm. Disch. C 58190	2 C.L.F.A. 2 C.L.F.A. Tpr. Hedderson, E.L.	14 Mar 44 16 Mar 44
Adm. B 74591	2 C.L.F.A. Tpr. Enright, S.J.	19 Mar 44	Adm.	5 Cdn C.H.	15 Mar 44
Adm. M 106001	3 G.H. Tpr. Fast, L.M.	19 Mar 44	Adm. H 63821	2 C.L.F.A. Tpr. Hendrickson, J.S.	12 Mar 44
Adm. A 35067	1 C.C.D. Tpr. Fischer, N.E.	21 Mar 44	Disch. A 102079	1 C.C.D. Tpr. Heron, W.A.	21 Mar 44
Adm. Adm. B 61341	7 C.L.F.A. 5 Cdn C.H. Tpr. Fleming, J.S.	13 Mar 44 15 Mar 44	Adm. F 65995	3 Cdn C.H. Tpr. Herrett, G.F.	21 Mar 44
Adm. B 53850	1 C.C.D. Tpr. French, D.W.	20 Mar 44	Disch. L 100964	14 G.H. Tpr. Holliday, R.J.	23 Mar 44
Adm. Adm. B 74594	5 Br. C.C.S. 1 C.C.S. Cpl. Friesen, A.	13 Mar 44 13 Mar 44	Adm. Adm. B 69250	2 C.L.F.A. 4 Cdn F.A. Tpr. Houtby, W.H.	16 Mar 44 17 Mar 44
Disch. D 36098	2 C.L.F.A. Tpr. Gagnon, P.	17 Mar 44	Adm. C 6310	3 Cdn C.H. Tpr. Howie, D.G.	18 Mar 44
Adm. A 54674	1 Cdn C.H. Tpr. Gammon, K.A.	13 Mar 44	Disch. M 15767	4 C.F.A. Tpr. Huel, W.	18 Mar 44
Disch. M 27240	3 Cdn C.H. Tpr. Gleeson, J.B.	23 Mar 44	Adm. H 64102	3 Cdn C.H. Tpr. Jickling, J.T.	19 Mar 44
Adm. D 36071	1 Cdn C.H. Tpr. Godin, P.	21 Mar 44	Adm. Disch. G 53136	3 Cdn C.H. 3 Cdn C.H. Tpr. Jonah, T.L.	9 Mar 44 15 Mar 44
Adm. F 30566	3 Cdn C.H. Tpr. Goodwin, C.J.	18 Mar 44	Disch. B 53665	2 C.L.F.A. Tpr. Jones, F.G.	17 Mar 44
Adm. Adm. D 41044	3 Cdn C.H. 1st G.H. Tpr. Graton, J.L.M.	9 Mar 44 13 Mar 44	Adm. Adm. Adm. K 70854	2 C.L.F.A. 4 C.F.A. 5 Cdn C.H. Tpr. Kalyniuk, W.	17 Mar 44 17 Mar 44 21 Mar 44
Adm. Adm. H 102113	1 C.C.S. 2 C.L.F.A. Tpr. Haner, G.R.	14 Mar 44 14 Mar 44	Adm. Adm. B 137363	14 G.H. 3 Cdn C.H. Tpr. Kett, W.A.	15 Mar 44 15 Mar 44
Adm. L 104539	3 Cdn C.H. Tpr. Harkness, G.D.	16 Mar 44	Adm. Disch. K 49956	3 Cdn C.H. 3 Cdn C.H. Tpr. Kirkwood, A.L.	15 Mar 44 21 Mar 44

2. HOSPITAL (Continued)

Disch. 2 C.L.F.A. 13 Mar 44
K 53257 Tpr. Knodel, H.

Adm. 1 C.C.D. 20 Mar 44
M 50352 Tpr. Kozlowski, F.

Adm. 2 C.L.F.A. 17 Mar 44
B 46267 Tpr. Lahay, E.L.H.

Adm. 1 C.C.D. 24 Mar 44
C 58396 Tpr. Larabee, V.

Disch. 1 C.C.D. 21 Mar 44
G 900 Tpr. Leger, A.J.

Adm. 3 Cdn C.H. 17 Mar 44
M 101129 Tpr. L'Heureux, L.P.

Adm. 7 C.L.F.A. 14 Mar 44
K 82013 Sgt. Linton, A.

Adm. 3 Cdn C.H. 18 Mar 44
A 105183 Tpr. Mc Cabe, L.H.

Disch. 3 Cdn C.H. 26 Mar 44
B 61503 Tpr. Mc Cahery, R.A.

Adm. 2 C.L.F.A. 15 Mar 44
Disch. 2 C.L.F.A. 21 Mar 44
M 27107 Tpr. Mc Donald, J.D.

Disch 3 Cdn C.H. 22 Mar 44
B 142894 Tpr. Mc Dohald, R.E.M.

Disch. 3 Cdn C.H. 20 Mar 44
M 26844 Tpr. Mc Intyre, D.J.

Adm. 15 C.H. 20 Mar 44
C 30902 Tpr. Mc Rae, G.

Adm. 3 Cdn C.H. 20 Mar 44
A 44319 Tpr. Maidens, D.H.

Adm. 7 C.L.F.A. 15 Mar 44
B 96589 Tpr. Misener, A.B.

Adm. 5 Cdn F.A. 21 Mar 44
B 74731 Montgomery, J.

Disch. 1 C.C.D. 16 Mar 44
B 60710 Tpr. Mosier, W.L.

Adm. 15 C.H. 23 Mar 44
M 27151 Sgt. Myles, G.T.

Adm. 70 C.H. 18 Oct 43
B 61012 Sgt Nelson, W.A.

Adm. 25 RAF MFH 14 Mar 44
Adm. 1 Cdn C.H. 16 Mar 44
M 17443 Tpr. Nevalin, C.A.

Adm. 3 Cdn C.H. 16 Mar 44
L 104991 Tpr. Nisbet, T.S.

Adm. 3 Cdn C.H. 20 Mar 44
B 60068 Tpr. Park, J.N.

Adm. 3 Cdn C.H. 16 Mar 44
L 53571 Cpl. Patterson, A.

Adm. 50 C.H.(Br) 16 Mar 44
Disch. 50 C.H.(Br) 21 Mar 44
D 26344 Tpr. Paul, W.R.

Disch. 83 C.H.(Br) 16 Mar 44
H 1976 Tpr. Persowich, W.

Adm 5 C.C.S. 14 Mar 44
L 54972 Tpr. Ponoff, A.

Adm. 1 Cdn C.H. 20 Mar 44
H 101649 Tpr. Potter, W.A.

Adm. 15 C.H. 16 Mar 44
B 69511 Tpr. Pritchard, L.B.

Adm. 4 C.F.A. 18 Mar 44
Adm. 2 C.L.F.A. 18 Mar 44
A 55796 Tpr. Putman, S.J.

Adm. 16 F.D.S. 19 Mar 44
K 75047 Tpr. Rhymer, V.T.

Adm. 16 F.D.S. 16 Mar 44
A 43026 Tpr. Richards, L.G.

Adm. 7 C.L.F.A. 18 Mar 44
K 2497 Tpr. Ricketts, L.F.

Adm. 15 C.H. 20 Mar 44
A 55699 Tpr. Robert, J.V.

Disch. 25 RAF MFH 13 Mar 44
B 48629 Tpr. Rouse, W.J.

Adm. 7 C.L.F.A. 12 Mar 44
Adm. 5 Cdn C.H. 15 Mar 44
M 67277 Tpr. Sammietro, R.

2. HOSPITAL (Continued)

Adm. B 102677	16 F.A. Tpr. Sawka, M.	22 Mar 44	Adm. H 63963	3 Cdn G.H. Tpr. Stroud, J.C.	19 Mar 44
Adm. D 122927	1 Cdn G.H. Tpr. Serjeant, [illegible].	19 Mar 44	Adm.	25 RAF MFH	12 Mar 44
			Adm. K 2477	1 Cdn G.H. Tpr. Stuart, F.C.	14 Mar 44
Adm.	5 Cdn G.H.	13 Mar 44			
Adm. G 779	7 C.L.F.A. Tpr. Scott, M.G.	12 Mar 44	Adm. F 97716	3 Cdn G.H. Tpr. Sullivan, H.B.	13 Mar 44
Disch. K 73072	1 C.C.D. Tpr. Seaton, A.R.	8 Mar 44	Disch.	94 G.H.(Br)	19 Mar 44
			Adm. F 99896	8 C.D. Tpr. Swan, J.D.	24 Feb 44
Adm.	7 C.L.F.A.	17 Mar 44			
Adm. F 30363	24 F.A. Tpr. Smith, H.W.	18 Mar 44	Adm.	2 C.L.F.A.	10 Mar 44
			Disch. A 3733	2 C.L.F.A. Tpr. Swan, R.	17 Mar 44
Disch. C 18586	2 C.L.F.A. Tpr. Snelgrove, J.A.	17 Mar 44	Disch. H 63841	1 C.C.D. Tpr. Taggart, E.G.	8 Mar 44
Adm. B 62295	2 C.L.F.A. Tpr. Sneck, G.S.	18 Mar 44	Disch. K 78437	1 C.C.D. Cpl. Taylor, H.D.	18 Feb 44
Adm. B 68000	2 C.L.F.A. Sgt. Stafford, R.T.A.	16 Mar 44	Disch. D 26327	15 G.H. Tpr. Taylor, W.C.	15 Mar 44
Adm. B 60712	1 Cdn G.H. Tpr. St Andrews, D.L.	23 Mar 44	Adm. B 130579	1 C.C.D. Tpr. Teather, F.R.	19 Mar 44
Adm. D 93539	4 U.S. F.H. QMS Starkey, G.S.	10 Mar 44	Adm. C 7892	1 C.C.D. Tpr. Thuillard, C.M.	6 Mar 44
Adm.	4 Cdn C.C.D.	18 Mar 44			
Adm.	2 C.L.F.A.	18 Mar 44	Adm.	100 G.H.(Br)	10 Mar 44
Adm. H 26908	5 Cdn G.H. Sgt. Starling, L.	19 Mar 44	Disch. U 1960	100 G.H.(Br) Tpr. Turner, P.H.	11 Mar 44
Adm. K 75025	3 Cdn G.H. Tpr. Steeves, A.C.	16 Mar 44	Adm. B 4873	3 Cdn G.H. Tpr. Vander, J.R.	17 Mar 44

B.T. Saunders
(B.T. Saunders) Capt.
for Officer i/c
CANADIAN SECTION G.H.Q. 2nd ECHELON - C.M.F.

GHM/

b.d.tr.

"D"

CERTIFICATE OF APPREHENSION
~~XXXXXXXXX~~

IN ACCORDANCE WITH ARMY ACT SEC. 163 (1) (jj)

I, Capt. H.F. Law, Officer Commanding

No. 1 Cdn L of C Provost Coy., certify that Regt No.

D-41044.....Rank Tpr. Name GRATON J.L.M....

Unit 5 Bn 2 C.B.R.D.....

was apprehended by No. 1 Cdn L of C Provost Coy.
~~XXXXXXXXXXXXX~~

at MONTEFORTE Avellino Provence....Italy, at approximately

2030.....hours 21 April....1944

At the time of his apprehension he was
~~XXXXXXXXX~~

wearing Military Uniform.....

(H.F. Law) Captain,
Officer Commanding
No. 1 Cdn. L of C
Provost Company.

E

Certificate under Section 163 (1)(jj) Army Act.

I certify that No. D.41044 ... Rank TPR. ... Name GRATON. M. ... of the ROYAL CANADIAN ARMOURED CORPS was arrested at TORRE DEL GRECO on 27 APRIL 44 at about 2220 ... hrs. wearing CIVILIAN CLOTHING.

Signature of Provost Marshal, APM, or other officer into whose custody the a/mnd prisoner was taken on arrest.

[signature] Captain.
OC., 111 Provost Company.

F

12/5/44

Statement of Sgt Baker.

Re Tur Graton was reported absent from tent D at 1300 checked every hour until 1 Went off Duty at 1900, at which time I reported to Lt Col Butson that said patient was absent from his tent.

Sgt Baker
B93525

I am Sgt Baker, I was in charge of S.C. at the above Date
3/4/44

Sgt Baker
B93525.

S. "G"

I am, B.93697 L/cpl. Butson W.R.
night orderly at the
15th Can. General Hospital,
R.C.A.M.C. C.M.F.
On taking over the compound
from Sgt. Baker on the
night of 3rd. April 1944. I was
informed that the accused,
P41044 Tpr. Gratton J. L.M.
was absent from the compound
since 1300 hrs. I checked the
ward every hour from the
time I came on duty at 1900 hrs.
untill 0800 hrs. The accused
was still absent at 0800 hrs.
when I went off duty the
following day.

W.R. Butson L/cpl.

"H"

12 May 44

Tpr. Gratton J.L. 041044

The man soldier was treated by me for recurrent V.D.G. from 13-3-44 to 3-4-44. He went A.W.L. from the hospital on the later date thus delaying his cure.

J Boyd Capt
DR V.D.G.
#15 C.G.H.
C.M.F.

I

STATEMENT

I, the undersigned, corporal of the Carabinieri, CARLO GIORDANO, stationed at Avellino, make the following statement:-

From I7 hours of April 23rd. I944, to I7 hours of the following day, I was ordered to be on service at the Carabinieri barracks in Avellino. From the Lance Corporal, PLACIDO CANTELLI?, from whom I took over, I was informed that there were in the cells three diserters from the Allied Forces, for whom, under no consideration whatsoever, should the door be opened, as, for any reason whatsover, even for supplying food to them, or for taking them to the toilet, soldiers of the Canadian Police would attend to their needs. In fact, about I9 hours of the 23rd. April as mentioned, three soldiers of the Canadian Police came to the barracks, in their presence had the door of the cell opened and gave to the three prisioners three tins of bully beef and some biscuits whci were packed in a cardboard box, after which they caused the door to be closed again. After this the cell door was not opened again, neither by me nor by the other carabinieri under my orders.

During the night several times we passed before the cell door without noticing anything unusual.

About 6.30 hours of the following dqy, on visiting the stables, I noted the existence of a hole, made in the wall which leads into the said cell, and that the door leading from the stables into Via Mancini was open, and, rendered suspicious by this, I noted that the three prisioners had escaped through the hole.

In proof of the above statement I sign,

Signature.

Avellino:-
May I_th. I944.

Translated by
Wm. H. Hunston.
Town Major's Office

D I C H I A R A Z I O N E

Io sottoscritto vicebrigadiere a piedi dei CC.RR.GIORDANO Carlo,apparte-nente alla stazione di Avellino,dichiaro:

Dalle ore I7 del giorno 23 aprile I944alle ore I7 del giorno successivo ero comandato in servizio diispezione alla caserma dei CC.RR.di Avellino.Dall'appuntato CANTELLI Placido,smontante dallo stesso servizio,all'atto della consegna mi fu fatto presente che nella camera di sicurezza erano rinchiusi tre disertori delle forze alleate,ai quali,per nessun motivo,si doveva aprire la porta,perché,per ogni cosa,anche perla somministrazione del vitto ad essi o per condurli alla ritirata,avrebbero provveduto militari della polizia canadese locale,Infatti verso le ore I9 del 23 aprile detto,tre militari di poliziavennero in caserma,facendo aprire l'accesso della caseradi sicurezza alla loro presenza e consegnarono ad essi tre scatle di scarne e dei biscotti contenuti in uno scatolo di cartone e quindi fecero rinchiudere la porta.Dopo di ciò la camera di sicurezza non venne aperta né da me,né da altri militari in seguito a mio ordine.

Durante la notte passammo varie volte davanti alla camera di sicurezza,senza constatare alcunché di anormale.

Verso le ore 6,30 del giorno successivo nel visitare i locali della scuderiaiotai l'esistenma di un foro,praticato nel muro che immette in detta camera di sicurezza e la portacina della scuderia che mena in via Mancini aperta ed,insospettito di ciò,attraverso il foro praticato rilevai che i tre disertori erano evasi.In fede di quanto sopra misottoscro.=

Avellino,li I6 maggio I944

Giordano Carlo

TRANSLATION.

THE TERRITORIAL LEGION OF THE CARABINIERE OF NAPLES.
STATIONED IN AVELLINO.

Declaration.

The undersigned Carabiniere Bellofiore Raffaele of Gennaro (Fathers name) and Cannavacciuolo Maria Giuseppe (Mothers name), born at Pozzuoli the 31 July 1909 and resident of Avellino at Via Due Principati n.54, regular Carabiniere of the local Carabinieri barrack, declares that on the day of 23 April 1944 was posted on sentry duty at the "LITTO NICOLA" barracks from 1700hrs to 1700hrs the following day.

During the night he did not hear any noise coming from the cell where three Allied Soldiers were being held on a charge of desertion.

Around 0700hrs the following, 24th of the same month the Sergeant inspecting the cells Vicebrigadiere Giordano Carlo noticed that the s/m cell was empty. The three prisoners had made a hole in the wall and used same for their escape. A report of this was immediately submitted to the commanding officer of the station, Maresciallo Biondi Giuseppe.

Avellino
11 May 44.

Signed Bellofiore Raffaele
Carabiniere.

Ralph P. Bell
Town Major's Interpreter

LEGIONE TERRITORIALE DEI CARABINIERI REALI DI NAPOLI
- Stazione di Avellino -

DICHIARAZIONE

Il sottoscritto carabiniere Bellofiore Raffaele di Gennaro e di Cannavacciuolo Maria Giuseppe, nato a Pozzuoli il 31/7/1909 e residente in Avellino Via Due Principati n°54, effettivo alla stazione dei cc.rr. di Avellino, dichiara che il giorno 23 aprile u/s. fu comandato di servizio di piantone alla caserma "Litto Nicola" dalla ore 17 alle ore 17 del giorno successivo.-

Durante la notte non avvertì rumori provenienti dalla camera di sicurezza dove erano rinchiusi tre militari appartenenti alle forze armate alleate, dichiarti disertori.-

Verso le ore 7 del 24 del predetto mese, il sottufficiale d'ispezione alla caserma suddetta, vicebrigadiere Giordano Carlo, si recò ad ispezionare per primo la camera di sicurezza notando la scomparsa dei tre militari i quali avevano praticato un foro nella parete attraverso la quale si diedero alla fuga e dell'accaduto ne informò subito il comandante della stazione, maresciallo Biondi Giuseppe.-

Avellino lì 11 maggio 1944

Il carabiniere
Bellofiore Raffaele

Sam. B. 50893. L/CPL. Marcolin. G.
of the No. 1 L. of C. Cdn Provost Coy
at Avellino.

States.

While on duty in the Provost Office in the town of Avellino. on the morning of the 24 April 44. at app. 0900 hrs. I was notified by ~~Mrs~~ one of the Carbeniere that the 3 Cdn soldiers I had placed in their custody had escaped.

I immidiatly notified Lieut Dick who was in charge of the party that night we apprehended. We then went to the Carbiniere Station and searched the cell and discovered that of PR. Grator was one of the prisoners who had escaped.

B. 50893. L/CPL. Marcolin. G.

Avellino. April 26th 44

Subject:- Escape of Militaries disertors of the Allied Force from the cell of the Carabinieri Station.

To S/O of the Cdn Police Avellino -

We inform you that during the night of 24 April 44 the three militaries of the Allied Force kept in custody in the safety room of this station, after making a hole in the wall adjoining the stable, they escaped after forcing the lock of the door that leads to street of Via Mancini of this building.

Owing to the noise made by the feets of the horses in the stable we could not hear the noise that this soldiers were making in digging the hole in the wall.

Signed Giuseppe Biondo.
Carabiniere maresciallo.

I certifie that above his the true Translation to the best of my ability -
Luigi Bello (Cdn Provost Interpreter)

LEGIONE TERRITORIALE DEI CARABINIERI DI NAPOLI
STAZIONE DI AVELLINO

N°45/541 di prot. Avellino, li 26 aprile 1944.=

OGGETTO: Evasione di militari disertori delle FF.AA. Alleate dalla camera di sicurezza della caserma di Avellino.=

AL COMANDO DELLA POLIZIA CANADESE DI
AVELLINO

Si comunica che durante la notte sul 24 corrente i tre militari delle FF/AA. Alleate rinchiusi nelle camera di sicurezza di questa caserma, dopo di aver praticato un foro nel muro interno che immette nella scuderia, si allontanarono forzando la serratura della porta del letamaio che sporge sulla via Mancini di questo abitato.=

E' da tener presente che lo scalpiccio dei quadrupedi esistenti nella scuderia non ha lasciato percepire il rumore prodotto dai disertori nel praticare il foro.=

IL MARESCIALLO MAGGIORE COMANDANTE LA STAZIONE
(Giuseppe Biondi)

Exhibit G
badge by Pte

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.41044	Gnr	Groton J.L.H.	5 Bn 2 C.A.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

† The conduct sheets mentioned should be produced in court with this statement but not reported to the proceedings.

‡ See para. 477, K.R., 1940.

* The periods stated should agree with the entries in the conduct sheets, the latest entry being given to the most recent period allowed in each case, and for any recorded special acts of gallantry or distinguished conduct.

Intoxication.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL. A.A. Sec 15(1)	1 times	5 times.
For A.A. Sec 40	times	2 times.
For A.A. Sec 11	times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous conviction of the accused by a court martial or civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody and 94 days in military custody, making a total of 94 days, of which 85 days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 23

6. The date of his commission / attestation specified in his record of service / attestation paper is 28 Aug 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decorations or military award or is in possession of or entitled to (*state any military decoration or reward*) G.V.S.M. and clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____ and in his regiment (or corps or department) the rank of N/A dated _____

Wt. 41766/3827 20,000 10/42 A.&E.W.,Ltd. Gp.698/2
W.L.32566 1927 25,000 3/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D.41044 Rank Spr Name Graham [illegible] of [illegible] Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this _____ day of _____

W. J. M. Mogan Capt.

Officer having custody of regimental books.

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ Date of Promotion _____

In the rank of _____ years _____

In the rank of _____ years _____

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

MFM 6
(AFB 122)
40/P&S/136 (3438)

No D.41044 Name Pte Graton J.L.M. Sqn. Battery or Company H.Q. Corps Reg't de St-Hyacinthe Date of enlistment 28/8/39 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
St-Hubert.	May 13/40	Pte		A.W.O.L. de ses Quartiers a compter de 1900 hrs le 13 Mai /40 a 1900 hrs 13 14 Mai 40	CSM Beliveau A & Sgt Robillard, L.	1 Jr. de solde Enlevé: 5 jrs de CB ½ hr de Pack Drill l'avant Midi & ½ hrs l'Apres-midi pour 5 jrs sous la surveillance de l'Off. du Jr.	May 15/40	Major H. Chapdelaine	
Farnham Que.	10-6-41	Pte		Neglected to carry out an order given by a superior officer.	Lieut R. MacDuff	3 days C.B.	June 10/41	E.J. Malone Capt.	
Farnham Que	1 May 42	Pte		AWL from 0015 hrs 1 May 42 until 0630 1 May 42 6 hrs 15 mins.	Sgt Squires	Admonished	1 May 44		1 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham Que.	28-7-42	Pte		Conduct to the prejudice etc, appeared on parade with dirty boots.	Sgt Burnett	2 days C.B.	28-7-42	C.O. Cousins.	
Farnham Que	4-10-42	Pte		A.W.L. from 2359 hrs 4-10-42 to 0035 hrs 12-10-42 absent 7 days 26 mins	Doc, Cpl. Higgs	14 days C.B.	12-10-42	C.O. Cousins	Auto-Forf. 8 days pay
St. Hyacinthe	4/1/42	Pte		Absence sans permission alors qu'il etait en devoir du 4 Jan 41 a 2359 hrs au 5 Jan 41 a 0346 hrs (1 hr 46 mins)	Cpl. Clarke Cpl. Squires S/S J Berthiaume	7 days C.B.	22 Oct 41	Lieut J.C.L. Pilon	
Farnham	22 Oct 41	Pte		Conduct to the prejudice of good order and military discipline in that he at Farnham 22 Oct did discharge one round of blank cartridge in the barrack room.	Cpl. Clarke Cpl. Squires	7 days C.B.	22 Oct 41	Lieut J.C.L. Pilon.	
Camp Borden	7-6-43	Pvt.		Sec 18(1)AA AWL 2 days 20 hrs	Doc.	7 days C.B.	10-6-43	J Begg Lt-Col.	Forf. 5 days pay.

MFM 6
(AFB 122)
40/P&S/136 (3438)

No D.41044 Name Graton J.L.M. Sqn. Battery or Company HQ Corps Page 2. Rcg't de St Hyacinthe Date of enlistment 28/8-39 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Sep 43	Ypr.		NOAS AWL fr Tattoo Roll call at 2200 hrs to 2230 hrs 1 Sep 43 Absent 30 mins Sec 15 (j)(AA)	Sgt Wells E.J. Doc.	2 days F.P. and Frf. 2 days.	4 Sep 43	G.O. Currie Major.	

Certified to be a true copy from the regimental book s in my custody.

W. J. M. Mogan Capt. 5 Jul 44.

(PTO)

(Graton)

LIST OF EXHIBITS

EXHIBIT "A"	-	Certified True copy of the Record of the Declaration of a Court of Inquiry 22 Feb 44.
Exhibit "B"	-	Certificate of Apprehension, dated 3 Mar 44.
Exhibit "C"	-	Part II Orders XLIst CAC "D" No. 27 dated 3 Apr 44.
Exhibit "D"	-	Certificate of Apprehension, dated 21 Apr 44.
Exhibit "E"	-	Certificate of Apprehension, dated 27 Apr 44.
Exhibit "F"	-	Signed statement of B-93625 Sgt Baker 15 Cdn Gen Hosp. RCAMC
Exhibit "G"	-	Signed statement of B-93697 L/Cpl Butson K. R. 15 Cdn Gen Hosp. RCAMC
Exhibit "H"	-	Signed statement of Capt J. Boyers 15 Cdn Gen Hosp. RCAMC
Exhibit "I"	-	Signed statement and translation by Cpl Carlo Giordano, Carabinieri, Avellino.
Exhibit "J"	-	Signed statement and translation by Carabinieri Belloflore Raffaele Carabinieri, Avellino.

(Gaton)

LIST OF WITNESSES FOR THE PROSECUTION

FIRST WITNESS - A-103798 Cpl Moore M. R.
HQ 5 Battalion 2 C. B. R. D.

SECOND WITNESS - B-93535 Sgt Baker
15 Cdn Gen Hospital, RCAMC

THIRD WITNESS - B-93697 L/Cpl Bateson K. R.
15 Cdn Gen Hospital RCAMC

FOURTH WITNESS - Capt J. Boyer
15 C. G. H. (C.M.F.) RCAMC.

FIFTH WITNESS: K-20089 L/Cpl McDonald H.
No. 1 Cdn L of C. Provost Coy,
Avellino, Italy.

SIXTH WITNESS: B-50893 L/Cpl Marcolin G.
No. 1 L. of C. Cdn Provost Coy
Avellino, Italy.

SEVENTH WITNESS: Corporal CARLO GIORDANO,
Carabinieri, Avellino. Italy.

EIGHT WITNESS : Carabiniere Bellofiore Raffaele,
Avellino. Italy.

LIST OF WITNESSES FOR THE DEFENCE

NIL

REQUEST FOR A DEFENDING OFFICER

I, D.41044 Tpr Graton J.L.M. request that in the event of a Court-Martial being held, that an officer be appointed to defend me.

In the Field
In Italy
26 Jul 44.

D.41044 Tpr Graton J.L.M.

Witnessed by:

J.L.M. Graton

J.C. Lamont Capt

JJ 144

CPL GRATRIX R.J.

L-1161 Cpl Robert John GRATRIX
Clerks Training Wing 1 C.G.R.U.

JJ-144

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 17th day of JULY, 1943.

Whereas it appears to me, the undersigned, an officer in A/Command of "G" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* ~~I am unable to appoint~~

*(1. ~~Three Officers to form the Court.~~

*(2. ~~A Field Officer as President~~

~~for the following reasons, namely~~

*Omit when Convening Officer is a Commanding Officer or is of Field Rank.

*Omit if not applicable.

Ellis Donald Capt
11 Aug 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL	D.L. REDMAN, V.D.	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
A Captain from		1 C.I.R.U.
A Lieutenant from		1 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Colonel,
A/Commanding "G" Gp Cdn Rft Units,
Convening Officer. C.A.(O).

[signature]

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-1161 Cpl Robert John GRATRIX Clerks Training Wing 1 C.G.R.U.	First Charge A.A. Sec. 11	Guilty	Guilty	
	SEE CHARGE SHEET ATTACHED.		Sentence To be reduced to the Ranks and to undergo detention for a period of eight (8) months 22 July 1943 [illegible]	Confirmed [illegible] 26 July 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] (Signed) [signature]

Colonel,
A/Commanding "G" Gp Cdn Rft Units,
Convening Officer (e) C.A.(O). President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 22nd day of July 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Dr *(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 26th day of July 1943

[signature] Col
Confirming Officer.

Promulgated and extracts taken in the case of L1161 Cpl Gratrix

(a) (Dated) 26 Jul 43 (Signed) [signature] Adjutant
No. 1 Cdn. Gen. Rein. Unit, C.A.(O.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33376) Wt.46179/880 50,000 2/43 A.&E.W.Ltd. Gp.498

CHARGE SHEET:

The accused, L.1161 Cpl. Robert John GRATRIX, Clerks Training Wing, No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, whilst on active service, is charged with:

FIRST CHARGE SEC 11 AA

NEGLECTING TO OBEY OVERSEAS ROUTINE ORDERS.

in that he

At 49 Triangle Place, Clapham on or about 8 Jun 43 did sell to Mr. Frederick John BILLHAM, 49 Triangle Place, Clapham, cigarettes received as a gift from Canada contrary to Overseas Routine Order 3062, as amended by Overseas Routine Order 3473, which was published as notice board information.

Field

20 Jul 43.

(R.W. Frost) Lt. Col.
O.C. No 1 Cdn Gen Rft Unit
Canadian Army Overseas.

To be tried by Field General Court Martial

O.C. Deny Col.
of Contr. G. Gp. C.R.U.

21st July 43.

Medical Officers' Certificate
K.R.(Can) Para 557
1 CGRU 5-4-6
22 Jul 43

I certify that I have this morning examined No. L-1161

Cpl Gratrix and in my opinion is fit ~~unfit~~ to
(rank) Name

undergo trial by Court Martial.

Station FIELD

Date 22 Jul 43

(Sgd) Malcolm L. Harley Capt
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Corunna Bks Aldershot Hants
ON THE 22nd DAY OF July 1943

The accused L.11.61 Cpl Gratrix R.J. Unit I.C.G.R.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt Col H. L. Redman ..... Unit H.Q.C.R.U.

Members Capt A. S. Ennis-Smith ..... Unit P.P.C.L.I.I.C.I.R.U.

Lt D. H. Mace ..... Unit Lady Hosp. I.C.I.R.U.

The officers under instruction are duly sworn:-

..... Unit .....

..... Unit .....

Prosecutor Major Gorman ..... Unit R.C.A.S.C.R.U.

Defending Officer Lt L. A. Kitz ..... Unit S.C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
MM The Prosecutor produces ~~MFB 377~~, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

MM (a) ~~Makes a statement in mitigation of punishment.~~
(b) Calls witnesses as to character.
MM (c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement of character witness is on Reverse plea in mitigation by Def Offr is attached

[signature] Lt Col

SEE REVERSE SIDE FOR EVIDENCE OF CHARACTER

The 1st Witness as to Character, Capt. E.J. M. Lawrence, C.C. Clerks Training Wing, 1 CORU, having been first duly sworn, states:

The accused was an Instructor on the Regimental Clerks' Course when I took over the Company in September, 1942. Since that time I have found him a very congenial man to work with, he got along exceptionally well with the students and on the whole was a very good instructor.

THE PROSECUTOR DECLINED TO CROSS EXAMINE THE WITNESS.

Plea Mitigation

L1161 - Cpl. Fratrin, P.J.

Clerks Leg Wing
C.G.B.U.

The court is here faced with a delicate problem. Insofar as strictly military affairs are concerned the accused has committed no ~~[illegible]~~ breach or ignored no duty. Indeed we have his Cy Commander praising his record.

We have, ~~[illegible]~~ now the position where the military tribunal is sitting to enforce what is in simple analysis, enforcement of the British excise laws only brought into your company by virtue of ~~[illegible]~~ a R.O.

~~[illegible]~~

~~[illegible]~~

In not obeying these rules — though I protest strongly they were insufficiently brought to his attention — he shows that he ~~[illegible]~~ is a bad soldier in non-military matters.

I feel that insofar as the accused is concerned there is little wish to punish him, ~~[illegible]~~ personally in a severe manner.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

A proper punishment would be fully brought ~~[illegible]~~

~~[illegible]~~

about by a reduction of the corporal's rank and we urge no ~~savage~~ further penalty be given him.

(over) [illegible]

He has been a confirmed corporal for a number of years and is an excellent soldier.

He has not taken the time of the court by a facetious plea and we respectfully ~~he~~ ask that the court take that fact into consideration in giving a moderate sentence.

Finally, while there might have been some complication in case, it seems an inordinate time for the accused to have been awaiting trial.

We put to you that you will strike off the 23 days that he had served.

[illegible]

General

Published as Appendix ..... to Part I Orders No. ..... dated .....

NOTICE BOARD INFORMATION

CANADIAN ARMY OVERSEAS
ROUTINE ORDERS

Nos. 3509 and 3510

APPLICABLE TO FORMATIONS, UNITS AND PERSONNEL OF THE CANADIAN ARMY OVERSEAS

CANADIAN MILITARY HEADQUARTERS,
LONDON.
7 Jun 43

ADJUTANT-GENERAL'S BRANCH

3509—DUTY-FREE CIGARETTES—ILLEGAL SALE OR DISPOSAL —3509

1. The British Government recently consented to allow the sale to personnel of the Canadian Armed Forces of a limited quantity of American cigarettes which have entered the United Kingdom duty free. These cigarettes are now being sold to personnel of the Canadian Armed Forces at nominal cost.

2. It has come to notice that personnel of the Canadian Army Overseas have, in some instances, re-sold such American cigarettes in contravention of the spirit of Overseas R.O. 3062.

3. The sale, gift, or other disposition, or any attempted sale, gift, or other disposition in the United Kingdom by personnel of the Canadian Army Overseas to civilians or others not members of the Canadian Armed Forces of any such cigarettes is hereby forbidden.

(Published as N.B.I.) (20/Sale/1—Dis.)

Brigadier,
Deputy Adjutant-General.

QUARTERMASTER-GENERAL'S BRANCH

3510—M.T. DRIVERS' REGULATIONS, CANADIAN ARMY OVERSEAS —3510

1. A revised edition of the pamphlet "M.T. Drivers' Regulations" is hereby authorized under the title of "M.T. Drivers' Regulations, Canadian Army Overseas".

2. An initial issue of this revised pamphlet will be made direct to formations without indent on the basis of one pamphlet per vehicle, plus one copy for every officer and N.C.O.

3. The instructions contained in this revised pamphlet will be followed by all ranks. Particular attention is called to the note on the front cover as follows:—

> "This pamphlet must be carried at all times by drivers of Canadian Army Vehicles employed as such and will be returned to the M.T. Officer when such driver leaves the Unit or ceases to be employed as a driver. It must be produced on the order of a Superior Officer, and on all kit and other inspections".

(Paras. 1, 2 and 3 published as N.B.I.) (14/M.T. Pamph./1/2—S.T.2)

Brigadier,
Deputy Quartermaster-General.

3062 - DUTY FREE AND DUTIABLE PARCELS - CIGARETTES AND TOBACCO - GIFTS - ILLEGAL SALE OR DISPOSAL - (S)

Genuine gifts from abroad for Cdn Army personnel are free of duty. Sale, attempted sale or disposal by gift is forbidden and this includes cigarettes and tobacco. Os.C. will take prompt disciplinary action under A.A. Sec. 11 for any breach of this Order. The Order does not prohibit free sharing of cigarettes and tobacco with others in the Cdn. Armed Forces nor distribution by C.Os. to the troops. Articles imported otherwise than as gifts will be subject to duty and tax. The whole of Overseas R.O. 3062 should be read.

3473 - DUTY FREE AND DUTIABLE PARCELS - CIGARETTES AND TOBACCO - GIFTS - ILLEGAL SALE OR DISPOSAL.

1. Para. 3 (a) of Overseas R.O. 3062 is amended by inserting after the word "Forces" in the third line, the words "and the sale or attempted sale in the United Kingdom by personnel of the Canadian Army Overseas to members of the Canadian Armed Forces".

2. Para. 3(a) of the said Order is further amended by deleting the word "civilian" in the second line, and substituting the word "Civilians".

3. Para. 4 of the said Order is amended by inserting the word "free" immediately before the words "sharing of tobacco and cigarettes" in the first line thereof.

CERTIFIED TRUE COPY OF
OVERSEAS ROUTINE ORDER
3062 AS AMENDED BY OVERSEAS
ROUTINE ORDER 3473 PUBLISHED
AS NOTICE BOARD INFORMATION.

Joseph Capt
Adjutant,
No. 1 Cdn. Gen. Base Unit. C.A. (o.s.)

11 JULY 43

Mrs. Ellen Mary Billham
49 Triangle Clapham

D.A.P.M.S. OFFICE
CRU 11-28/9
15 JUL 1943
H.Q.
CON. BENFORDEWELL UNITS

About 5 or 6 weeks ago, I was present at my house when a Corporal of the Canadian Army called to sell my husband 1000 Sweet Caporal cigarettes. I saw my husband pay him some notes. Before bringing these. The corporal told my husband that the cigarettes were his own and that his name was on the parcel and that he was allowed to sell them. I would know this corporal as he has been to my house on other occasions to sell my husband some cigarettes.

E. M. Bilham

Frederick James Billham
49 Triangle Clapham, age 14 1/2 yrs.

I have been present ~~when~~ at my house and at the coffee stall in Clapham Common when a Canadian corporal has sold Canadian and American cigarettes to Mr. John Billham who is my father. A few days after the Customs officer seized cigarettes from my dad, this corporal approached me at the coffee stall and offered to sell me more cigarettes. I told him my dad was in trouble and he left. I would know this Corporal.

F. J. Billham

No. II

3 July 43

Mr. Frederick John. Billham.
49 Triangle, Clapham.
Who states on oath.

(2)

About one month ago, a Canadian Corporal who had previously sold me Canadian & American cigarettes, called at my house. He asked me if I wished to buy cigarettes and showed me a carton of a 1000 Sweet Caporals. I asked him if the cigarettes were his. He replied my name is on them. I then gave him four one pound notes. He then opened the package and took out something. it looked like a Post card.

The name on the parcel is "Graffix" that is the parcel that the custom officer found with some cigarettes still in it.

I attended an identification parade at Aldershot and there identified a Corporal as the man who sold me these cigarettes for £4.0.0.

F. J. Billham

SUMMARY OF EVIDENCE IN THE CASE OF

L1161 Cpl Gratrix, R.J. - Clerks Training Wing, #1 CGRU

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution — Mr.J.J. Neill, Officer Customs and Excise, Special Inquiry Staff, City Gate House, London, E.C. 2 having been duly sworn states:-

On the 23rd of June 1943 in consequence of information I received from the police I went to 49 Triangle Place, Clapham, S.W. 4 tenented by Mr. F.J. Billham. In answer to my questions Mr. Billham produced these two cartons along with other Canadian cigarettes. One of these cartons addressed to Gnr Barber and post-marked April 1943 was empty. The other carton addressed to Cpl Gratrix and post-marked May 1943 I found to contain 22 packages each containing 25 Sweet Caporal cigarettes.

J.J. Neill 17/7/43.

Mr.J.J. Neill, Officer
City Gate House,
London, E.C. 2

The accused declines to cross-examine the witness.

Second Witness for the Prosecution — K85437 Sgt Johnston, S.L., S.I.S. Canadian Provost Corps having been duly sworn states:-

On information received from Sgt Carriere, I proceeded to Clerks Training Company on the 29th of June 1943 and there interviewed the accused. I identified myself to him and informed him that I was investigating the finding of Canadian cigarettes in the possession of a civilian in London. The accused was properly cautioned in the presence of Capt Lawrence and stated that he had sold some cigarettes belonging to Pte Barber to a civilian in London as a favor to Pte Barber. Further questioning regarding a carton bearing his particulars which was found in a civilians possession and the accused replied "I was taking 1000 cigarettes to my girl friends home in London and lost them on the train. I did not sell them and do not know what became of them". The accused refused to make a written statement. He was then placed under close arrest by Capt Lawrence. On the 3rd of July 1943 I was present at Clerks Training Company when an identification parade was held and saw the civilian, Mr. Billham, pick out the accused from a parade of 12 men.

Cross-examined by the accused.

Q. Did you caution me that anything I said would be used against me?

A. Yes.

Q. Did you not state that Gnr Barber had told you that he gave me some cigarettes for which he received from me £ 3 -10 -0 and from which I had £ 1 -0 -0?

A. Not in those exact words but I stated that Gnr Barber had stated that he had accompanied you to London and he had given you 600 Sweet Caporal and 400 American cigarettes which you had sold and handed him £ 3 -10 -0 and he in turn handed you back the £ 1 -0 -0.

MM

Q. Did I state that I sold those cigarettes to a civilian?

A. You stated that you had sold Barber's cigarettes for him.

Q. On what date did this take place?

A. That was not brought up at all.

Q. Did you not when questioning me about Gnr Barber's cigarettes without giving me a chance to explain suddenly switch to the subject of a carton of cigarettes with my name on found at a civilians in London? When attempting to explain did you not turn to Capt Lawrence and state that "I can not accept the explanation that these cigarettes were lost on the train" and that "this man should be placed under close arrest?"

A. When questioning the accused, he was given sufficient time to answer all questions and did in fact make several statements and was given every opportunity to make a written statement if he desired. This he declined to do. After his declining to make a statement I requested Capt Lawrence to place him under arrest. I may have said "I find it hard to believe your story of losing them on the train due to the fact that they were found in the same house with Gnr Barber's carton."

Q. Did you not assume the attitude that I was guilty?

A. Witness declines to answer the question.

S. L. Johnson

(K85437 Johnston, S.L.) Sgt
S.I.S. Cdn Provost Corps

Third Witness for the Prosecution

C41986 Sgt Carriere S.R.R., S.I.S. Canadian Provost Corps having been duly sworn states:-

On the 3rd of July acting on information received, I held an identification parade at #1 CORU composed of 12 other ranks, the witness being Mr. Billham. In the presence of the parade I requested Mr. Billham to identify the two men who had sold him Canadian cigarettes in Clapham. Mr. Billham touched the accused and said "That is the Corporal". I cautioned Cpl Gratrix informing him that Mr. Billham had identified him as one of the men who had sold him cigarettes and he replied, "I know Mr. Billham". In the presence of the accused and at the request of Capt Lawrence I took a statement under oath from Mr. Billham. This I produce. Another statement relating to another sale of Canadian cigarettes was taken by me under oath from Mr. Billham. This I produce.

J. R. R. Carriere

(C41986 Carriere, S.R.R.) Sgt
S.I.S. Cdn Provost Corps

The accused declines to cross-examine the witness.

Fourth Witness for the Prosecution

Statement presented by C41986 Sgt Carriere J.R.R., S.I.S. Canadian Provost Corps.

Mr. Frederick John Billham, 49 Triangle Place, Clapham states on oath:-

About one month ago, a Canadian Corporal who had previously sold me Canadian and American cigarettes, called at my house. He asked me if I wished to buy cigarettes and showed me a carton of a 1000 Sweet Caporals. I asked him if the cigarettes were his. He replied: "My name is on them." I then gave him four one pound notes. He then opened the package and took out something, it looked like a post card. The name on the parcel is "Graffix", that is, the parcel that the custom officer found with some cigarettes still in it. I attended an identification parade at Aldershot and there identified a Corporal as the man who sold me these cigarettes for £ 4 -0 -0.

F. J. Billham

Mr. Frederick John Billham,
49 Triangle Place, Clapham.

The accused declines to cross-examine the witness.

Fourth Witness for the Prosecution

Statement presented by C41986 Sgt Carriere J.R.R., S.I.S. Canadian Provost Corps.

Mr. Frederick John Billham, 49 Triangle Place, Clapham states on oath:-

I am a caretaker at White square estate. For the last 4 or 5 months I have been buying Canadian and American cigarettes. About one month or six weeks ago, I bought 800 Sweet Caporal cigarettes from a Corporal in the Canadian Army. I gave him £ 3 -10 -0. These cigarettes were in a carton which was found empty by the Custom Officer. Today, 3 July 43, I attended an identification parade at Aldershot. There I picked the corporal who had sold me these cigarettes. This sale of cigarettes took place at my house, 49 Triangle, Clapham.

F. J. Billham

Mr. Frederick John Billham
49 Triangle Place, Clapham

The accused declines to cross-examine the witness.

Fifth Witness for the Prosecution

D105765 Regan, J.O., CSM, Clerks Training Coy No 1 Cdn Gen Rft Unit having been duly sworn states:

I am CSM Clerks Training Coy No 1 Cdn Gen Rft Unit. The accused, who I now recognize, is on the strength of my Coy.

I produce herewith a copy of Cdn Army Overseas RO 3509 published as notice board information which was posted on the Coy Order Board on 7 Jun 43. (Attached as Exhibit "A").

Jas Regan CSM
D105765 Regan, J.O.

The accused declines to question the witness.

MS

ADDITIONAL SUMMARY OF EVIDENCE IN THE CASE OF

L1161 Cpl Gratrix, R.J. - Clerks Training Wing, No 1 CORU

Sixth Witness for Prosecution

Mrs Ellen Mary Bilham, 49 Triangle, Clapham will state:

"About 5 or 6 weeks ago, I was present at my house when a Corporal of the Canadian Army called to sell my husband 1000 Sweet Caporal cigarettes. I saw my husband pay him some notes. Before buying these the Corporal told my husband that the cigarettes were his own and that his name was on the parcel and that he was allowed to sell them. I would know this corporal as he has been to my house on other occasions to sell my husband some cigarettes"

Mrs E.M. Bilham
49 Triangle Place, Clapham

Seventh Witness for Prosecution

Frederick James Bilham, age 14½, 49 Triangle Place Clapham, will state:

"I have been present at my house and at the coffee stall in Clapham Common when a Canadian corporal has sold Canadian and American cigarettes to Mr. John Bilham who is my father. A few days after the Customs officer seized cigarettes from my Dad, this corporal approached me at the coffee stall and offered to sell me more cigarettes. I told him my Dad was in trouble and he left. I would know this Corporal.

F.J. Bilham
49 Triangle Place, Clapham

PNMC. The above statements have been read to the accused, in accordance with RP4(6) and, due to the exigencies of the service, and expenses involved making these witnesses available for this summary, I declare that there attendance is not required.

Patrick Cole

P.D. Cole, Lt
Intel Coy No 1 CORU

The accused does not require the attendance of the above names persons at the taking of the additional summary of evidence for purpose of cross examination.

8th Witness (Recalled) D-105765 C.S.M. Regan, J.C., Clerks Training Wing, No 1 Canadian General Reinforcement Unit states:-

I am C.S.M. Clerks Training Wing No 1 Canadian General Reinforcement Unit. The accused whom I now recognize is on the strength of my Company, I state that C.A.O.R.O. 3062 and the amending order 5473 were published within the Company by posting the same on the Company notice board, that at the time of this publication the accused was on the strength of the said company and in the unit.

Jas Regan
(D-105765 C.S.M. Regan, J.C.)

The accused declines to cross examine.

I certify that the foregoing additional summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 C,D,E,F and G have been complied with.

Patrick Cole
P.D. Cole, Lieutenant
Intell.Coy. #1 C.G.R.U.

The accused was cautioned as follows:

" Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

After the caution the accused elected to give evidence as follows:

The accused, L- 161 Cpl. Gratrix, R.J. Clerks Training Wing, #1 C.G.R.U. having been duly sworn, states:

On the week-end of 19 June 1943 I carried with me to the train when proceeding to London 1000 cigarettes which I had received from Canada the day before. The cigarettes disappeared somewhere between Aldershot and Waterloo. I boarded the train in company with Cpl. Ladoucer, Cpl. Atkinson, Pte. MacKay and Pte. McCreary. The train was full. I placed the cigarettes on a baggage rack. Cpl. Ladoucer and myself stood outside the carriage in the corridor. The remainder finding seats. Cpl. Ladoucer and myself proceeded straight through to Waterloo. The remainder of the party changed at Wimbledon to go to Clapham Junction. On arrival at Waterloo I remarked to Cpl. Ladoucer that the cigarettes were gone and that I hoped one of the boys had taken them with him when he left the train. On Saturdays it is a regular habit of mine to go direct to Waterloo, sometimes accompanied by Cpl. Ladoucer, for the purpose of purchasing, if available, a "Greyhound Express". I left Waterloo and went to Clapham Junction and asked the remainder of the party if they had picked up my cigarettes. They stated that they had not. On Monday morning in the Assistant Instructors Office, Clerks Training Wing I remarked to Sgt. Gemmell that I had lost 1000 cigarettes on the train. I request Cpl. Ladoucer, Cpl. Atkinson, Pte. MacKay, Pte. McCreary and Sgt. Gemmell to appear as witnesses on my behalf. Having frequented Clapham Common and area during the past year on week-ends and other leaves and having been billeted there on a three months course, Mr. Billham has repeatedly seen me at Charlies' Coffee Stall and has spoken to me on several occasions. He was, during part of that time, working at the Coffe Stall. He must have heard my name many times as most of my friends call me Gratrix and consequently it would be easy for him to pick me out on an identification parade.

R.J. Gratrix

(L1161 Gratrix, R.J.) Cpl.
Clerks Training Wing #1 CGRU.

The accused does not call any witness for the defence.

The Exhibits produced are as follows:-

2 empty cartons (cigarette). One bears the name and number of Gnr. Barber and post-marked April 1943. The other carton bears the name and number of Cpl. Gratrix and post-marked May 1943.

Mr. T.J. Neill now has the cartons at City Gate House Customs and Excise, Special Inquiry Staff, London, E.C.2.

I certify that the foegoing Summary of Evidence consisitng of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with

Patrick Cole

(P.D. Cole) Lieut.
Intelligence Coy.
No 1 Cdn Gen Rft Unit.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Maida Barracks, Aldershot, on the 15 day of July 1943, preliminary to My Court Martial.

I further acknowledge that I have been served with a true copy of the Charge under which I am being brought to Court Martial.

[signature]

Dated at Maida Barracks
this day of July 1943.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial. I desire the services of _____ if he is available.

[signature]

Dated at Maida Barracks
this day of July 1943.

M.F.M. 6
(A.F. B.122)
Can/F As/S1a5 (2965)

No. L.1161 Name GRATRIX.R.J. | Sqn., Battery, or Company | Corps S.L.I.(M.G.) | Date of enlistment 14-9-39 | G.C. Badges 1 | Service or Proficiency Pay 2 | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 4 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entry on previous sheet, destroyed 14-9-41 on completion of 2 years Service.								(Camp Commandant M.Q. 1 Cdn Div	

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT IN MY POSESSION

Records Officer,
C.O. No 1 Cdn Gen Hqt Unit.
Canadian Army Overseas.

(FTO)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of July 1943.

Richards Capt

Records Officer.,
No 1 Cdn Gen Rft Unit.,
Canadian Army Overseas.

Original

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

L-1161 Cpl. Gratrix, R.J. of the Clerks Coy., #1 C.G.R.U.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 664, K.R., 1935.

*The number herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For	-------- times	------ times.
For	-------- times	------- times.
For	-------- times	------- times.
For	-------- times	-------- times.

Number of instances of gallantry or distinguished conduct.

Nil

or,

There are no entries in the Conduct sheets of the accused.

2. ~~The accused has not been previously convicted.~~

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

[illegible]

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------~~

4. The accused has been in confinement, awaiting trial on the present charges

for -------- days in Civil Custody,

and ~~23~~ 28 days in Military Custody.

Total ~~23~~ 28 days.

Of which ---------- days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 Years.

M.P.M. 4

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ ~~attestation (page)~~ is 14 Sep 39

M.P.M. 4

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is --------

8. The accused is entitled to deferred pay or gratuity in respect of ---------- years' service.

9. The accused is entitled to reckon ------ years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of, or entitled to~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A N/A, dated N/A, and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion
In the rank of Cpl. - 2 Years, 7 Months 4 days	years,	11 Dec 40
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ____, signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name L-1161 Cpl. Gratrix, R.J. of the Clerks Coy. #1 C.G.R.U.

Note.—A verbatim extract from the regimental books, stating fines committed and dispensations with trial, must be inserted.

Description of Court by which tried, or name or office of officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

22 Jul 43

L.1161 Cpl. Fratrix R.J.

1. I acknowledge that the Exhibits in this case were returned to me by the President of the Court at the trial of the m/n Et. C.O. by F. R. C. Et. and I undertake to produce them when required.

R. W. Herman Gray
Prosecutor
1. A.S.C. R.U.

MM

22 Jul 43

A 28354 - Lnw. Barber A.D.

1. I acknowledge that I have received from the President, Exhibit 3,

PP 13 (case #2)
PTE GRATRIX R.J.
See JJ-144 for 1st case

L-1161 Pte. Robert John GRATRIX
Clerks Trg Wing - 1 C.G.R.U.

PP-13

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 6th day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [illegible]:—

*(1. [illegible]

*(2. [illegible]

[illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

*Omit if not applicable.

Proceedings Approved

E.H. McDonald Capt

4 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	C. H. of O.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by O.C.	5 C.I.R.U.
A Lieutenant	to be detailed by O.C.	5 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J. R. Stewart Lough
Brigadier
Commanding "G" Group Cdn Rft Units
Convening Officer.

Arthur S. Pettapiece, Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-1161 Pte Robert John GRATRIX Clerks Trg Wing 1 C.G.R.U.	First Charge A.A. Sec. 22	Guilty	Guilty	
	Second Charge A.A. Sec. 15(1)	Guilty	Guilty	Confirmed
	Sentenced to undergo detention for a period of nine (9) months and fifteen (15) days. 7 Sep 43. AHP			
	SEE CHARGE SHEET ATTACHED			

~~*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):~~

~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~

~~Answer (to be recorded on separate sheet if necessary):~~

(Signed) J.R. Stewart Lough (Signed) Arthur S. Pettapiece Major

Commanding Brigadier "G" Gp Cdn Rft Units

Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of September 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

AHP AHP

Signed this 7th day of September 1943.

Arthur S. Pettapiece Major

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1922.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 ,~~

~~President of the Court Martial.~~

AHP AHP AHP AHP

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 7th day of Sep 1943.

J.R. Stewart Lough

Brigadier, Commanding "G" Gp Cdn Rft Units

Confirming Officer.

Promulgated and extracts taken in the case of L1161 Pte Gratrix, R.J.

(a) (Dated) 7 Sep 43 (Signed) [illegible] Adjutant No. 1 Cdn. Gen. Reinf. Unit, C.A. (e.s.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) Wt.68278/850 50,000 2/43 A.&R.W.Ltd. Gp.888
(24256) Wt.11192/71 100,000 5/43 " "

L[illegible] Pte Gratrix, R.J.

Pte Gratrix joined the Sask Light Inf 14 Sep 39. From that regt he was sent to 1 Div HQ in Nov 39; shortly after, he became UCO i/c of Camp Commandant's Office. In April 42 he left 1 Div HQ to take a three month course in London and on completion of his work there he was sent to No 1 CyRU where he was t.o.s. as an instructor. He is a qualified typist and stenographer and entitled to Group B trades pay as such. His duties in the Clerks wing of CyRU were well discharged; his CO was entirely satisfied and recommended that he be promoted to the rank of sgt.

The only entry on his InFm 6 prior to 12 June 43 was an entry for AWL. Through some misunderstanding he missed a church parade and was shown as absent from Sunday morning until tattoo.

Pte Gratrix was tried by Court Martial and found guilty of selling cigarettes, received as a gift from Canada, to civilians. For this offence he was reduced to the ranks, awarded eight

months detention and placed under stoppages of pay amounting to 265 days.

He felt that the punishment was harsh to the point of being unjust and decided to try to get out of detention and to make his way somehow to North Africa or Sicily. He thought that if he got back to the first line troops surrendering to the U.S. he might be allowed to go out and fight after three or four months of detention. Earlier in 1943 he had asked to be returned to Div but his request was not granted. He made good his escape almost immediately but when he started to try to get to North Africa he discovered that it was virtually impossible.

Finally realising that he had to take his punishment he returned to Hohenstaufen of his own free will and surrendered to the proper authorities. He could have

stayed away almost indefinitely if he had wanted to evade the law but he came back in order to finish his detention and get back to the field.

This man is an intelligent well trained soldier who has never been a cause of trouble before. He realizes now how wrong it was to sell cigarettes to civilians and why the Court Martial punished him so severely; he realizes too how foolhardy it was to try to escape from the law. He can do a good deal for the Canadian Army before the war is over and his only hope is to get back to a unit as soon as possible. He throws himself at the mercy of this Court Martial hoping that his plea in mitigation of punishment will receive a sympathetic hearing.

Dan Healy

CHARGE SHEET

The accused, L.1161 Pte Robert John Gratrix, Clerks Training Wing , NO. 1 C.G.R.U. a soldier of the Canadiam Army Overseas is charged with:-

FIRST CHARGE SEC 22 AA — When on Active Service when in confinement, escaping

in that he

at 0615 hrs on the 30 day of July 1943 when in confinement in the Unit Guard Room No.1 Canadian General Reinforcement Unit, escaped

SECOND CHARGE SEC 15(1) A A — When on Active Service absenting himself without leave

in that he

at No. 1 Canadian General Reinforcement absented himself without leave from 0615 hrs on the 30 day of July 1943 until he surrendered himself to C.16514 Cpl Ladoucer W.E. Clerks Training Wing, No.1 C.G.R.U. at 1300 hrs 31 Aug 43.

Total Absence 32 days 6 hours 45 minutes.

(R.W. FROST) LT.-COL.
O.C. NO. 1 CDN GEN RFT UNIT.
CANADIAN ARMY OVERSEAS.

Field
3 Sep 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(J.R. Stewart Lough) Brigadier.
Commanding,
xx Group Cdn Rft Units.

6 Sep 43

Convening Officer
Arthur J. Pettypiece, Major,
President

Medical Officers Certificate
K.R. (CAN) para 557

I certify that I have this morning examined L.1161 Pte Gratrix R.J., and in my opinion is fit to undergo trial by Court Martial.

[illegible]
(Medical Officer)

Field

7 Sep 43

Arthur S. Pettigrew
Major

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Cowenna Barracks, Aldershot, Hants.
ON THE 7th DAY OF September 1943

The accused 4461 Pte. Gratrix R.J. ...Unit...1 C.G.R.U.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. S. Pettapiece .....Unit. H.Q.C.R.U...
Members Capt. J. M. Porritt .....Unit. 5 C.I.R.U.....
Lt. W. L. Graydon .....Unit. 5 C.I.R.U.....

The officers under instruction are duly sworn:-

Maj. J. R. Dickie .....Unit. 21st Fd. Regt.
.....~~Unit~~..... CHP

Prosecutor Lt. P. B. Barber .....Unit. 1 C.G.R.U.....
Defending Officer Lt. H. M. Kemby ...Unit. 1 C.G.R.U.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces ~~[illegible]~~ AFS 296 and MFM 6. CHP
The Court complies with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~ CHP
~~(b) Calls witnesses as to character.~~ CHP
~~(c) Calls witnesses in mitigation of punishment.~~ CHP
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER. CHP

attached hereto.

Arthur S. Pettapiece,
Major

SUMMARY OF EVIDENCE

In the case of L1161 Pte. ~~(Cpl.)~~ GEATRIX R.J., on strength C.T.W. No.1 Canadian General Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army,(Overseas)

By direction of the Commanding Officer, this Summary is taken on Oath.

First Witness for Prosecution. B85802 L/Cpl Flowers,R.J., "A" Wing, No.1 Canadian General Reinforcement Unit, having been duly Sworn states:

On the night of 29th. July 1943 at about 2359 hrs., L/Cpl Turanski took over i/c Guard Room Desk. L/Cpl Thompson and myself were also on duty from 2359 hrs. 29th. July 43 to 0800 hrs. 30 July 43. At about 0510 hrs. 30 July 43, L/Cpl. Thompson awakened the S.U.S., the accused was in his cell. At about 0610 hrs. I was detailed by L/Cpl. Turanski to take Pte. Andrus to the laundry. Whilst in the laundry, I heard a Police whistle. I looked out of the window but saw nothing. On going to the Guard room with Pte Andrus, I found a number of men standing in the main reception room and a number of bed biscuits on the floor to the left of the main entrance. There were no R.Ps in the room. I immediately locked the S.U.S. up. On checking the S.U.S., I found that the accused had escaped in company with Gunner Barker and Pte. Maher. I immediately informed Sgt. Wallace, i/C Regimental Police and L/Cpl. Inglis.

Accused declines to cross-examine witness.

R.J. Flowers L/Cpl.
(R.J.Flowers)
B85802

Second Witness for Prosecution. B88768 L/Cpl. Thompson,W.C., "A" Wing No.1 Canadian General Reinforcement Unit, having been duly sworn, states:

I went on duty at 2359 hrs., 29 July 1943 until 0800 hrs. 30 July 43 in the Guard Room. At about 0605 hrs. 30 July 43, I unlocked the doors of the cells in order to get the S.U.S. Personnel up. I then went to the Guard Room and waited for the S.W.S Personnel to come out with their bedding to be stacked for the day. At 0615 hrs., the accused, Gunner Barber and Pte Maher came from their cells with their bedding. The accused and Gunner Barber threw their bedding at me and the three men then rushed past me and out doors. I gave warning of the escape and then attempted to catch the three men. I then returned to the Guard Room.

Accused declines to cross-examine witness.

W C Thompson L/Cpl.
(W.C.Thompson)
B88768

Third Witness for Prosecution. L41259 L/Cpl.Turanski,M. "A" Wing No.1 Canadian General Reinforcement Unit, having been duly sworn states:

I went on duty in the Guard Room at 2359 hrs. 29th.July 1943 until 0800 hrs. 30th. July43, accompanied by L/Cpls Flowers and Thompson. I was in charge of the Guard Room. At about 0600hrs. I sent L/Cpl Thompson to awaken the S.U.S. Shortly after this I sent L/Cpl. Flowers to get some water. At about 0615 Hrs. the accused, Gunner Barker and Pte Maher came from their cell with their bedding. The accused threw his bedding at L/Cpl. Thompson. One of the S.U.S. attempted to throw his bedding at me.

(3rd. Witness) (cont.)

I jumped aside and he threw it on the floor. The accused opened the door and all three men rushed out. I blew my whistle and gave chase. I came back and reported that Pte. Gratrix, Gunner Baxter and Pte. Mahar had escaped.

Accused declines to cross-examine witness.

M Turanski L/Cpl.
(M. Turanski)
L41259

Fourth Witness for Prosecution.

C16514 Cpl. Ladoucer, W.B., Clerks Training Wing, No. 1 Canadian General Reinforcement Unit, having been duly sworn, states:

At approximately 1300 hrs., 31st. August 1943, I was in the Town of Aldershot, Hants, when Pte. Gratrix met me on the Street and surrendered himself to me as an absentee. He was sober and properly dressed. I immediately placed him under arrest and turned him over to Capt. Lawrence of my Company.

Accused declines to cross-examine witness.

W B LaDoucer Cpl.
(W.B. Ladoucer)
C16514

The accused was cautioned as follows, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give evidence or make a statement.

The accused does not wish to call any witnesses for the defence.

I certify that the above Summary of Evidence, consisting of two pages was taken down by me in the presence of the accused and that the Rules of Proceedure 4 (c), (d), (e) and (f) have been complied with.

Capt.
(J.F. Law)
Cdn. Provost Company. 1 CGRU
Officer detailed to take Summary.

2nd. September 1943

I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Maida Barracks, Aldershot on the 3rd th day of Sept. 1943, preliminary to my Court Martial.

I further acknowledge that I have been served with a true copy of the charges under which I am being brought to Court Martial.

R J Bratley

Dated at Maida Barracks
this 3rd day of Sep 43.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial. I desire the services of

_____ ? if he is available.

R J Bratley

Dated at Maida Barracks
this 3rd day of Sep 43.

No. L.1161 Name Gratrix R.J. Sqn., Battery, or Company C.T.W. Corps S.L.I. (M.G.) Date of enlistment 14/9/39 G.C. Badges I Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/P & /S136 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 4 | Signature O.C. Company, etc. D. Hay Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entry on previous sheet, destroyed 14-9-41 on completion of 2 years service .D..Hay...Capt....									
Field	8 Jun 43	Cpl		A.A. Sec.11, WOAS Neglecting to obey Overseas Routine Orders, in that he at 49 Triangle Place X Clapham on or about 8 June 43 did sell to Mr F.J. Billahm, cigarettes received as GIFT FROM CANADA contrary to Overseas Routine Order 3062 and amended by Routine Order 3473		reduced to the ranks and awarded 8 months detention	22 Jul 43	F.G.C.M.	Total forfeiture of 267 days pay

Certified true copy of the original doc. in my possession.

Arthur S. Pettapiece Major

J.R. Sullivan Lieut.

Officer Records

No. 1 (Cdn.) General Hosp. Unit.

7 Sep. 43

Description of Court by which trial, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial or summary award or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of Sep 43

J. K. Sullivan Lieut
Officer i/c Records
No. 1 (Cdn) General Holding Unit

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

L.1161 Pte Gratrix R of the No. 1 Cdn Gen Rft Unit.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

Files Pass. 661, R.R., 1936.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, pronouncement being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For Sec. 11 A.A.	1	times	1	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct.

~~OR~~

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~

~~OR~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

3. [illegible]

xx,

The accused at the present time is under sentence for 8 Months detention beginning on the 22 nd day of Jul 43.

4. The accused has been in confinement, awaiting trial on the present charges for ----- days in Civil Custody,

and 6 days in Military Custody.

Total 6 days.

Of which ------ days were spent in hospital.

5. The present age of the accused according to his [illegible] is 25 years [illegible].

6. The date of his attestation specified in his [illegible] 14 Sep 39 [illegible] 4

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is /// ----

8. The accused is entitled to deferred pay or gratuity in respect of ---------- years' service.

9. The accused is entitled to reckon ---- years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [or is in possession of or entitled to ----------

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of , dated , and in his regiment *(or corps or department)* the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years.	
In the rank of	years.	
In the rank of	years.	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name L.1161 Pte Gratrix R.J. of the No. 1 Cdn Gen Hft Unit.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which Tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Field 22 Jul 43	Sec. 11 A.A. - Neglecting to obey Overseas Overseas Routine Orders.	8 Months Detention	

(Continued overleaf.

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

4G-50.

Pte. Gratrix. R.J

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L1161 Pte (A/S/Sgt) Robert John GATRIX

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 10(4)	GUILTY	GUILTY	
2nd AA Sec 40	WITHDRAWN		
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~SNCO) yet to be awarded~~ beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 77 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of Two (2) Years.

(Sgd) ..... Judge-Advocate, if any. 23 NOV/44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 23 Nov 44 (Sgd) C.B. Connelly Brig Commanding "D" Sp CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
L1161 Pte (A/S/Sgt) Gatrix R.J.	23 Nov. 44.	

DO 287 d/ 1 Dec 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED - 5 DEC 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160. 45-50

CPA96 (In lieu of AFA51) 40/P & S. 1698 (6144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Brigadier A B Connelly Comd B Sp CRU dated 14 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L1161	Pte	A/S/Sgt	Robert John	GATRIX	1 CGRU

PROCEEDINGS REVIEWED 9 Dec 44 W. C. Strachan Capt. REVIEWING OFFICER JAG BRANCH C.M.H.Q.

Joe

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date) 22 23 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~duly~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~duly~~ brought before the Court. At 1500 hours 21 NOV/44 the trial commences. TPM

A4. The Prosecutor produces a Medical Certificate that accused is ~~now~~ fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ an interpreter? Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to P 38776 Sgt SHAULTZ as shorthand writer? Ans NO SIR

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the full names and units of the offrs comprising the Court, etc:

President	LT COL	D.L. REDMAN VD	H.Q. CRU
Member	CAPT	W.E. JAMES	1 CASCRU
Member	LT	J.S. MELBOURNE	1 CASCRU
~~Judge-Advocate~~			
Prosecutor	CAPT	M.L. McGILL	3 CACRU
Defending Offr	LT	I.F.E. BRODIE	3 CGPC

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) ~~to~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AF notes and some of the accused making the plea.)

AT 1900 hrs 21 NOV/44 this TRIAL proceeds. TPM

A9. The accused is ~~duly~~ arraigned on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 39, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(*1. RP 27(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be asked to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(2). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AA 95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. To call character witnesses NOIE-AIT
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM a. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By Defence NOTE-AIT (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(C), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET:

The Accused, L-1161 Pte. (A/S/Sgt) Robert John GRATRIX, Clerks Coy., No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 18(4)AA

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY

in that he

At No 1 Canadian General Reinforcement Unit on 5 Oct 44 stole 700 blankets, public property, from the accommodation stores, No 1 Canadian General Reinforcement Unit.

SECOND CHARGE (ALTERNATIVE)
SEC 40 A.A.

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

At Walworth, London, England on 5 Oct 44 when apprehended by Ernest Cook, Detective Sergeant, New Scotland Yard, was in improper possession of 700 blankets, public property.

(B.R. Ker) Colonel
Comd
No 1 Cdn Gen Rft Unit
Canadian Army Overseas.

Field
10 Nov 44.

Approved on behalf of the J.A.G.
Cdn Army Overseas pursuant to
K.R. (Can) 540 and Overseas RO
4756 (1)

for DJA HQ CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(A B Connelly) Brig
Comd B Gp
Cdn Rft Units

14 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L1161	Pte	A/S/Sgt	Robert John	GRATRIX	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Nov 44 endorsed by me, (~~order accordingly~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that a court properly constituted for the trial of the accused cannot be convened without manifest inconvenience or delay~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint an Offr of the rank of Lt Col, who is a barrister, advocate~~ or member of the Province of Quebec bar, for the reason that no such Offr is available.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by	1 CASCRU
Lt	to be detailed by	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(AB Connelly) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 14 Nov 44

Commanding HQ B Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAGE (To take place of AP&S 40/P & S/1567 (1401))

(See overleaf for oaths and notes for use at trial.)

MY

MEDICAL OFFICER'S REPORT

I certify that No. L.1161 Pte(A/S/Sgt.CRATIX, R.J.

of No.1 C.G.H.M. is in a good state of health,

and fit to undergo Trial by Court martial.

J Anderson Capt Captain
Medical Officer
No.1 C.G.H.M.

Station Field

Date 21 Nov 1944

M. F. B. 246

MEDICAL OFFICER'S REPORT

I certify that No. L-1161 Pte.(A/S/Sgt) Gratrix, R.J.

of #1 CGRU is in a good state of health,

and fit to undergo Trial by Court martial.

[signature] Captain
Medical Officer

Station Field

Date 2-7 Nov 44

M. F. B. 246
25M—6-41 (792)
H.Q. 1/72-39 480

MEDICAL OFFICER'S REPORT

I certify that No. L-1161 Pte.(A/S/Sgt) Gratrix, R.J.

of #1 CGRU is in a fit state of health,

and is able to undergo Trial by Court martial.

[signature] Captain
Medical Officer

Station Field

Date 23 Nov 44

M. F. B. 246
2531—6-41 (793)
H.Q. 1172-39 480

Quote No. S15/C-4-44

CANADIAN PROVOST CORPS

LONDON AREA

IV

TELEPHONE: TEMPLE BAR 3618.

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

CANADA

SPECIAL INVESTIGATION SECTION

7 OCT 44

STATEMENT of:

Regt. No. L-1161, S/Sgt. GRATRIX, R.J.,
Clerks' Coy., No.1 C.G.R.U., C.R.U. Command.

I

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S. that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

RJ Gratrix

STATES:

One day last week, I think it was Saturday Sep 30, 1944, I was in the N.A.A.F.I., Stanhope Theatre, Aldershot, ~~xxx~~ at lunch time in company with, Sgt. Gemmell, N.A., Sgt. Davies, J. and Sgt. Johns, R.T. all of No 1 CGRU. Sgt. Gemmell stated that he knew of some buckshee blankets on which we could make some money if we could dispose of them.

On Sunday, 1 Oct 44, we were all in the Sgt's Mess (Maida) No 1 CGRU we again discussed the blanket proposition. Sgt Davies said that he might know someone in London that would take them. It was decided that Sgt Davies and I would come to London and see if arrangements could be made. We came up that night and we arrived in the Elephant and Castle district about 2030 hours. In the tube station there, Sgt Davies made inquires of the Warden's office about a man named Pop, whom he said knew of someone who would take the blankets. The warden said he would send him around to the Kings Head public house. We went from there to the Black Prince public house, where Sgt Davies went up to a man called "Ginger Mack" or "Ginger Mick" and they had a whispered conversation together, I did not overhear what was said but Sgt Davies said that he would take around 500 blankets if we could deliver them and that he would pay 7/6 a piece for them, he told me this after the conversation. We were to bring them up on Thursday Night and to meet him in the Black Prince. This Civilian would be about 40 years old, Five Feet Eight Inches, stocky build, reddish complexion, ginger stubble, thick lips , I noticed that he spoke with down cast eyes and would not look you in the face. He was wearing a grey check cap with light brown stripes running through, a cheap dirty blue suit (light) of smooth cloth, white scarf and old brown shoes. ~~xxxxxxxxxx~~ RJG

We left the Black Prince and proceeded to the King's Head where we saw the old man named "Pop" and Sgt Davies told him he had already seen the man he wanted him to locate. "Pop" is quite an old man about 5' 6" . He needed a shave and light grey stubble. He was wearing a black coat. I think he is a warden in the Elephant and Castle tube station but he said that he had been sick and that he expected to get discharged soon, on this account.

RJG

After a couple of drinks we went back to the Black Prince with "Pop" and Sgt Davies had a couple more words with "Ginger" there was another civilian with him but I would not recognise him again. We spent the night in London and returned to Aldershot the next morning.

That morning I saw Sgt Gemmell and told him everthing had been arranged. He said arrangements would have to be made for transport. Later in the day he saw me and said that arrangements were being made for the blankets to be ready on Thursday. Sgt. Gemmell, Sgt. Johns, Sgt. Davies and myself usually go into the Stanhope N.A.A.F.I. every day at lunch time and one day I think it was Wednesday Sgt. Johns said that transport had been arranged for the blankets on Thursday. We were together that day at noon, and Sgt. Gemmell went over to talk to CQMS Miskimmins. He then called us over and Miskimmins said that everythingwas all arranged. Sgt Davies was to go to London with the truck load of blankets and Sgt Johns and I were to meet him in the Black Prince. He had a letter addressed to No 23 Cdn Gen Hosp RCAMC, Watford, covering shipment of 1000 blankets which would safeguard him on his journey. Later it was arranged that I should go to London with the truck and the letter was handed to me, I don't know where it came from. Sgts Johns and Davies would meet me on arrival at about 1830 hours in the Black Prince, I was to meet truck No L 762820 outside the Garrison Theatre, Aldershot at 1600 hours and show the driver how to get there. I didn't know where the blankets were coming from all I knew was that CQMS Miskimmins was arranging to get them. I

I met the truck at 1600 hours as arranged and proceeded via Staines, Kingston, Clapham Junction to the Elephant and Castle area where I had some difficulty in finding the Black Prince Pub, driving around for approximately half an hour in that area before finding the right pub. I stopped once at a Black Prince Pub but found it closed and decided it was the wrong one. We then drove back following the tram lines and stopped again to ask inquiries to the tube station after which I found my bearings and arrived at the proper place at about 1830. I told the driver to wait and found Sgt Davies and Sgt Johns inside the pub, they said there was nobody there yet but a civilian who knew Ginger was trying to get him on the phone. He came in about an hour later and went out again to make some arrangements but sent word back by another civilian between 20 and 2030 hours that arrangements could not be made that night. I would recognize Ginger again if I saw him but not the two other civilians.

While we were in the pub I gave Sgt Davies 5 shillings for the driver to go for supper, Sgt Davies stayed with the truck while he was away at about 1930 hours, he came back about 20 minutes time and I took him out some cigarrets and matches, I don't know the lad and never saw him before in my life.

After we got "Ginger's" message Sgt Johns, Sgt Davies, and I went by tube to the west end to see if we could find a place to store the blankets, we tried in a pub near Oxford Circus without success and took a Taxi to some club or other that Sgt Johns knew about and left him there while Sgt Davies and I went back for the truck by Taxi, I was to follow the Taxi back in the truck. I left Sgt Davies talking to the driver and when I crossed over to the truck a couple of plain-clothes policemen stopped me and asked me what I was doing, I said I was going back to Aldershot but they said I had better come with them and took me to a police station near by. Another officer followed with the driver in the truck. Later S/Sgt Nelson of the SIS came and took me and the driver back to No 6 Provost Detention Room, he cautioned me and then asked me if I had any business in London with the truck and blankets to which I replied "No".

I have never been concerned in anything of this kind before except one case of selling 1000 cigs. but I was due to go on leave

Quote No. 918/E-4-44

CANADIAN PROVOST CORPS
LONDON AREA

IV

CANADA

TELEPHONE: TEMPLE BAR 3616.

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

STATEMENT OF:

Regt. No. L-1161, S/Sgt. GRATRIX, R.J.,
Clerks' Coy., No. 1 CGRU., CRU Command.

Continued from Page 2.

and needed money, and knowing that I was not directly concerned with the taking of the blankets, and did not know the persons to whom they were going, I though I could get enough money to go on leave. It was my job to direct the driver to the correct place, the arrangements being left to the others. I did not realize how serious an offence of this kind could be, or I would not have had anything to do with it.

I have read over the above statement which has been made voluntarily without fear of any threat or hope of favour to come and it is true.

R J Gratrix 7 Oct 44
(L 1161 GRATRIX, R.J.) S Sgt.,
Clerks Coy., No 1 CGRU.

F R Nelson
(U 1889 F.R. NELSON) S sgt.,
SIS Cdn Pro Corps CMHQ.

LONDON,
7 OCT 44.

VI

SECOND STATEMENT OF:

Regt. No. L 1161 S Sgt GRATRIX, R.J.,
Clerks Coy., No. 1 CGRU. CRU Command.

I have read over the statement made by B 64113 Rfn DUDLEY, R.D.C., dated 6 OCT 44, and having been again cautioned by S Sgt NELSON as before I wish to state that everything in it is true to the best of my knowledge.

R J Gratrix 7 Oct 44
(L 1161 GRATRIX, R.J.) S sgt.,
Clerks Coy No. 1 CGRU.

F R Nelson
(U 1889 F.R. NELSON) S sgt.,
SIS Cdn Pro Corps CMHQ.

LONDON
7 OCT 44.

VII

PLEA IN MITIGATION ------S/SGT. R.J.GRATRIX 22 NOV 44
39

S/Sgt. Gratrix joined the Canadian Army on the 14 SEP 44. He was a member of the Sask. (L.I.) He was posted to H.Q. 1st Div. Nov 39. In June 1940 he went to France. He was employed as N.C.O. i/c Camp Commandant's office until April 42.

Following a Shorthand course he was retained at #1 CGRU as an instructor on Regimental Clerks Course. From March 43 until June 43 he was N.C.O. i/c Clerks Course at C.M.H.Q. This course known as 139 Clerk Course was started and operated by him.

From that time until 19 DEC 43 he was in detention for selling cigarettes. Following a short period, when he was employed as a Court Stengographer, he had been with Major Lawrence, having been recommended by Col. Tweedie. He was promoted to L/Cpl. on 5 JAN 44; then in March was promoted to Sgt. He was promoted to S/Sgt. in JUN 44. This promotion he received over senior NCO's who had been with the unit for 2 and 3 years.

This NCO has had no leave since MAY 43, in common with his custom he has let his instructors take their leaves first. He is an untiring worker and it has been a common practice for him to take examination papers and general work for correction on Saturday afternoons and Sunday. In this way the beginning of the week saw all the work up to date.

Having checked the results of his taking over School 139, it is found that from 50% - 75% failures rate has been raised to 15% - 25% failures.

Gratrix is in the process of qualifying for the Pitman's Shorthand Teachers Examinations. Here is a man who is away above the average in his line of endeavour. He is a glutton for work, having worked many extra hours to compile a list of shorthand outlines for Military Phraseology---used as precis in schools.

And now we see him in this trouble. It just doesn't add up and make sense. His mentality is very high; his disposition and social behaviour do not indicate any reason for any lapse from discipline.

The defence could carry on at length with good examples of Gratrix ability; he has made a plea of guilty to the charge against him to-day. The Court has heard the evidence and are in a position to

to judge the degree of his activity in connection with the offence. The defence urges the Court to consider this man's worth to the Army; his past record of service and his future usefulness to the Canadian Forces, very, very carefully. When this has been done the defence is certain that special consideration can be shown and the minimum penalty imposed.

A.E. Brodie,

E-3

Trial of L1161 Pte (A/S/Sgt) GRATRIX, RJ

E-1

Evidence as to Character

1st Witness as to character

Lt S. R. Ramsay on strength of 1 CGRU having been duly sworn states:

I am the Admin Offr of the Clerks Training Coy. 1 CGRU. I have known Staff Sgt. Gratrix for over a year and during that time I have had much to do with this NCO. He was our chief instructor at CMHQ Course 139 (Short hand Steno) he has been, in my opinion, a damned good instructor. He has been a good organizer and he certainly knows his Pitman's shorthand. During the time I have known him there has been no occasion to check him in his work. Apart from his official duties I know little of his habits, but I have never until now, heard anything detrimental to his character. But he has carried out his duties in a very satisfactory manner. He has always been on the job.

He is a Group "B" clerk qualified both a shorthand steno and a general duties clerk. "B" group is the highest classification for clerk at this unit, if our W.E. allowed us an "A" group S/Sgt Gratrix would have been one. His ability is above average as an instructor. He and Sgt Gemmel are our best instructors.

CERTIFICATE

I certify that the copy of the Summary of Evidence and of the Exhibits thereto which are returned with or are included in these Proceedings and which are initialled by me, are a true copy of the original summary or of the original exhibits with which I have compared them, which original summary and which original exhibits are of record in the FGCM Proceedings of B 64113 Rfn Dudley, R.D.C.

(D.L. Redman) Lt Col
President, F.G.C.M.

GRATRIX
MY

SUMMARY OF EVIDENCE

In the case of:-
L 1161 S/Sgt Greatrix, R.J. - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit
B 88451 CQMS Miskimmons, W., - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit
L 10134 Sgt Gemmell, N.A. - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit
D 91032 Sgt Davies, J.C., - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit
A 9243 Sgt Johns, R.T. - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit
B 96927 Cpl Jaynes, J.C.M. - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit
B 64113 Rifleman Dudley, R.D.C. - a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit.

By direction of the Commanding Officer this summary is taken on oath

M 11436 S/Sgt Elliott, F.W., is sworn as shorthand writer

First Witness - Prosecution

Ernest Cook, Detective Sergeant, New Scotland Yard

I certify that owing to the loss of time and expense involved the attendance of this witness is not readily procurable and a statement of his evidence purporting to have been signed by him has been read to the accused, marked by me as Exhibit "A" for the prosecution and attached to the summary.

(W.L. Magill) A/Capt
Officer detailed to take summary of evidence

We the accused persons do not require the attendance of this witness for the purpose of cross examination

L 1161 S/Sgt Greatrix, R.J.

B 88451 CQMS Miskimmons, W.

L 10134 Sgt Gemmell, N.A.

D 91032 Sgt Davies, J.C.

A 9243 Sgt Johns, R.T.

B 96927 Cpl Jaynes, J.C.M.

B 64113 Rfn Dudley, R.D.C.

MY

Second Witness - Prosecution

Albert Webb, Detective Sergeant, New Scotland Yard

I certify that due to the loss of time and expense involved the attendance of this witness is not readily procurable and a statement of his evidence purporting to be signed by him has been read to the accused and marked by me as Exhibit "B" for the prosecution and attached to the summary

(M.L. Magill) A/Capt
Officer detailed to take summary of evidence

We the accused persons do not require the attendance of this witness for the purpose of cross examination

L 1161 S/Sgt Greatrix, R.J.

B 88451 C/S Wiskimmons, W.

L 18134 Sgt Cornell, N.A.

D 91032 Sgt Davies, J.G.

A 9234 Sgt Johns, R.T.

B 96927 Cpl Jaynes, J.C.M. B 64113 Rfm Dudley, R.D.O.

Third Witness - Prosecution

U 1389 S/Sgt Nelson, F.R., Cdn Provost Corps, SIS CMHQ having boundly sworn states that:-

On the 5th of October sir, at about 2220 hrs at the Special Investigation Section office in London a telephone message was received from Detective Sergeant Cook of the Flying Squad, Metropolitan Police, New Scotland Yard, to the effect that he had detained at Carter Street Police Station London, South East 17, a Canadian Staff Sergeant and a driver in possession of a Canadian Army lorry containing a large quantity of War Department blankets. Acting on the instructions of Major R.R. Holmes, Assistant Provost Marshall, Canadian Military Headquarters, I proceeded immediately to Carter Street Police Station where I saw Detective Sergeant E Cook and Detective Sergeant Albert Webb, both of the Flying Squad, New Scotland Yard. In the station yard I saw a Canadian Army Vehicle Ford 60 cwt No L 762020 bearing the unit sign of No 1 Canadian General Reinforcement Unit. I looked in the rear of this vehicle which was covered by a tarpaulin secured at the rear with ropes and saw a large number of Army blankets which I later counted and found 700 in bundles of ten. Detained in the police station I saw S/Sgt Greatrix, whom I now recognize as one of the accused, and Rifleman Dudley, whom I also recognize as one of the accused. I said to Dudley, are you the driver of the truck outside and he said yes. I said to S/Sgt Greatrix are you with the truck and he said yes. I said to them, had you any authority to bring the truck load of blankets to London. Both soldiers answered no. At about 2245 hrs I placed S/Sgt Greatrix and Rifleman Dudley under close arrest and escorted them together with the War Department vehicle

and contents to No 6 area Provost Coy Detachment office, where I handed both soldiers over to the N.C.O. in charge to be detained. Detective Sergeant Cook handed to me a work ticket which I have present.

> The work ticket produced by the witness is shown to the accused, marked by me as exhibit "C" for the prosecution and attached to the summary.

In the possession of Rifleman Dudley I also found a work ticket No 520 which I now produce.

> The work ticket produced by the witness is shown to the accused, marked by me as exhibit "D" and attached to the summary.

In the possession of S/Sgt Greatrix I found a letter dated 5 October 1944 and signed L. Skinner for B.R. Kerr, Colonel, RCA, Commander 1 Canadian General Reinforcement Unit.

> This letter has been read to the accused marked by me as Exhibit "E" for the prosecution and attached to the summary

On 6 Oct 44 at about 0020 hrs I informed Capt Itter, duty officer No 1 Canadian General Reinforcement Unit of my actions and findings and about 1400 hrs on the authority of Lieutenant W. . Murray, Acting Adjutant No 1 Canadian General Reinforcement Unit, the War Department vehicle No L 762520 was released to Sgt Childs, W.O. of No 1 Canadian General Reinforcement Unit. The 700 blankets which I found in the rear of the vehicle, I have retained at Special Investigation Section office at Canadian Military Headquarters for safekeeping. On 6 Oct 44 at about 1400 hours in the Special Investigation Section office Canadian Military Headquarters I saw Rifleman Dudley. I cautioned him and he made to me a voluntary statement which I took down in writing and which he signed in my presence, a copy of which I here produce.

> This statement having been read to the accused Rifleman Dudley is marked by me as Exhibit "F" for the prosecution and attached to the summary

At about 1900 hrs on 6 Oct 44 I telephoned Lieutenant W. Murray, Acting Adjutant No 1 Canadian General Reinforcement Unit and informed him of the contents of the statement made by Rifleman Dudley and requested the immediate arrest of C&S Miskimmons. At about 1320 hrs on the 7th of October, 1944 at the Special Investigation Section office, Canadian Military Headquarters I saw S/Sgt Greatrix. I cautioned him and he made to me a voluntary statement which he typed out himself and which he signed in my presence. I now produce a copy of this statement.

> This statement consisting of two pages has been read to the accused S/Sgt Greatrix, marked by me as Exhibit "G" for the prosecution and attached to the summary

my

At 1645 hours on 7 Oct 44 I again interviewed Rifleman Dudley. I confronted him with the statement of S/Sgt Greatrix, Exhibit "G". I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence and which I here produce.

This statement has been read to the accused marked by me as Exhibit "H" for the prosecution and attached to the summary.

I then submitted the statement of Rifleman Dudley, exhibit "F" to S/Sgt Greatrix. I cautioned him and he made a voluntary statement in writing which he signed in my presence a copy of which I produce here.

This statement has been read to the accused S/Sgt Greatrix, marked by me as exhibit "I" for the prosecution and attached to the summary.

On 10 Oct 44 at about 1050 hrs I place Sgt Johns, whom I recognize as one of the accused under close arrest and handed him over to the N.C.O. in charge of the guard room No 1 Canadian General Reinforcement Unit. At about 1120 hrs I placed Sgts Gemmell and Davies, whom I now recognize as two of the accused under close arrest and escorted them together with CQMS Miskimmons, whom I also recognize as one of the accused to No 9 Provost Company Detachment, where at about 1300 hrs I interviewed Sgt Gemmell. I cautioned him and he made to me a voluntary statement which I took down in writing and which he signed in my presence, a copy of which I here produce.

This statement having been read to the accused Sgt Gemmell is marked by me as Exhibit "J" and attached to the summary.

I then confronted Sgt Gemmell with the statement of S/Sgt Greatrix, Exhibit "G". I cautioned him and he made to me a voluntary statement which I took down in writing and which he signed in my presence a copy of which I here produce

This statement having been read to the accused Sgt Gemmell is marked by me as Exhibit "K" for the prosecution and attached to the summary.

I then escorted Sgt Gemmell to the guard room of No 1 Canadian General Reinforcement Unit and handed him over to the N.C.O. in charge to be detained.

I escorted Sgt Davies and CQMS Miskimmons to the Central Police Station Aldershot, where with the approval of the Superintendent of the police, I lodged them in police custody. On the 11th of October, 1944 at about 1000 hrs at the police station I interviewed Sgt Davies. I cautioned him and he typed out in my presence a voluntary statement which he signed in my presence. I hereby submit a copy of this statement.

On hearing the above statement read the accused Sgt Davies requested that the word "declined" line 17 page 2 of his statement be changed to the word "demurred"

(M.L. Magill) A/Capt
Officer detailed to take summary of evidence

This statement has been read to the accused Sgt Davies, marked by me as exhibit "L" and attached to the summary

I then confronted Sgt Davies with the statements of S/Sgt Greatrix, Exhibit "G", and Sgt Gammell, Exhibit "J". I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence, a copy of which I here produce.

This statement havingbeen read to the accused is marked by me as Exhibit "M" and attached to the summary.

On 12 Oct 44 at about 1000 hrs in the guard room at No 1 Canadian General Reinforcement Unit I interviewed Sgt Johns whom I also recognize as one of the accused. I cautioned him and confronted him with the statements of S/Sgt Greatrix, Sgt Gammell and Sgt Davies, Exhibits "G""J" and "L" respectively. He stated when the trouble broke he was advised by an officer who was a friend of his not to make any statement and therefore he did not wish to do so. He did not state who this officer was and he was not urged to make any statement, but he did say certain things to me which I noted down roughly at the time. I produce a copy of these notes made at the time. I wrote out the formal caution and Sgt Johns said he did not wish to make a statement and did not sign the caution.

The copy of the notes having been read to the accused Sgt Johns is marked by me as Exhibit "N" and attached to the summary

At about 1400 hrs at the Central Police station, Aldershot, I interviewed CQMS Miskimmons. I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence.

This statement having been read to CQMS Miskimmons is marked by me as Exhibit "O" and attached to the summary

I then confronted CQMS Miskimmons with the statements of S/Sgt Greatrix, Sgt Gammell and Sgt Davies. I cautioned him and he made a voluntary signed statement in writing a copy of which I here produce.

This statement having been read to the accused CQMS Miskimmons is marked by me as exhibit "P" and attached to the summary

On 13 Oct 44 I obtained a formal release from civil custody of CQMS Miskimmons and Sgt Davies and escorted them to the guard room of No 1 Canadian General Reinforcement Unit and handed them over to the N.C.O. in charge to be detained. Here I again interviewed S/Sgt Greatrix and confronted him with the statements of Sgt Gammell, Sgt Davies and CQMS Miskimmons. I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence a copy of which I here produce

This statement having been read to the accused S/Sgt Greatrix is marked by me as exhibit "Q" and attached to the summary.

At about 1100 hrs in his quarters I saw Sgt Gemmell. I confronted him with the statements of Sgt Davies and CQMS Miskimmons. I cautioned him and he made a voluntary statement which I took down in writing and he signed it in my presence, a copy of which I here submit.

This statement having been read to the accused Sgt Gemmell is marked by me as Exhibit "R" and attached to the summary

At about 1400 hrs at the Motor Transport Office No 1 Canadian General Reinforcement Unit, I saw Captain R.M. Keene, officer commanding Motor Transport Section and he handed to me a drivers call sheet for 5 Oct 44 and also Work Ticket No. 5783 which I now produce

The call sheet and work ticket having been shown to the accused is marked by me as exhibit "S" and attached to the summary

In the presence of Capt Keene I interviewed H 59092 Pte Olsen, C.R. Motor Transport Section, A.Wing. He gave me a statement which I took down in writing and which he signed in my presence and in the presence of Capt Keene

This statement having been read to the accused is marked by me as exhibit "T" and attached to the summary

In the presence of Capt Keene I then interviewed B 96927 Cpl Jeynes, whom I now recognize as one of the accused. I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence and in the presence of Capt Keene.

This statement having been read to the accused Cpl Jeynes is marked by me as exhibit "U" and attached to the summary.

About 1630 hrs I proceeded to the orderly room of No 1 Administrative Transport Company, Royal Canadian Army Service Corps, where I saw D 91040 MSM Enner, C. I questioned him and he gave me certain information which I noted. On 18 Oct 44 as the result of inquiries on my part Major McLean, Officer Commanding A.Wing, No 1 Canadian General Reinforcement Unit, handed to me an original statement made in writing on 6 Oct 44 in connection with disciplinary action taken in another case against B 112533 Gnr Wood, A.C. of No 1 Canadian General Reinforcement Unit., I present this statement.

This statement having been read to the accused is marked by me as exhibit "V" and attached to the summary

I thereupon interviewed Gnr Wood. I cautioned him and he made to me a statement which I took down in writing and which he signed in my presence and which I here submit.

This statement having been read to the accused is marked by me as exhibit "W" and attached to the summary.

At about 1100 hrs the same date in the presence of Capt Lake, Quartermaster, No 1 Canadian General Reinforcement Unit, I interviewed L 414 Gnr Gould, E.G., storeman. I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence and in the presence of Capt Lake.

This statement having been read to the accused is marked by me as exhibit "X" and attached to the summary

At about 1400 hrs on 18 Oct 44 I interviewed Lieutenant J.G. Dunlap, officer in charge Reception Wing, RB & DM Coy, and questioned him concerning demands for blankets. He gave me certain information which I noted. On 20 Oct 44 in the presence of Capt Lake quartermaster, I questioned Lieutenant J. Sinister on the same matter and he gave me information cooperating that of Lieutenant Dunlap which I noted. On 19 Oct 44 at about 1000 hrs in the guard room of No 1 Canadian General Reinforcement Unit I again interviewed Rifleman Dudley. I confronted him with the statement of Cpl Joynes, exhibit "U", and he gave me a voluntary statement which I took down in writing and which he signed in my presence.

This statement having been read to the accused Rifleman Dudley is marked by me as exhibit "Y" and attached to the summary

At about 1350 hrs in the Motor Transport Office I placed Cpl Joynes under close arrest and escorted him to the Special Investigation Office, Canadian Reinforcement units where I confronted him with the statement of Rifleman Dudley exhibit "Y". I cautioned him and he made a voluntary statement and which he signed in my presence. I produce a copy of this statement.

This statement having been read to the accused Cpl Joynes is marked by me as exhibit "Z" and attached to the summary

I then escorted Cpl Joynes to the guard room No 1 C.G.R.U. and handed him over to the N.C.O. in charge to be detained. On the 20th of October, 1944, at about 1020 hrs in the presence of Capt Lake, quartermaster, I interviewed H 102347 Pte Teewes, D. I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence and in the presence of Capt Lake. I submit a copy of this statement.

This statement having been read to the accused is marked by me as exhibit "Z1" and attached to the summary.

I then questioned Capt Lake concerning the movement of blankets within unit lines on or about 5 Oct 44 and he gave me certain information which I noted. On 24 Oct 44 at the Central Police Station, Aldershot, I again saw CQMS Miskimmons. He said to me, I want to tell you the truth and make a complete statement about the blankets. I cautioned him and he made to me a statement which I took down in writing and which he signed in my presence. I present a copy of this statement.

This statement having been read to the accused CQMS Miskimmons is marked by me as exhibit Z2 and attached to the summary.

I then confronted Sgt Gemmell with the statement exhibit Z2" of CQMS Miskimmons. I cautioned him and he made a voluntary statement which I took down in writing and which he signed in my presence. I submit a copy of this statement

> This statement having [illegible] accused Sgt Gemmell is [illegible] and attached to the summary

At about

At about 1600 hrs I escorted [illegible] Sgt Gemmell to the guard room No 1 Canadian [illegible] handing them over to the [illegible] I made several inquiries [illegible] CQMS Miskimmons, who [illegible] E., might remember his [illegible] Rifleman Dudley had [illegible] blankets. At about 1100 hrs on [illegible] Oct [illegible] in response to a telephone inquiry I was informed by Sgt [illegible] that he had no recollection of the appearance at Reception Company of CQMS Miskimmons on the specific date and time mentioned by CQMS Miskimmons. At about 1600 hrs on [illegible] Oct [illegible] at the guard room I again interviewed Sgt [illegible] I confronted him with the statements of Cpl Joynes and CQMS Miskimmons. I cautioned him and he said [illegible] this rap and if I don't [illegible] it will give my defending officer a chance [illegible] all original exhibits of [illegible]

The accused L 1161 S/Sgt [illegible] this witness.
The accused B 88451 CQMS Miskimmons [illegible] to cross examine this witness
The accused L 18134 Sgt Gemmell declines to cross examine this witness
The accused D 91032 Sgt Dowlen, J.C. declines to cross examine this witness
The accused A 9243 Sgt Johns, [illegible] declines to cross examine this witness
The accused B 96927 Cpl J[illegible] declines to cross examine this witness
The accused B 64113 Rifleman [illegible] to cross examine this witness

[illegible]

Fourth Witness - Prosecution

B 51699 Sgt Childs, [illegible] that:- I am employed [illegible] transport section of [illegible] Unit. On Friday 6 Oct 44 I was [illegible] Adjutant No 1 Canadian General [illegible] London to pick up truck No. L [illegible] the Provost in London. I [illegible] quarters and gave them my [illegible] vehicle and brought the vehicle back to [illegible] The vehicle was empty at the time.

The accused L 1161 S/Sgt [illegible] declines to cross examine this witness
The accused B 88451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gemmell declines to cross examine this witness

The accused D 91032 Sgt Davies declines to cross examine this witness
The accused . 9243 Sgt Johns R.T. declines to cross examine this witness
The accused B 96927 Cpl Jeynes, declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

D 51699 Sgt Childs, W.C.

Fifth Witness - Prosecution

Captain R.H. Keene, an officer of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit, having been duly sworn states that:- I am the transport officer No 1 Canadian General Reinforcement Unit. On 6 Oct 44 I was recalled from a twenty four hour pass and told that truck No L 762620 had been stolen and was in London. I was told also that the permanent driver of the vehicle, Rifleman Dudley, whom I now recognize as one of the accused, was detained in London. I questioned my despatching staff as to what duties the vehicle had been on. The only permanent persons on that staff are L/Cpl Warren, W.W. and Cpl Jeynes, whom I now recognize as one of the accused. I found that the vehicle had been detailed to go to accomodation stores. That evening I brought to the attention of Cpl Jeynes there was a letter written by the Quartermaster to the effect that vehicles would not be despatched to the accomodation stores unless a shit, signed by an officer had been presented and he informed on that an N.C.O. had phoned and asked that the vehicle be despatched to the accomodation stores. He informed me it was CQMS Riskimans had phoned him, whom I now recognize as one of the accused. I was present when Cpl Jeynes was interviewed by the S/Sgt Nelson from the Special Investigation Section and I was present when Pte Olsen was brought in and interviewed, and I was present when L/Cpl Warren was interviewed. These people denied any knowledge of the circumstances.

The witness is shown exhibit "C"

That is a transport work ticket, army form 3518 made out from Aldershot to Watford and return detailed for the purpose of taking hospital blankets authorized by C.R.U. and it is alleged to have been signed by myself. It is not my signature and I did not sign it. I did not know of any authority for this trip as I was on a 24 hr pass. The only authority received would be communicated direct to my second in command Lieut Drager, by the Adjutant.

The witness is shown Exhibit "D"

That is a transport work ticket army form 3518. To all intents and purposes as far as I am concerned it is made out correctly. The last trip is Aldershot Web stores Farnham and Farnborough with my signature made by Cpl Jeynes with his initials above it

The witness is shown Exhibit "S"

One is a transport work ticket army form 3518 and the other sheets are what I call drivers' call sheets on which all vehicles despatched by the despatching office are supposed to be entered on with the exception of staff cars

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 96451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gammell, M. , declines to cross examine this witness
The accused D 91032 Sgt Davies, declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 96929 Cpl Jaynes declines to cross examine this witness
The accused B 64113 Rfn Dudley, declines to cross examine this witness

R.F. Keene, Capt

Sixth Witness - Prosecution

Lieutenant J.G. Dreger, an officer of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- I am second in command of the Motor Transport Company No 1 Canadian General Reinforcement Unit. On 5 Oct 44 Capt Keene who is officer commanding Motor Transport Section was away on a 24 hr pass.

Witness is shown Exhibit "G"

I have never seen this work ticket before. I did not sign it nor did I authorize anyone else to sign it.

Witness is shown exhibit "_"

I have never seen this letter before nor do I know any Lieutenant Skinner in this unit. In any event I would not have acted on this letter because it is neither signed nor initialled by the Adjutant of No 1 Canadian General Reinforcement unit. No authority for the movement of vehicles outside the twenty mile area is valid in this unit unless it is signedor initialled by the Unit Adjutant or the Commanding Officer. I recognize Cpl Jaynes who is one of the accused as being the Cpl despatcher in the Motor Transport Section.

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 96451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gammell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 96929 Cpl Jaynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

J.G. Dreger, Lieut

Seventh Witness - Prosecution

H 59092 Pte Olsen, C.R., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- On the 5th of October, 1944 I was driving a truck for the accomodation stores. The forenoon is very hazy to me but in the afternoon the main detail was down to the Hale Laundry near Farnham to pick up blankets, I believe it was seven or eight hundred. They were taken to the accomodation store-room at Corunna Barracks and unloaded there. After that I took S/Sgt Miskimmons over to the accomodation stores. After that he told me I was not needed any more with the exception of picking up another S/Sgt at Group Headquarters. The S/Sgt Miskimmons I speak of is one of the accused, whom I now recognize. I was told shortly after three o'clock I was not needed any more. That was early and I waited around for a while they went down to pick up this S/Sgt and took him up to the accomodation stores and then returned to the garage. Formally I would be dismissed from the accomodation stores between 4:30 and 5 o'clock.

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 18451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gemmell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9345 Sgt Johns declines to cross examine this witness
The accused B 96952 Cpl Jeynes declines to cross examine this witness
The accused B 64112 Rfn Dudley declines to cross examine this witness

H 59092 Pte Olsen, C.R.

Eighth Witness - Prosecution

D 91040 MSM Ennor, C., a soldier of the Canadian Army Overseas on strength of No 1 Administrative Transport Company having been duly sworn states that:- I am a mechanist sergeant major on strength of No 1 Administrative Transport Company. Around the end of September I came into the mess one night at Administrative Transport Company and found Sgt Davies, whom I now recognize as one of the accused waiting for me. He had another Sgt with him who I would not recognize again. I knew Sgt Davies and had not seen him for some time, although I had met him in Aldershot a month or so previously. We had a drink together and he then asked me if there was any possibility of getting a truck and mentioned there would be twenty or twenty five pounds in it for me if I could do so. I told him that I had nothing to do with the transport and was not interested in the matter. We talked for a while then left the mess. There was some talk about blankets but I don't know who brought it up or the exact details.

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 18451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gemmell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness

The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 96927 Cpl Joynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

D 91040 MSM Ennor, C.

Ninth Witness - Prosecution

B 112533 Gnr Wood, A.C., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Units having been duly sworn states that:- I am a driver for the Motor Transport Section, No 1 Canadian General Reinforcement Unit. I 5 Aug 44 I was detailed to drive for the Mob stores. In the course of the day I drove S/Sgt Miskimmons, whom I now recognize as one of the accused, to various places. Some of these trips were authorized but after the authorized trips I drove him to various places including Camberley, in the afternoon and evening. We had a good many drinks and eventually I fell asleep in the vehicle and did not get back to camp until around midnight. I was arrested on a charge of drunken driving and improper use of the vehicle. During the course of our driving S/Sgt Miskimmons said we could make some money sometime by some blankets. I did not pay much attention to this remark

The witness is shown Exhibit "V"

This is a statement made by me on the 6 Aug 44 and signed by me. Everything contained in it is true to the best of my knowledge

The accused B 96927 Cpl Joynes, JCM cross examines the witness
Q.1 That trip you went on that day was legitimate from the office?
A.1 Yes
The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 88451 CQMS Miskimmons declines to cross examine this witness
The accused L 16134 Sgt Gammell declines to cross examine this witness
Theaccused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

B 112433 Gnr Wood A.C.

Tenth Witness - Prosecution

L 414 Gnr Gould, E.G., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- I am employed in the accomodation stores No 1 Canadian General Reinforcement Unit. I do all manner of jobs, anything that is to be done, including the loading and unloading of blankets. On 5 Oct 44 we went to the laundry at Hale and brought back a truck load of blankets. There were eight hundred blankets in this load. About 1600 hrs the same day I was told by S/Sgt miskimmons, whom I now recognize as one of the accused, to

help Pte Toews load seven hundred blankets on a truck to go to Reception Company. Pte Toews, myself and S/Sgt Miskimmons loaded these blankets. There were seven hundred in all. S/Sgt Miskimmons then told the driver to take them to Reception Company. The driver drove off and I did not see the blankets again. This truck was not then driven by Pte Olsen, which was the truck we had used to get the blankets from Hale. It was a different truck but belonged to No 1 Canadian General Reinforcement Unit

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 88451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gammell declines to cross examine this witness
The accused B 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns R. declines to cross examine this witness
The accused B 96927 Cpl Jaynes declines to cross examine this witness
The aaccused B 64113 Rfn Dudley declines to cross examine this witness.

L 414 Gnr Gould, E.G.

Eleventh Witness - Prosecution

H 12347 Pte Toews, D., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit, having been duly sworn states that:- I work in the accommodation stores at No 1 Canadian General Reinforcement Unit. I was working there on the 5th of October, 1944. Among other things it is my duty to help load and unload blankets. On the afternoon of that day I went with Gnr Gould and S/Sgt Miskimmons to the laundry at Hale and brought back a load of eight hundred blankets, which were brought back to the unit. The truck in which we went to Hale was driven by Pte Olsen. About 1600 Hrs we were told to load seven hundred blankets in a truck driven by Pte Dudley, whom I now recognize as one of the accused. We were told to do this by S/Sgt Miskimmons, whom I also recognize as one of the accused. We were told that these blankets were for reception company, we were told this by S/Sgt Miskimmons. Gnr Gould and I loaded the blankets and the truck was driven away by Pte Dudley. I have not seen the blankets from that day to this, nor do I know what has become of them.

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 88451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gammell declines to cross examine this witness
The accused B 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 96927 Cpl Jaynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

H 12347 Pte Toews D

Twelth Witness - Prosecution

Lieut J Simister, an officer of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- On or about the 1st of October, 1944 the Officer Commanding asked me to assist in organizing a Reception office to the new Reception Basic D/ Coy. On 3 Oct 44 I started to set up the office in Corunna Lines and we were advised on the afternoon of that day to expect a draft in from Canada on the night of the fourth. Myself, Lieut Dunlap, and one of the Sgts went to the accomodation stores and told the CQMS in charge we needed four hundred and fifty blankets. He told us to go along to the storeman and we could draw the blankets we wanted. We went along and saw the storeman and drew I believe four hundred blankets. That was sufficient for the draft we expected and I ceased my connection with the company on the afternoon of 5 Oct 44 and at the time we did not order any more blankets nor did anyone else in the company. I know nothing of any seven hundred blankets ordered for the Reception Company on the afternoon of 5 Oct 44.

The accused I 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 88451 CQMS Hiskinmons declines to cross examine this witness
The accused I 19134 Sgt Cammell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 90927 Cpl Jeynes declines to cross examine this witness
The accused B 94113 Rfn Dudley declines to cross examine this witness

J. Simister, Lieut

Thirteenth Witness - Prosecution

Capt C.E. Lake., an officer of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states:- I am the quartermaster at No 1 Canadian General Reinforcement Unit and as such I am in charge of all stores in Maide and Corunna barracks where No 1 Canadian General Reinforcement unit is located. Blankets are kept in the blanket stores in Corunna barracks. This blanket stores is in charge of the Assistant quartermaster who is also in charge of the accomodation stores. CQMS Hiskinmons, whom I now recognize as one of the accused is the senior N.C.O. in the accomodation stores and has been for some considerable time. As senior N.C.O. he would have access to the blankets in the blanket stores. In the absence of the assistant quartermaster he would have authority to issue blankets to any coy authorized to receive them. Having heard that blankets belonging to this unit had been found in a truck in London the Commanding Officer ordered me to have the blankets counted in this unit. Canadian Barracks services performed this duty and on the 11 Oct 44 the count was duly made. A discrepancy was discovered of between seven and eight hundred blankets.

The accused I 1161 S/Sgt Greatrix declines to cross examine this witness

The accused B 88451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gammell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 90927 Cpl Joynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

C.E. Lake, Capt

Fourteenth Witness - Prosecution

M 9113 Sgt Brooks, A.E., a soldier of the Canadian Army Overseas on the strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- I know Sgt Johns, whom I now recognize as one of the accused. He has been in the habit of borrowing money from me which he usually pays back at the end of the month. He has been borrowing money in this fashion off and on for the last three years during which time I have known him. He has owed me at various times sums as large as £8-0-0 or occasionally larger. He paid me around seven or eight pounds at the end of September. He is said to receive money from such sources as the Canadian Legion for his services as an instructor.

The accused I 1161 S/Sgt Greetrix declines to cross examine this witness
The accused B 88451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gammell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 90927 Cpl Joynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

M 9113 Sgt Brooks, A.E.

Fifteenth Witness - Prosecution

M 27256 Tpr Richardson, H., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- I am the Regimental Barber of No 1 Canadian General Reinforcement Unit. I often lend money to various people around the unit and among other people I have loaned money to Sgt Johns who I now recognize as one of the accused. At the present time he owes me £5-0-0 and has owed it to me since the end of September. He borrowed this money while he was on leave and has not since been in a position to repay me. None of other accused here present owe me any money

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 86451 CQMS Miskimmons declines to cross examine this witness
The accused L 18134 Sgt Gemmell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 90127 Cpl Jeynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

Sixteenth witness - Prosecution — T 97256 Tpr Richardson, H.

D 93614 Sgt Beecher, E., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:- I am the senior N.C.O. in the Reception Company. This company started to operate on 4 Oct 44. We got in a large number of blankets that day. I went with the truck to get these blankets. On the 5th of October 44 more blankets came in in the afternoon. S/Sgt Miskimmons whom I now recognize as one of the accused was over at the reception company several times that day. I do not recall him being there between 1600 hrs and 1700 hrs.

The accused L 1161 S/Sgt Greatrix declines to cross examine this witness
The accused B 86451 CQMS Miskimmons declines to cross examine this witness
The accuse L18134 Sgt Gemmell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 90127 Cpl Jeynes declines to cross examine this witness
The accused B 64113 Rfn Dudley declines to cross examine this witness

D 93614 Sgt Beecher, E.

The officer detailed to take the summary of evidence recalls a witness for the purpose of clearing up an ambiguity in the evidence given by this witness.

CAPT C.E. LAKE. Examined by the officer detailed to take the summary

Q.1 You have been recalled to clear up an ambiguity in your evidence in regard to the shortage in blankets. You stated in your evidence that a blanket check showed there were seven to eight hundred short. It is not clear to me whether you mean that there are seven to eight hundred blankets short including the blankets alleged to have been discovered in London, or whether you mean there are an additional seven to eight hundred missing.

A.1. I have here a recapitulation of the blanket check taken by Canadian Barrack Services, submitted to me by Lieut Fraser, Assistant Quartermaster. The actual amount of blankets checked totals 8900 even. There were approximately 50 blankets that were not checked in the pioneers quarters and 50 blankets with the medical company which they had out on a scheme that day. That makes a grand total of 9000 checked

The unit long roll figures were 8824 as of that date. This left a surplus of of 176 blankets. Taking into consideration the 700 already in London not checked by the Canadian Barrack Services makes a total SURPLUS of 876 blankets. Mr Fraser and I calculated as closely as possible the number of G 1098 blankets belonging to individuals on unit strength all of whose G 1098 blanket were counted in the check. Taking the units strength as of that date less the incoming drafts in Reception Company we calculated that there were approximately 966 G 1098 blankets in possession of the individuals. This can only be approximate as in the length of time that the check was made it was impossible to get the exact figure. The surplus of 876 blankets against our approximation of 966 G 1098 blankets showed an apparent shortage of 90. This figure could of course be wrong to the extent of 200 either way, depending upon how accurate our estimation was of G 1098 blankets. When I speak of this day I mean Oct 11th, 1944, the day of the check.

The accused L 1161 C/Sgt Greatrix declines to cross examine this witness
The accused B 86481 CQMS Miskimmons declines to cross examine this witness
The accused L 16134 Sgt Gemmell declines to cross examine this witness
The accused D 91032 Sgt Davies declines to cross examine this witness
The accused A 9243 Sgt Johns declines to cross examine this witness
The accused B 96927 Cpl Joynes declines to cross examine this witness
The accused B 84113 Rfn Dudley declines to cross examine this witness

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D.E. Lake, Capt

The accused B 84113 Rfn Dudley, R.D.C. is cautioned as follows:-

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence on oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give any evidence upon oath.
The accused does not wish to call any witnesses.

The accused B 96927 Cpl Joynes, R.C.A. is cautioned as follows:-

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence upon oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused elects to give evidence upon oath:

The accused B 96927 Cpl Joynes, J.C.M., a soldier of the Canadian Army Overseas on strength of No 1 Canadian General Reinforcement Unit having been duly sworn states that:-

"On the morning of the 5th of October, 1944, at about 0930 hrs, Sgt Johns, whom I now recognize, came to me in the motor transport office and asked me if he could get a vehicle to handle some blankets going up to London. These blankets were to be delivered in London at exactly 1630 hrs. I understood that these blankets were to be sold to someone in London. Sgt Johns told me that if I would arrange the vehicle, the driver and I would get approximately £15-0-0 each, depending upon the price received for the blankets. I said that I would do so provided I could get a driver and provided that an emergency demanding the use of a lot of transport did not come up during the day. I had in mind Rifleman Dudley as the driver of the vehicle. Sgt Johns said he would have to know by 1400 hrs that day and was not satisfied unless I could tell him right away, so I said I would let him have the vehicle, intending that if anything came up that I could not use it, not to bother letting him know differently. Sgt Johns told me to have the vehicle just below the stop-lights on the Upper Hale road at exactly 1555 hrs, where it would pick up another Sgt. I understood that the blankets were to be obtained from the Hale laundry. I went out into the yard, met Dudley and asked him if he would do this. He agreed to do so. I then made out a ticket for the trip, filling it out, and then stamping it several times with the unit motor transport stamp, so that that particular ticket could not be used. I then gave Dudley a blank work ticket already stamped and told him to copy on it exactly what I had written on the first ticket. He was then to destroy the first ticket, the reason for this was so that if he was stopped or anything went wrong, my handwriting would not show up on the work ticket. I also told Dudley that once he set out he was strictly on his own and that I had no knowledge of the deal whatsoever. I also told him to make sure his tanks were full so that he would have enough gas to get to London and back, and so that he would not have to draw any anywhere. About 1500 hrs I got Dudley's genuine work ticket on which he had been operating on legitimate business, and made an entry on it for a journey via Farnham and Farnborough. The purpose of this was to protect him until he met the Sgt at the stop-lights in Hale, pick up the blankets, and was out of the immediate area of Aldershot. Once out of the immediate area of Aldershot his London ticket would protect him. As far as I know Dudley has never been mixed up in any illegal involving transport before. The only reason I approached him was I knew he was broke and going on leave soon. I have never been mixed up myself in anything like this before either.

B 96927 Cpl Joynes, J.C.M.

The accused does not wish to call any witnesses.

The accused L 11el S/Sgt Greatrix, E.J. is cautioned as follows:-

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence on oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give any evidence upon oath.

The accused does not wish to call any witnesses

The accused D 91032 Sgt Davies, J.C. is cautioned as follows:-

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence on oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give any evidence upon oath.
The accused does not wish to call any witnesses.

The accused L 19134 Sgt Gemmell, N.A. is cautioned as follows:

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence on oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give any evidence on oath.
The accused does not wish to call any witnesses.

The accused A 9243 Sgt Johns, R.T. is cautioned as follows:-

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence on oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give any evidence upon oath.
The accused does not wish to call any witnesses

The accused B 98481 CQMS Miskimmins, R.J. is cautioned as follows:-

"Do you wish to give any evidence upon oath or to make any statement not on oath? You are not obliged to give evidence on oath or make any statement not on oath, but any evidence you may give or any statement you may make may be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give any evidence upon oath.
The accused does not wish to call any witnesses.

I certify that the foregoing summary of evidence consisting of nineteen pages was taken down by me in the presence and hearing of the accused persons on the First and Second days of November, 1944, and that R.P. 4 (C)(D)(E)(F) and (G) have been complied with.

(W.I. Magill) Lt/Capt
Officer detailed to take the summary of evidence

In the Field
3 Nov 44

This is exhibit " A " referred to in the summary of evidence in the case of :-

S/Sgt Greatrix, R.J.
Sgt Gammell, N.A.
Sgt Johns R T
Rifleman Dudley R.D.C.
CQMS Mishimmons, W.
Sgt Davies, J.C.
Cpl Jaynes, J.C.M

taken before me this First and second days of November, 1944

Officer taking summary

STRATRIX

New Scotland Yard,
9th. October, 1944.

STATEMENT of Ernest Cook, Detective Sergeant, New Scotland Yard, who saith:-

At about 8.15 pm., on 5th, October, 1944, I received information that a soldier in the Canadian Army had been endeavouring to dispose of a load of blankets which he had brought on a lorry to Walworth. With Detective Sergeant Webb and other officers I went to Walworth Road, Walworth, S.E., and after searching the vicinity saw an Army lorry Index No. CL 7625520 parked by the side of the road about 100 yards from the Elephant and Castle and facing South. The lorry was covered with a tarpaulin sheet secured by ropes.

We went up to the lorry and saw DUDLEY who was in the drivers seat. I said to him, "We are Police Officers. What are you doing here?". He said "I am waiting for my Sergeant who has gone to get something to eat". I said to him "Where are you from. Where are you going and what load have you got on?". DUDLEY replied, "I'm from Aldershot and I am taking a load of blankets to Watford. I said "What are you doing here, you are miles off your route". He said "I am only acting on instructions". I then asked him where his Sergeant had gone to and he said "I haven't any idea".

I looked under the tarpaulin covering and saw at once that there was in fact a large quantity of blankets on the lorry. I told DUDLEY that I was not satisfied with his explanation and that I was going to make enquiries with a view to verify his statements. He then handed me a printed form showing particulars of a load of blankets to be taken from Aldershot to Watford, saying, "This is my authority". I told him that I was still not satisfied and that enquiries would be made. DUDLEY then said "I will tell you the truth. The blankets are stolen. I made the particulars out myself and my Sergeant told me what to do and where to go".

I then left an Officer in the lorry with DUDLEY whilst we kept observation in the vicinity. At about 10.15 pm., I saw GRATTIX, who had come from the direction of the Elephant and Castle, endeavouring to climb into the cabin of the lorry. We went up to him and Sergeant Webb said "We are Police Officers, are you in charge of this lorry?". He said "Yes". Sergeant Webb said "Can you explain what you are doing with it". GRATTIX said "I am taking a load of blankets to Watford". He was then asked if he could say who he had come to Squire the Post that day and he replied "I have been drinking with some friends". Sergeant Webb asked him who his friends were and GRATTIX said "I don't know. I have only met them casually to-night". He paused and then added "As a matter of fact I have been with another soldier from my Unit but I am not saying who he is". Sergeant Webb then said "I have reason to believe that the blankets are stolen". GRATTIX said "I don't think so".

I then said to DUDLEY and GRATTIX "I am not satisfied with your explanations, you are going to be arrested and taken to the Police Station where you will be detained pending enquiries". I cautioned them. GRATTIX said "I don't know what it is all about". DUDLEY did not reply. They and the lorry were taken to Carter Street Police Station.

The Canadian Military Police Headquarters were then informed of the detention of DUDLEY and GRATTIX and later Staff Sergeant Nelson, R.C.M.P. Canadian Military Police attended and took both men into his custody. I handed to Staff Sergeant Nelson the printed form obtained from DUDLEY.

This statement is true.

(Signed) E. Cook Det.Sergt.

This is exhibit " B " referred to in the summary of evidence in the case of :-

S/Sgt Greatrix, R.J.
Sgt Gammell, H.A.
Sgt Johns R T
Rifleman Dudley R.D.C.
CSM Hickinmons, W.
Sgt Davies, J.C.
Cpl Jaynes, J.C.M

taken before me this First and second days of November, 1944

Officer taking summary

Flying Squad Office,
New Scotland Yard.
9th October, 1944.

STATEMENT of Albert WEBB, Detective Sergeant, New Scotland Yard, who saith:-

At 6-15 p.m., 5th October, 1944, I went with Detective Sergeant Cook and other officers to Walworth Road, S.E., where I saw an Army lorry Index No. GL-7688820.

We approached the lorry and saw Dudley in the driver's seat. Sergeant Cook told him we were police officers and said, What are you doing here?" Dudley said, "I am waiting for my sergeant. He has gone to get something to eat." Sergeant Cook said, "Where are you from, where are you going, and what load have you got?" Dudley replied, "I've come from Aldershot and I'm taking blankets to Watford." Sergeant Cook pointed out that Dudley was miles out of his route and Dudley said, "I am only acting on instructions." Asked where his sergeant had gone to he said, "I haven't any idea."

We looked under the tarpaulin covering of the lorry and saw piles of blankets. Sergeant Cook told Dudley he was not satisfied with his story and that he would have to verify his statements. Dudley then handed Sergeant Cook an Army Form giving particulars of a load of blankets to be taken from Aldershot to Watford. Dudley said, "This is my authority." Sergeant Cook told him that further enquiries would have to be made and Dudley said, "I will tell the truth. The blankets are stolen. I made the particulars out myself. My sergeant told me what to do and where to go."

Leaving an officer in charge of the lorry we kept observation in the vicinity and at about 10-15 p.m. Gratrix came from the direction of the Elephant & Castle and endeavoured to climb into the lorry. We approached him and I said to him, "We are police officers, are you in charge of this lorry?" He said, "Yes." I asked him to explain what he was doing with it and he said, "I am taking a load of blankets to Watford." I then asked Gratrix if he could give an explanation as to where he had been during the previous two hours and he said, "I have been drinking with some friends." I asked who his friends were and Gratrix said, "I don't know. I have only met them casually to-night." He then added, "As a matter of fact I have been with another soldier from my Unit. I am not saying who he is." I then said to him, "I have reason to believe that the blankets are stolen," and Gratrix replied, "I dont think so."

Sergeant Cook then said to Dudley and Gratrix, "I am not satisfied with your explanations. You are going to be arrested and detained pending enquiries." He continued then and Gratrix said, "I dont know what it is all about." Dudley made no reply.

They were both then taken to Carter Street Police Station with the lorry and later Staff Sergeant Nelson, S.I.B., Canadian Military Police, attended and took both men into custody.

SIGNED "ALBERT WEBB"

Sergeant.

This is exhibit " C " referred to in the summary of evidence in the case of :-

S/Sgt Greatrix, R.J.	CUMS Miskimmons, W.
Sgt Gemmell, N.A.	Sgt Davies, J.C.
Sgt Johns R T	Cpl Jaynes, J.C.M

Rifleman Dudley R.D.C.

taken before me this First and second days of November, 1944

Officer taking summary

A.F.G. 1518 (Revised 1942)
40/P&S/400(1749)

TRANSPORT WORK TICKET

No.

MAKE OF VEHICLE: Ford | CLASS: 60 cwt | UNIT: #1 C.G.R.U. | SECTION: M.T. | DRIVER'S NAME: B.64113 Rfn R.Dudley | W.D. No.: 762820 | MONTH & Y[illegible]: Oct 44

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Starts (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Day (18)
	A			Brought forward from Work Ticket No.			A							--	--			
	B	Authority	Hospital	Aldershot			B											
	C	C.R.U.	blankets		Watford	Return	Keen Capt C							1600				
	D						D											
	E						E											
	F						F											
	G						G											
	H						H											
	J						J											
5	K						K											
	L						L											
	M						M							--	--			

M.F.G. for week ... or totals carried over

This is exhibit " D " referred to in the summary of evidence in the case of :-

S/Sgt Greatrix, R.J.
Sgt Gammell, M.A.
Sgt Johns R T
Riflemen Dudley, R.D.C.
Cpl Miskimmons, W.
Sgt Davies, J.C.
Cpl Jaynes, J.S.H

taken before me this First and Second days of November, 1944

Officer taking summary.

A.F.G. 3518 (Revised 1942)
40/P&S/400(1749)

TRANSPORT WORK TICKET

B.64113

No.

MAKE OF VEHICLE	CLASS	UNIT	SECTION	DRIVER'S NAME	W.O. No.	MONTH & YEAR
Ford	60cwt	#1 C.G.R.U.	MT	Pte Rasmussen	762820	Oct 44

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	To (5)	Via (6)	SIGNATURE OF PERSON AUTHORISING JOURNEY (7)	LUBRICATING OILS Type (8)	Pints (9)	FUEL GALLONS At Start (10)	Drawn (11)	At End (12)	Used (13)	TIME Out (14)	In (15)	SPEEDOMETER In (16)	Run (17)	Day (18)
	A			Brought forward from Work Ticket No.			A							--	--	20876		
	B	Own Unit	Records	Ald	Ash	Return	Keen Capt							1400	1515	20791		15
1.	C	Own Unit	C.T.W.	Ald	Farnborough	Return	Cpl Sudds							0800	1530	20808		14
2.	D	Own Unit	Ed Coy	Ald	Guildford	"	Cpl Bauer							0815	0930	20828		20
3.	E	Own Unit	Records	Ald	Ald Stn	"	Cpl Bauer											
3.	F	Own Unit	Ed Coy	Ald	Guildford	Return	Keen JJ Capt							1615	1730	20848		20
5.	G	Own Unit	Records	Ald	as directed		Keen JJ Capt							0130	0200	20831		3
5.	H	Own Unit	Records	Ald	Alton	Return	Keen Capt							1130	1330	20856		25
5.	I	Own Unit	Mob. Stores	Ald	Farnham	Farnborough	Keen JJ Capt							1230				
	K						K											
	L						L											
	M						M											

M.F.G. for week ... BY ROAD carried over

1 CGRU/9-4
5 Oct 44

Commanding Hospital,
No 83 Cdn Gen Hosp RCAMC
WATFORD

DESPATCH OF BLANKETS

1. Ref CGRU/911/BLANKETS/14 dated 2 Oct 44.

2. In accordance with the instructions outlined in the above mentioned letter, arrangements have been made to supply to your unit one thousand (1000) blankets.

3. This consignment will be picked up from the Laundry 5 Oct 44 and will be delivered to your Unit by tpt supplied by 1 CGRU.

4. As the blankets will be delivered direct from the laundry, it is not considered necessary that the certificate stipulated in CRU instructions be supplied, as the methods of cleansing automatically free the blankets of the possibility of lice or other contaminations being present.

5. Issue Voucher will be forwarded through the normal channels.

Sgd. L. Skinner It.
for (B.R. Kerr) Colonel, RCA
Commander,
1 Cdn Gen Hpt Unit
Cdn Army (Overseas)

L/S

This is Exhibit "L" referred to in the summary of evidence in the case of:-

S/Sgt Crestrix, R.J. — CQMS Miskimmons, W.
Sgt Gemmell, W.a. — Sgt Lawies, J.C.
Sgt Johns, R.T. — Cpl Jeynes, J.C.M.
D'Flemand Dudley, R.D.C.

taken before me this First and Second days of November, 1944

Officer taking summary

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

8 OCT 44

STATEMENT of:

Regt. No. B-64113, Rfn. DUDLEY, R.O.C.
"A" Wing, M.T. Sect., No.1 C.C.R.H., C.R.U., Command.

BEGINS:

I have been cautioned by S/Sgt. MILSON, of S.I.S. that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) R. DUDLEY

STATES:

On 4 OCT 44 up-and dinner-time I was working on my truck, No. 1-768820 in the workshop at my Unit when one of the other men in the M.T. Section came to me and asked me if I would like to make myself some extra money. He is a friend of mine and I don't want to say his name and maybe get him into trouble. I was broke and wanted to get some money so as to be able to go on leave, so I said "Yes I would", and asked him how it could be done. He told me there was some stuff to go to London next day and if I would take it in my truck I'd get a cut out of the deal. I said I'd do it, and he told me that if I'd take the truck round to the Blanket Hut sometime during the afternoon next day the Staff-Sergeant in charge of Mob. Stores would get the fatigue men to put on a load of blankets. All I had to do then was drive up to the Garrison Theatre where somebody would be waiting to go up to LONDON with me and look after things from there on. My friend also told me I'd better take out a Work Ticket showing a load of Hospital Blankets for ALDERSHOT.

I had two trips next morning - one to the Govt. Siding in ALDERSHOT at 01:30 hrs. and one from 11:30 hrs. to 13:30 hrs. to ALTON and return. When I got back I was notified by Cpl. JEYNES for a journey to FARNHAM and FARNBOROUGH. He made out my Work Ticket for 15:30, signing it "Keen, Capt." and initialling it "F.J.", as the N.C.O. Despatcher usually does.

After lunch I didn't go to FARNHAM, but took my truck round to the Blanket Store at about 15:30 hrs. and backed up to the door. S/Sgt. FITZSIMMONS (I think that's his name - he's i/c Mob. Stores) came out, I opened up the back of the truck and got in. The S/Sgt. told the fatigue men to start loading blankets. I only said "Hello" to him, and nothing much more was said. He told the men to count out so many blankets for Despatch Coy., and so many for other Coys. in the Unit. They were all in bundles of 10, and I'm sure the fatigue men didn't know anything about the deal. They only counted them. I stacked the blankets inside my truck.

During the Break Period that morning from 10:00 to 10:30 hrs. I went into the M.T. office while no-one was in there and took a Work Ticket which I made out as instructed, signing it "Keen Capt.". I kept it with me for the trip to LONDON in the afternoon.

I didn't know how many blankets I had in the truck, but when the S/Sgt. said "O.K., that's the lot", or words to that

(Contd. OVER)

words to that/
effect, I tied up the tarpaulin and drove up to the Garrison Theatre as arranged. I stopped there, and another Staff-Sergeant I didn't know came up and got in the truck. I know now his name is S/Sgt. GRATRIX. He told me where to go from there on, as I didn't know the road past SUNNINGDALE. We headed straight for LONDON. I know we went through STAINLS and KINGSTON, according to the road signs, but I don't remember much about the roads. I think we were pretty well into LONDON when he said to turn off and after a lot of turns round fair-sized roads he said to pull up in a street where there were cab-tracks. He said "Wait here", and got out for 5 or 10 minutes. I don't know where he went. After that we did a lot more turns, and I was completely lost. Once we passed a place where he said: "I was pinched over in there once". We didn't stop any more until we got to the place where the Police found us. I guess it was about 19:30 hrs. when we got there. I know it was getting dark. S/Sgt. GRATRIX got out and told me to wait. About half-an-hour later another soldier got into the cab with me and gave me 6/- and said "We'll be a little while yet. You'd better go and get something to eat". I couldn't see his face in the dark and wouldn't recognize him again. I couldn't tell from the way he spoke whether he was Canadian or not. I didn't notice what sort of uniform he was wearing. I went to a snack-bar a little way down the street and when I came back a few minutes later the soldier got out of the cab and said:"We'll be back".

I waited a long time and then both doors of the cab opened, somebody grabbed me by the arm and asked me what I was doing. I said I was waiting for my chum and he'd gone to get something to eat. They said they were Police Officers and that they'd wait too. After a while S/Sgt. GRATRIX came back and the Police grabbed him too. I didn't see any other civilians and didn't know who was supposed to get the blankets. The Police told me to drive to a Police Station nearby, which I did. One of them drove with me. They took S/Sgt. GRATRIX in their car.

I can honestly say that I have never been mixed up in anything like this before in the Army or in civil life, and my crimes in the Army have all been trivial. I only agreed to do it on a sudden impulse because I wanted to make a little money to go on Leave, as I'd lost a bit over being 5 days A.W.L. a little while ago. I was only in AIDERSHOT with a girl. Nobody talked me into taking blankets to LONDON. I just didn't stop to think how serious a thing it was. I figured it was safe enough, too, because somebody else was doing the job and I was just driving my truck and didn't even know where the stuff was going. I'm sorry now I had anything to do with the business.

I have read over the above statement, which has been made voluntarily, without fear of any threat, or hope of favour to come, and it is true. /ENDS.

(SGD) R. DUDLEY 6/10/44

(WITNESSED) F.R.NELSON, S/Sgt., S.F.S..

This is exhibit "F" referred to in the summary of evidence in the case of S/Sgt Greatrix, R.J. - CQMS Liskimmons, W. - Sgt Gemmell, N.A. - Sgt Davies, J.C. - Sgt Johns, R.T. - Cpl Jeynes J.C.M. - Rifleman Dudley, R.D.C. taken before me this First and Second days of November, 1944.

Officer takings summary

(COPY)

SPECIAL INVESTIGATION SECTION 7 OCT 44

STATEMENT of:

Regt. No. I-1161, S/Sgt. ORTELL, R.J.,
Clerks' Gdy., No.1 C.G.H.U., C.R.U. Odiham

BEGINS:

I have been advised by S/Sgt. NEILSON, of S.I.S. that I am not have to say anything unless I wish to do so, but that whatever I may say will be taken down in writing, and may be given in evidence. To show that I understand this caution, I sign my name here.

(SGD) R. J. ORTELL

STATES:

On Sunday last week, I think it was Saturday Sep 30, 1944, I was in the [illegible] Theatre, Aldershot, at lunch time in company with, Sgt. Gosnell, [illegible], Sgt. Davies, J. and Sgt. Johns, R.T. all of No. 1 CCRU. Sgt. Gosnell stated that he knew of some blackmarket sheets on which we could make some money if we could dispose of them.

On Sunday, 1 Oct 44, we were all in the Sgt's Mess (Maida) No. 1 CCRU were in discussed the blanket proposition. Sgt Davies said that he might know someone in London that would take them. It was decided that Sgt Davies and Johns would go to London and see if arrangements could be made. It was decided that we would arrive in the Elephant and Castle district about 2000 hrs. In the taxi on the way up, Sgt Davies made inquiries in the Sgt's office about blankets. The men met at the Elephant and Castle at about 2000 hrs. Sgt Davies went up to the Kings Head public House, where Sgt Davies went up to the bar. Johns joined Gosnell and myself and we went

After a couple of drinks we went back to the Black Prince with "Pop" and Sgt Davies had a couple more words with "Ginger" there was another civilian with him but I would not recognize him again. We spent the night in London and returned to Aldershot the next morning.

That morning I saw Sgt Gemmell and told him everything had been arranged. He said arrangements would have to be made for transport. Later in the day he saw me and said that arrangements were being made for the blankets to be ready on Thursday. Sgt. Gemmell, Sgt Johns, Sgt Davies and myself usually go into the Stanhope N.A.A.F.I. every day at lunch time and one day I think it was Wednesday Sgt. Johns said that transport had been arranged for the blankets on Thursday. We were together that day at noon, and Sgt Gemmell went over to talk to CQMS Miskimmins. He then called us over and Miskimmins said that everything was all arranged. Sgt Davies was to go to London with the truck load of blankets and Sgt Johns and I were to meet him in the Black Prince. He had a letter addressed to No 23 Odn Gen Hosp [illegible] Watford, covering shipment of 1000 blankets which would safeguard him on his journey. Later it was arranged that I should go to London with the truck and the letter was handed to me, I don't know where it came from. Sgts Johns and Davies would meet me on arrival at about 1830 hours in the Black Prince, I was to meet truck No L 765620 outside the Garrison Theatre, Aldershot at 1600 hours and show the driver how to get there. I didn't know where the blankets were coming from all I knew was that CQMS Miskimmins was arranging to get them.

I met the truck at 1600 hours as arranged and proceeded via Stains, Kingston, Clapham Junction to the Elephant and Castle Area where I had some difficulty in finding the Black Prince Pub, driving around for approximately half an hour in that area before finding the right pub. I stopped once at a Black Prince Pub but found it closed and decided it was the wrong one. We then drove back following the tram lines and stopped again to ask inquiries to the tube station after which I found my bearings and arrived at the proper place at about 1830. I told the driver to wait and found Sgt Davies and Sgt Johns inside the pub, they said there was nobody there yet but a civilian who knew Ginger was trying to get him on the phone. He came in about an hour later and went out again to make some arrangements but sent word back by another civilian between 20 and 2030 hours that arrangements could not be made that night. I would recognize Ginger again if I saw him but not the two other civilians.

While we were in the pub I gave Sgt Davies 5 shillings for the driver to go for supper, Sgt Davies stayed with the truck while he was away at about 1930 hours, he came back about 20 minutes time and I took him out some cigarrets and matches, I don't know the lad and never saw him before in my life.

After we got "Gingers'" message Sgt Johns, Sgt Davies, and I went by tube to the west end to see if we could find a place to store the blankets, we tried in a pub near Oxford Circus without success and took a Taxi to some club or other that Sgt Johns knew about and left him there while Sgt Davies and I went back for the truck by Taxi, I was to follow the Taxi back in the truck. I left Sgt Davies talking to the driver and when I crossed over to the truck a couple of plain-clothes policemen stopped me and asked me what I was doing, I said I was going back to Aldershot but they said I had better come with them and took me to a police station near by. Another officer followed with the driver in the truck. Later S/Sgt Nelson of the SIS came and took me and the driver back to No 6 Provost Detention Room, he cautioned me and then asked me if I had any business in London with the truck and blankets to which I replied "No".

I have never been concerned in anything of this kind before except one case of selling 1000 cigs. but I was due to go on leave

STATEMENT OF:

Regt. No. L-1161, S/Sgt. GRATRIX, R.J.,
Clerks' Coy., No. 1 CGRU., CRU Command.

Continued from Page 2.

and needed money, and knowing that I was not directly concerned with the taking of the blankets, and did not know the persons to whom they were going, I thought I could get enough money to go on leave. It was my job to direct the driver to the correct place, the arrangements being left to the others. I did not realize how serious an offence of this kind could be, or I would not have had anything to do with it.

I have read over the above statement which has been made voluntarily without fear of any threat or hope of favour to come and it is true.

(L 1161 GRATRIX, R.J.) S sgt.,
Clerks Coy., No 1 CGRU

(U 1869 F.H. NELSON) S sgt.,
SIS Cdn Pro Corps CMHQ.

LONDON
7 OCT 44.

This is exhibit "G" referred to in the summary of evidence in the case of:-

S/Sgt Greatrix, R.J.	CQMS Miskimmons, W.
Sgt Gemmell, N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Jaynes J.C.M.
Rifleman Ludley, R.D.C.	

taken before me this First and Second day of November, 1944

Officer taking summary

This is Exhibit " H " referred to in the

summary of evidence in the case of:-

S/Sgt Greetrix, R.J.
Sgt Gammell, N.A.
Sgt Johns, R.F.
Rifleman Dudley, R.B.C.
CQMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Jeynes, J.C.M.

taken before me this First and Second day of

November, 1944

Officer taking Summary

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

10 Oct 44.

STATEMENT OF:

Regt. No. L-18134, Sgt. GEMMELL, N.A.,
Clerks' Coy., No. 1 C.G.R.U., C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here

(SGD) N.A. GEMMELL.

STATES:

At some time after the return of 1 CGRU to ALDERSHOT it came to my knowledge that there were in the Unit three or four thousand surplus blankets. I am not sure who first told me about it. It may have been CQMS MISKIMMINS: but I was under the impression that this was common knowledge. I [illegible] it mentioned several times.

Ever since last August when we were at Wetley S/Sgt. GRATRIX, Sgt JOHNS and I have been drinking somewhat heavily. About a month ago I asked Maj. LAWRENCE, O.C., Clerks' Coy., if he would post me to the Field. This was to get away from the associations and drinking habits I had formed, as I was afraid that sooner or later it would get me into trouble. As I was Chief Instructor he wouldn't consider this posting at that time.

On Thurs., 28 SEP 44, after 13:15 Parade, Sgt JOHNS and I went down to the "Wellington" Public House for a quick drink as two of us had been in the habit of doing occasionally for some time. We had a few too many and didn't return to the Unit until about 18:00 hrs., when we learned that Maj. LAWRENCE had been enquiring for us and we'd be in trouble over it. Next morning Maj. LAWRENCE informed us that we were posted to Reinforcement Strength. Automatically I had to revert from A/S/Sgt. to Sgt., and commenced Basic Training on 4 OCT 44.

On Saturday, 30 SEP 44, between 15:00 and 16:00 hrs. Sgt. JOHNS and I were alone together in our quarters at MAIDA Bks. when S/Sgt. GRATRIX and Sgt. DAVIES came in. They had been drinking, but we had not had a drink all day. We were all just about broke and the question of how to raise some money cropped up. I said: "Well, there's some buckshee blankets over in the Quarters' Stores" and from there on there was just some general conversation about the possibilities, although I think no-one had any serious idea of doing anything about it. Certainly I didn't myself.

Next afternoon, Sunday, 1 OCT 44, the four of us were together drinking again in the Sergeants' Mess. JOHNS had borrowed a couple of Pounds. The subject of selling blankets cropped up again and we were discussing the possibilities of disposal. Sgt. DAVIES said he knew of a man in LONDON who might take them. Later he and S/Sgt. GRATRIX went off together to LONDON and next day in the Mess at noon they told me that the arrangement for disposing of 1000 blankets had been made in LONDON and asked me to see CQMS MISKIMMINS about it. I did not

(cont'd)

MY

STATEMENT OF: (cont'd)
Regt. No. L-18134, Sgt GRAZELL, N.A.
Clerks' Coy., No. 1 C.S.R.U., C.R.U. Command.

see him until next day, Tuesday, 3 OCT 44, in the NAAFI, when all I said to him was: "If you're interested in disposing of some blankets those guys over in the corner will handle it", indicating S/Sgt. GRATRIX and Sgt. DAVIES. I had not discussed the subject previously with CQMS MISKIMMINS, and that is all I said to him at the time. I had one drink with him and left the NAAFI, as I was due for Parade. Sgt JOHNS was there with the other two. CQMS MISKIMMINS said that it was OK with him if they could arrange it, and that he would see them next day about it. That night in the Mess I told them what he had said when they asked me about it.

Next day Wednesday, 4 OCT 44, I went alone to the NAAFI at noon and joined S/Sgt GRATRIX, Sgt. JOHNS, and Sgt DAVIES at their table for a glass of beer. Later CQMS MISKIMMINS came in and joined us. The matter of disposal of blankets was discussed and I was told when I asked that transport had been arranged. MISKIMMINS suggested that they be picked up at the laundry next day, as had been arranged, but I didn't know when I left them where they were to come from or at what time.

Next day, Thursday, 5 OCT 44, at noon in the NAAFI, I was looking over a Racing Sheet with MISKIMMINS and figuring if I could place a good bet with a Bookie who comes in there. S/Sgt GRATRIX, Sgt. JOHNS, and Sgt. DAVIES came over and final arrangements about the blankets were made. S/Sgt. GRATRIX had a letter which I recognize as the one in your possession. I had not read it, but I knew its contents. I do not know who wrote it. A truck was to pick up the blankets that afternoon, and S/Sgt. GRATRIX or Sgt. DAVIES was to go up to LONDON with the driver. I did not know what driver or what transport would be used. Next day I learned that GRATRIX went with the truck and that Sgt. DAVIES and Sgt. JOHNS went up together by train to meet him in LONDON. I heard also that GRATRIX and the driver of the truck got pinched.

On Friday noon in our room, Sgt. JOHNS told me that the civvy in LONDON who was going to take the blankets didn't turn up. He went over to a Club in the West End to try and find some other way of disposing of them, but when he got back the truck was gone.

I did not go to LONDON and had nothing to do with the deal other than stated above. I didn't know exactly how much money was in it, or how it was to be divided. Some time during the week Sgt. DAVIES said there was 7/6 apiece coming in for the blankets, and GRATRIX said Six Shillings. To my knowledge no detailed division of the proceeds was discussed. Had they chosen to give me a cut out of the deal no doubt I would have accepted it, as I was pretty well broke. I had no doubt that they would come through with something, as I had knowledge of the project from the start, although I took no active part in the business once the others got started on it. I have been living and working with S/ Sgt. GRATRIX and Sgt. JOHNS over a period of two years, and have always been on the best of terms with them. It is only natural, therefore, that I would not give them away when I knew what was in the wind. After the arrangements had been made I did not like the set-up too much, and did not myself wish to become too deeply involved. By then, however, there was little I could do about it. I am sorry now that I had anything to do with it at all, as I have never been mixed up in anything of this kind before.

I have read over the above statement, which has been made voluntarily, without fear of any threat, or hope of favour to come and it is true. (SGD) N.A. GRAZELL 10 OCT 44

(WITNESSED) F.R. NELSON, S/Sgt, S.I.S.

This is Exhibit " I " referred to in the

summary of evidence in the case of:-

S/Sgt Greetrix, R.J.
Sgt Gemmell, N.A.
Sgt Johns, H.P.
CQMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Jeynes, J.C.M.
Rifleman Dudley, R.D.C.

taken before me this First and Second day of

November, 1944

Officer taking summary

(COPY)

SPECIAL INVESTIGATION SECTION

SECOND STATEMENT of:

Rect. No. B-64113, Rfm. DUDLEY, R.D.G.,
"A" Wing, M.T. Sect., No.1 C.S.R.U., C.R.U. Command.

STATES:

I have read over the statement made by L-1161, S/Sgt. GRATRIX, R.J., dated 7 OCT 44, and having been again cautioned by S/Sgt. NELSON as before, I wish to state that everything in it concerning our journey to LONDON, as far as I was concerned, is true. I don't know anything about the other things that happened.

(SGD) R.DUDLEY 7/10/44

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

LONDON
7 OCT 44

This is Exhibit " J " referred to in the

summary of evidence in the case of:-

S/Sgt Crestrix, R.J.	CSMS Miskimmons, W.
Sgt Gammell, N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Jeynes, J.C.H.
Rifleman Dudley, R.D.C.	

taken before me this First and Second day of

November, 1944

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Officer taking summary

SECOND STATEMENT OF:

Rank. No. L 1161 S Sgt GRATRIX, R.J.,
Clerks Coy., No. 1 CGMT, CMU Command.

I have read over the statement made by B 64118 Pte DUDLEY, R.D.C., dated 6 OCT 44, and having been again cautioned by S Sgt NELSON as before I wish to state that everything in it is true to the best of my knowledge.

(L 1161 GRATRIX, R.J.) S Sgt.,
Clerks Coy No. 1 CGMT.

(W 1869 F.R. NELSON) S Sgt.,
SIB Cdn Pro Corps CMHQ.

LONDON
7 OCT 44

This is Exhibit " K " referred to in the summary of evidence in the case of:-

S/Sgt Crentrix, R.J.
Sgt Gemmell, N.A.
Sgt Johns, R.T.
CSMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Joynes, J.C.M.
Rifleman Dudley, R.D.C.

taken before me this First and Second day of November, 1944.

Officer taking summary

(COPY)

SPECIAL INVESTIGATION SECTION

SECOND STATEMENT of:

L-18134, Sgt. GRISHILL, N.A., Clerks' Coy., No.1 C.G.R.U., C.R.U. Command.

STATES:

I have read over the statement made by L-1161, S/Sgt. GRATRIX, R.J., dated 7 OCT 44, and having again been cautioned by S/Sgt. NELSON as before I wish to state that those parts referring to me or to things which I already know about are true.

(SGD) N.A.GRISHILL 10 OCT 44.

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

ALDERSHOT
10 OCT 44

SPECIAL INVESTIGATION SECTION

11 OCT 44

STATEMENT of:

Regt. No. D-91032, Sgt. DAVIES, J.C., Trade Test Board No. 10 (Clerks), H.Q. C.R.U., Att: 1 CGRU. C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.C., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(Sgd) J.C. DAVIES

STATES:

On Sunday, 1 OCT 44, during the afternoon, I was in the Sergeants' Mess, No. 1 C.G.R.U., in company with S/Sgt. GRATRIX, Sgt. JOHNS, and Sgt. GEMMELL. We had all had quite a few drinks by then, and being more or less broke, the question of how to get some money became the subject of conversation. I remember that someone mentioned that there were 4,000 backshee blankets to be had in the area. I don't remember who said this, and I never did hear where the blankets were supposed to be. There was quite a crowd in there, and the matter was not discussed at any length. No-one else heard this conversation. I suggested that I thought the Black Market was rife around the Elephant & Castle and so without any delay, S/Sgt Gratrix and myself were delegated to sound out the possibilities.

About a year ago I was in the Elephant & Castle district and there was a man who had suggested that any time I had anything to sell it was possible to make connections in that locality. He was addressed by one of his friends at the time as Ginger Cheek and was wearing a grey check cap. He would be about fifty years of age and about five feet nine inches in height. He had light hair and reddish complexion with a gingerish whiskers (stubble). He was clean shaven and I think he had a cauliflower ear. I know he was rather uncouth looking and wore a blue suit with a white scarf.

That evening S/Sgt Gratrix and I went to the Elephant and Castle district and after having a few drinks at various pubs entered the "Black Prince" and the "Ginger Cheek" (described above) was in the pub. It was suggested to him that we had a number of blankets to sell, and he replied that he was not in a position to handle them. Another man entered the pub and I would describe him as follows:-

Foreign appearance but spoke with a Cockney accent, middle age, height about 5' 9", black hair swarthy complexion, thin face, clean shaven, wearing trilby hat and dark overcoat. He came over to our table and commenced a conversation with S/Sgt Gratrix. I did not hear the topic of the conversation and once when I made a remark I was told to "shut-up" by the civilian. At this stage I was quite drunk having been drinking since 12 o'clock noon. Gratrix was comparatively sober as he had not been drinking to any extent owing to stomach trouble. We left the pub at closing time and went to Streatham, to spend the night, and on the way home I understood that it had been arranged that the blankets could be disposed of.

(cont'd)

STATEMENT OF:

Regt. No. D-91032, Sgt. DAVIES, J.C.,
Trade Test Board No. 10 (Clerks), H.Q. C.R.U., Att: 1 CGRU.
C.R.U. Command. (cont'd)

On Monday or Tuesday S/Sgt Gratrix, Sgts Johns and Gammell and I discussed the matter again and it was decided that some effort be made to obtain transport for the blankets. On Tuesday Sgt Gemmell and I went to see a friend of mine at another unit who might have been able to help but he refused to have anything to do with the transaction. The person who was eventually responsible for arranging the transport I do Not know. There was some talk about getting the blankets from a laundry.

On Thursday morning, October 5th, 1944, I drafted a letter addressed to No 23 Cdn Gen Hospital concerning an imaginary shipment of blankets to that Unit. I thought it would cover the load of blankets en route to London. On it I used a fictitious file number and signed it L. Skinner Lt. I know of no such Officer and used the first name that came into my head. The letter you have in your possession is the one referred to in the previous sentence. In the NAAFI at noon I saw S/Sgt Gratrix and the two other Sgts and passed round the letter for their comments. It was suggested that I accompany the load of blankets to London, but for various reasons I declined and S/Sgt Gratrix volunteered to do this, and he took the envelope (which I had addressed) and the letter. I was not aware of the final arrangements for picking up the blankets. At approximately 2.30 p.m. S/Sgt Gratrix came to my office and requested permission from QMS Martin to have me leave early as he wanted me to assist him with some clerical work he was doing at Woking. At 3.30 p.m. I left the office to go to the Clerks Training Wing and it was then arranged that I go by rail to London with Sgt Johns to meet S/Sgt Gratrix at the Black Prince. We left on the 4.16 p.m. train and met S/Sgt Gratrix, as arranged soon after opening time.

For some time we sat in the pub drinking beer, and I took five shillings from Staff Gratrix to the driver of the truck which was outside in the street to let him get some supper. Ginger came in about 7.30 p.m. and said 'hasn't he turned up' - no name was mentioned, meaning the man who was to take the blankets. He left the pub, apparently to find the man in question, but sent back a message by a stranger, that he couldn't be found. I suggested that the truck and blankets return to Aldershot where they came from, but owing to the difficulties of that procedure it was decided to explore the possibility of making other connections. We visited several pubs and finished up in the West End at some pub or other where Sgt Johns met some people who were interested. He stayed there with them while Staff Gratrix and I went back to get the truck, hiring a taxi for the journey. When we got there, S/Sgt Gratrix went over to the truck and I gave instructions to the driver of the cab to turn around so that the truck could follow us back. We went round the block to do this and when I got back the truck and Staff Gratrix had gone. I returned to Sgt Johns and told him what had happened, so we went to Streatham for the night, returning to Aldershot in the morning.

The agreed price was 7/6d each for the blankets. Transport was to have cost £40 or £50 and I understood that the remainder of the proceeds was to be split between Staff Gratrix, Sgts Gemmell and Johns, myself, and whoever supplied the blankets.

The whole plan was evolved whilst I was under the influence of liquor, and it was through drinking activities that I had got behind financially and seized on this method of getting myself straightened out. If I had been in a sober frame of mind, I would not, under any circumstances, have considered being a party to any such undertaking, as I have never been connected

(cont'd)

STATEMENT OF:

Regt. No. D-91032, Sgt. DAVIES, J.C., Trade Test Board No. 10 (Clerks), H.Q. C.R.U., Att: 1 CGRU. C.R.U. Command. (cont'd)

as I have never been connected/

with any criminal activities, and may Army Record will bear that out. I deeply regret that I have been involved and can only say that it is due to the abnormal circumstances.

I have read over the above statement which has been made voluntarily, without fear of any threat or hope of favour, and it is true.

(Witnessed)

F.R. NELSON, S/Sgt., S.I.S.

Aldershot, 11 Oct 44

(Sgd)

J.C. DAVIES 11 OCT 44

This is exhibit "L" referred to in the summary of evidence in the case of:-

~/Sgt Greatrix, R.J.
Sgt Gemmell, W.A.
Sgt Johns, A.T.
CQMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Jaynes, J.C.L.
Rifleman Dudley, R.L.C.

taken before me this First and Second day of November, 1944

Officer taking Summary

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION 11 OCT 44

SECOND STATEMENT of:

Regt. No. D-91032, Sgt. DAVIES, J.C.,
Trade Test Board No.10 (Clerks), H.Q., C.R.U., Att: 1 CGRU.
C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) J.C.DAVIES

STATES:

I have read over the statement of L-1161, S/Sgt. GRATRIX, R.J., dated 7 OCT 44. I see we don't agree about several small matters. I met the Warden named "Pop" to whom he refers about a year ago last Summer, when he found a bed for myself and a pal of mine down the "Elephant and Castle" tube station one night when we were stranded. To the best of my knowledge he has never been mixed up in anything criminal. The man named "Ginger" did not agree to take the blankets, and S/Sgt. GRATRIX is definitely wrong when he says so. Otherwise, as far as it concerns me, and to the best of my knowledge, his statement is correct.

I have also read the statement of L-18134, Sgt. GEMMELL, N.A., dated 10 OCT 44, and wish to state that apart from a few minor details the essence of his statement seems to be correct.

I have read over the above statement, which has been made voluntarily, without fear of any threat, or hope of favour to come, and it is true./ENDS

(SGD) J.C.DAVIES 11 OCT 44

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

This is exhibit "M" referred to in the summary of evidence in the case of:-

S/Sgt Greatrix, R.J.
Sgt Gemmell, N.A.
Sgt Johns, R.T.
CQMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Jeynes, J.C.M.
Rifleman Dudley, R.D.C.

taken before me this First and Second days of November, 1944

Officer taking summary

my

N O T E S

"I have been told by a friend of mine who is an officer at No 1 Canadian General Reinforcement unit not to make any statement and I guess I won't be making any. I owe £8-0-0 to Sgt Brooks £5-0-0 to Fpr Richardson, the barber, and £1-0-0 to Mr Lucas down in the Wellington Pub. Other guys owe me 20 or 30 pounds and I have got plenty of money back home if I want it. I had nothing to do with the blanket deal but I knew it was coming off. I only went to London for a steak supper at Gaetrix's place. I went to a club in the West End and got a girl friend of mine to phone up a garage to store the truck. When I told her there were blankets in the truck she phoned again and none of them would have no part of it. I had nothing to do with arranging transport. I have been drinking heavy for the past three or four months since leaving Witley. I remember being with the others but did not always know what they were talking about. When I am drinking I can do my job but forget what people say to me. I figure Gaetrix is O.K. Gemmell is close as can be. Gemmell always talked alone to Hakimmons. Davies is O.K. I guess, he was only trying to find a place to park the truck not to sell the blankets he never tried to sell anything. I figure Gemmell was principally responsible he has done previous jobs in Aldershot.

This is Exhibit "F" referred to in the summary of evidence in the case of:-

S/Sgt Gaetrix R.J. CSMS Hakimmons, W.
Sgt Gemmell P.A. Sgt Davies, J.C.
Sgt Johns, R.T. Cpl Joynes, F.C.W.
Rifleman Dudley, R.D.C.

taken before me this First and Second days of November, 1944.

Officer taking summary

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

12 OCT 44

STATEMENT of:

Rgt. No. B-68451, CSMS MISKIMMINS, W.,
"A" Wing, No.1 C.G.R.V., C.R.V. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) W.MISKIMMINS

STATED:

I am C.S.M.S. I/C Accommodation Stores, No.1 C.G.R.V., where I have been for 4 years in the same position. I have always worked hard to keep all Barrack Stores in good order, and have never at any time disposed of stores to outside individuals. Before the war I worked for 18 years for T. EATON & Co., TORONTO, in the Creamery Dept., and left there in excellent standing.

About two weeks ago a new Reception Coy. was formed in 1 CGRV and my Q.M., Capt. LAKE, instructed me to collect all surplus blankets throughout the Unit for the use of this Coy. These are all accounted for on the "Long Roll". We do not as yet keep Coy. Inventories. I started at the beginning of last week with Medical, General, and Despatch Coys., keeping over 1000 in the Blanket Store to be laundered. Next morning, 4 OCT 44, I took 1000 of these blankets to the Hal. Laundry in FARNHAM. I don't remember which truck or driver was detailed. I made two journeys. My Storesman, Pte. GOLD, and Mr. SHORT, i/c R.S.A. Stores and his staff know I was going to do this, and of course our M.T. Section knew what I was doing.

The following day, Thursday, 5 OCT 44, at about 13:30 hrs., I took the truck and driver I had all morning round Unit Lines to FARNHAM, where I collected 800 clean blankets, in bundles of ten, leaving 200 to be collected later. I put them in the Blanket Store.

Upon my return Pte. GOLD told me that Reception Coy. required a lot more blankets, and as I had requested another truck at lunch-time, when I was told I could have the first one that came in, and having despatched the one I had to another job, I told Pte. GOLD to remain in the Blanket Store, where he was working, and to start loading the first truck which arrived. I went back to my office and on my return at about 15:30 hrs., I found a truck there and gave Pte. GOLD and the Driver a hand in loading on the blankets. I'm not sure how many were there, but I kept back about 150 in the hut. I distinctly remember telling the driver to take them to Reception Coy., within Unit Lines, and Pte. GOLD heard what I said. I went off then about my business, and the first I heard that anything was wrong was next morning, when Capt. LAKE asked me what trucks I had had booked out to me and said that one had been found up in LONDON the night before. I had no reason to think that any blankets were missing, and the first I heard of this was when my Charge was read by Maj. MacLEAN.

Contd.

I have read over the above statement, which has been made voluntarily, without fear of any threat or hope of favour to come, and it is true./ENDS

(SGD) W.MISKIMMONS 12 OCT 44

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

This is exhibit "C" referred to in the summary of evidence in the case of:-

S/Sgt Gretton, R.V. — CQMS Miskimmons, W.
Sgt Gemmell, L.A. — Lt Davies, J.C.
Sgt Johns, L.T. — Cpl Symes, J.C.M.
— Fleman Dudley, J.C.A.

taken before me this First and second day of November, 1944

_____
Officer taking summary

This is Exhibit " P " referred to in the

summary of evidence in the case of:-

S/Sgt Gretrix, R.J.	CWO3 Miskimmons, W.
Sgt Gemmell, N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Jeynes, J.C.M.
Rifleman Dudley, R.D.C.	

taken before me this First and Second day of

November, 1944.

Officer taking summary

[illegible]

SPECIAL INVESTIGATION SECTION

SECOND STATEMENT of: 18 OCT 44

Regt. No. B-88451, [illegible] MISKIMMINS, [illegible]
"A" Wing, No.1 C.G.R.U., C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) [illegible] MISKIMMINS.

STATES:

I have read over the statements of B-64113, Wm. DUDLEY, R.D.C., dated 6 OCT 44, L-1131, S/Sgt. [illegible], R.J., dated 7 OCT 44, and L-18134, Sgt. [illegible], dated 10 OCT 44, and wish to state that I don't know Wm. DUDLEY by name, but would no doubt recognize him as the [illegible] who took the blankets last Thursday. I did not [illegible] the blankets anywhere but to Reception Coy. [illegible] go to Despatch Coy. in any case.

I would know S/Sgt. GRATRIX, Sgt. [illegible], and [illegible] DAVIES if I saw them no doubt, but I do not know them by name, and have never had anything to do with them. I have known Sgt. JOHNS as "SNOOKS" for about a year, but have never had much to do with him. Never at any time did I even mention the subject of blankets to any of these men, much less discuss with them their disposal and sale. Neither did anyone of them ever bring up the subject to me or in my presence. It's possible that they may have mistaken someone else for me, but I don't think for a minute that could be. I have no suspicions of anyone else in my department, and [illegible] only [illegible] that the theft of the blankets was entirely an outside [illegible], to the best of my knowledge.

I do remember being in the NAAFI last Monday or Tuesday week at noon (2 or 3 OCT 44). I had a newspaper showing the runners in a horse-race last Saturday, and went over to a table where "SNOOKS" and three or four of his friends were sitting. I sat down for a minute on the piano stool beside their table and told them I had a good thing for the Third Race - "CADET". I don't know what they said; but I finished my beer and went to dinner. I was only in there a few minutes. I wasn't taking any bets - just passing on a good tip. I'm interested in horses, but don't play them much just a shilling here or there when I get hold of a good thing.

I want to repeat that this whole business has been a shock to me because never at any time have I been guilty of disposing of stores to any unauthorized person whatsoever.

I have read over the above statements, which has been made voluntarily, without fear of any threat or hope of favour to come, and it is true.

(SGD) [illegible] MISKIMMINS 18 OCT 44
(WITNESSED) F.R. NELSON, S/Sgt., S.I.S.

[illegible]

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

13 OCT 44

THIRD STATEMENT OF:

Regt. No. L-1161, S/Sgt. GRATRIX, R.J.
Clerks' Coy., No. 1 C.G.R.U., C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) R.J. GRATRIX

STATES:

I have read over the statements of L-18134, Sgt. GEMMELL, N.A., dated 10 OCT 44, D-91032, Sgt. DAVIES, J.C., dated 11 OCT 44, and B-88451, CQMS MISKIMMINS, W., dated 12 OCT 44, and wish to state that prior to the occasion I mentioned, lunch-time on Thursday, 5 OCT 44, I never discussed the question of blankets with CQMS MISKIMMINS, nor did he discuss it in my presence. Further, the letter which Sgt. GEMMELL says I had - the one which you took from me in LONDON - was passed round amongst the five of us. Who all read it I don't know, but it was not in my possession until later in the afternoon, when it was given to me by Sgt. DAVIES.

On the Sunday night DAVIES and I went to LONDON (1 OCT 44) I visited the Black Prince and Kings Arms Public Houses, Elephant and Castle, for the first time in my life. I had never frequented that area. To my knowledge arrangements were completed that night between "Ginger" and Sgt. DAVIES. "Ginger" was certainly arranging the disposal of the blankets. The civilian described by Sgt. DAVIES whom "Ginger" called over held a short conversation with "Ginger", and when Sgt. DAVIES interrupted, this man told him to "shut up" and left. The topic of conversation I do not know. I had never seen "Ginger" before and had no part in the arrangements for disposing of the blankets.

CQMS MISKIMMINS was at the same conversation at which the letter mentioned above was produced, and certainly knew of all the arrangements as to the loading and the intended destination (LONDON) of the blankets.

I have read over the above statement, which has been made voluntarily, without fear of any threat or hope of favour, and it is true./ENDS.

(SGD) R.J. GRATRIX 13 OCT 44
(Witnessed) F.R. NELSON, S/Sgt., S.I.S.

This is exhibit "Q" referred to in the summary of evidence in the case of :- S/Sgt Greatrix, R.J. - Sgt Gemmell, N.A. CQMS Miskimmons, W.- Sgt Davies, J.C. - Sgt Johns, R.T. - Rifleman Dudley, JC.M. Cpl Jeynes, R.D.C. taken before me this First and Second day of November, 1944

Officer taking summary

my

(COPY) SIS/C-4-46

SPECIAL INVESTIGATION SECTION

18 OCT 44

THIRD STATEMENT of:

L-18134, Sgt. GEMMELL, N.A.,
Clerks' Coy., No.1 C.G.R.U., C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) N.A.GEMMELL.

STATES:

I have read over the statements of B-91038, Sgt. DAVIES, J.C., dated 11 OCT 44, and B-38451, CQMS MISKIMMINS, dated 12 OCT 44. I have no comments to make concerning the first.

Concerning the statement of CQMS MISKIMMINS I can only say that he was fully aware of the arrangements to get the blankets away from the Unit as I stated before. He was more responsible than anyone.

I have read over the above statement, which has been made voluntarily, without fear of any threat, or hope of favour to some, and it is true.

(SGD) N.A.GEMMELL 18 OCT 44

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

This is exhibit "B" referred to in the summary of evidence in the case of :-

S/Sgt Greatrix, R.J. CQMS Miskimmins, W.
Sgt Gemmell, N.A. Sgt Davies, J.C.
Sgt Johns, R.T. Cpl Haynes, J.C.M.
Rifleman Dudley, R.D.C.

taken before me this first and second day of November, 1944.

Officer taking summary

This is Exhibit " S " referred to in the summary of evidence in the case of:-

S/Sgt Greetrix, R.J.
Sgt Gammell, N.A.
Sgt Johns, R.F.
Rifleman Dudley, R.D.C.
CSMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Jaynes, J.C.M.

taken before me this First and Second day of November, 1944

Officer taking summary

A.F.G. 1518 (Revised 1942)
40/P&S/400(1749)

TRANSPORT WORK TICKET

No. 1 - 5783

MAKE OF VEHICLE	CLASS	UNIT	SECTION	DRIVER'S NAME	W.D. No.	MONTH & YEAR
Ford	60cwt	No. 1 C.G.R.U.	M.T.	Watson, H.E.	765983	Oct 44

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Obs (18)
				Brought forward from Work Ticket No.			JJ									18499		
	A													1115	1355	18505	6	
2.	B	Own Unit	R. check	Ald	Ald Area	Fleet	Keen Capt								1600	18509	4	
2	C	Own Unit	Records	Ald	Station	Return	Keen JJ Capt							0830	1600	18534	15	
3	D	Own Unit	Mob Stores	Ald	Tongham	Farnham	Cpl Bauer							0830	1715	18560	16	
4	E	Own Unit	Mob Stores	Ald	Tongham	Farnham	Keen JJ Capt							0830	1630	18583	23	
5	F	Own Unit	Mob Stores	Ald	as directed		Keen JJ Capt							1815	2015	18585	2	
5	G	Own Unit	Records	Ald	Aldershot	Return	Keen JJ Capt							1400	1600	18631	46	
6	H	Own Unit	Records	Ald	Alton	Bramshott	Keen JJ Capt						13	0830	1000	18636	5	
7	J	Own Unit	Messing	Ald	Bordon	???????	Keen JJ Capt	??	1				6					
	K																	
	L																	155
	M							??	1				19					

M.F.G. for week 7 or totals carried over

NO 1 [illegible] GENERAL REINFORCEMENT UNIT

DRIVERS CALL SHEET — MOTOR TRANSPORT SECTION

Vehicle	Time Out	Time In	Speedometer Out	Speedometer In	Duty performed and places visited	Drivers Signature
4201844	1300		16611		Records to Alton	
4207169	1230	1530	17576	17598	?????????	??????????
762820	1130	1330	20851	20856	Records to Alton	?????????
764196		1315	20969	21012	" " "	Dunn
4202095	1130	1330	[illegible]	[illegible]	"	???????
4202056		1345	719	749	"	S. [illegible] Anderson
195916	1245	1400	150585	15097	???????	??????
765812	1400	1700	18352	18405	Records to ???????	Waddell
4208412	1320	1500	[illegible]	20[illegible]2	Boot shop to Geelhan	?????????
422820	1530		[illegible]		[illegible] to Farnham & Farnborough	Dudley
[illegible]2049	1520	1750	[illegible]	16673	R C Padre to Liphook	Armott
[illegible]04312	1630	1830	[illegible]	20459	Gen Coy ?????	????????
[illegible]04813	1615	16[illegible]5	24991	24797	[illegible] Ald	Anderson S A
[illegible]02065	1[illegible]0	1950	749	780	Jew [illegible] Monnell	S. [illegible] Anderson
964196	0930					

1715

No 1 Gen Reinf Unit C.R.
Despatched
Oct 5 1944
Canadian Army Overseas

NO 1 CANADIAN GENERAL MAINTENANCE UNIT

DRIVERS CALL SHEET

MOTOR TRANSPORT SECTION

VEHICLE	TIME OUT	TIME IN	SPEEDOMETER OUT	SPEEDOMETER IN	DUTY PERFORMED AND PLACES VISITED	DRIVERS SIGNATURE
4202849	1815	2000	1673	16678	Records - Aldershot	??????????
42-3463	1815	2130	18677	18682	" Officer	R Smith
4425354	1815	2130	7792	07797	" "	??????????
4204814	1815	2130	26081	26086	" " Still out	??????????
764196	1815	2015	21012	21015	" OR "	Dunn
765812	1815	2030	18405	18408	" "	Waddell
765783	1815	2015	18583	18585	" "	C Olsen
764666	1815	2015	19777	19740	" "	F Roy
4203169	1815	2000	17598	17599	" "	Hatte
4203095	1815	2000	4449	4452	" "	Forsyth
877261	1815	2000	11229	11231	" "	L Jeffrey
4203407	1815	2100	29032	29037	" "	???????
4204813	1815	2000	24796	24799	" "	????????
4206193	1815	2015	12689	12692	" "	Wood A C
4208713	1815		25089	25795	" "	R Smith
4203463	0730	1845	18664	18677	Rations Ald	L Jeffrey
4203407	0730		29017	29032	" "	?????????
25132	0745	1630	11669	11691	Sick parade Ald	Dunn
764196	0745	0845	20985	20989	Mail "	Karlson
4204814	0800	1930		26081	Chat Terrace "	??????????
4208714	0815	1630	23994	24004	Sanitary "	??????????
4204812	0815	1130		20414	" "	??????????
4206193	0815	1630	12679	12689	Coal "	??????????
4202765	0740	1130	22734	22770	[illegible] Cove	Arnott, T.
4202849	0900	1100	16573	16617	R.C. Padre Liphook	Lavert C
4425354	0720	1430	2251	7792	??????????	C Olsen
765783	0830	1630	18562	18583	Rob Stores area	Anderson ?
4208813	0815	2045	27769	29791	[illegible] Stores Ald	??????????
4203169	0900	1220	17560	17570	[illegible] to ???????	
765812	0900		18332		" "	
4402065	0900	1630	56002	56935	Post to Brashotto	Borg
4208713	0900	1000	25787	25791	Ord to Ald area	Wood A C
4208056	0900		711		??? office to Ald area	[illegible] Anderson 4402095
4402095	0930	1130	4394	4424		????????
197756	1030		5053		??????????????????	

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

13 Oct 44

STATEMENT of:

H-59092, Pte. OLSEN, C.R.,
M.T. Sect., "A" Wing, No. 1 C.G.R.U.

STATES:

On 5 Oct 44, at 01:30 hrs., I was detailed for Government Siding, ALDERSHOT, but the detail was cancelled and my next detail, with Mob. Stores, at 08:30 hrs., was over-written on the same line of my Work Ticket. I was driving all morning within Unit Lines for CQMS MISKIMMINS. I was not particularly busy. I didn't handle any furniture.

After lunch at about 14:00 hrs., at the direction of CQMS MISKIMMINS, I drove him to the Hale Laundry near FARNHAM and picked up 800 blankets which we brought back to Blanket Stores at 1 C.G.R.U. Pte Harry TROSS went with us and also Pte. GOLD. They work in the Mob. Stores.

After I delivered the blankets, CQMS MISKIMMINS told me I would not be needed further, but to pick up another S/Sgt near FARNHAM where he was working on stores, and bring him back to the Unit. That was around 15:00 hrs. I did this, and checked in my vehicle, No. L-765733, at 16:30 hrs. I had one more trip to ALDERSHOT Station that day.

I know nothing of what was going on concerning theft of blankets that day, and know nothing much about it now.

I have read over the above statement, and it is true.

(SGD) C.R.OLSEN 13 of Oct 1944.

(WITNESSED) F.R. NELSON, S/Sgt., S.I.S.

This is Exhibit "T" referred to in the summary of evidence in the case of :-

S/Sgt Greatrix R.J.	CQMS Miskimmons, W.
Sgt Gemmell N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl. Jaynes, J.C.M.

Riflemen Dudley, R.D.C.

taken before me this First and Second days of November, 1944.

Officer taking summary

MM

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

13 OCT 44

STATEMENT of:

Rank. No. R-96927, Cpl. JEYNES, J.C.M.,
Trnspt. Sect., 84 Wing, No. 1 C.G.R.U.

BEGINS:

I have been cautioned by S/Sgt. WILSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) J.C. JEYNES.

STATES:

I am Corporal Dispatcher in the Transport Office, No. 1 C.G.R.U. On Thursday, 5 OCT 44, just before dinner, Rfn. DUDLEY, who drives L-86282, saw me as I was leaving the office and said CQMS MISKIMMINS would be needing another truck that afternoon to get blankets from the Hale Laundry near Farnham and asked if he could have the detail. I had no suspicion of any ulterior motive on his part, and just said "OK".

At approximately 15:00 hrs. in the Despatch Office I received the request for another 60 cwt. truck for FARNHAM and FARNBOROUGH from CQMS MISKIMMINS. He already had one 60 cwt. with Pte. CLEEN at Mob. Stores. He said he wanted another one to get blankets at the Hale Laundry. We seldom used more than one big truck at a time, but I put it down to an impending draft. I said I'd have a truck over in about 15 minutes. We did not request any particular driver, but I had DUDLEY in mind because of his request, and despatched him at about 15:30 hrs. I made out his Work Ticket for the journey. I know nothing about the other Work Ticket you have in DUDLEY's particulars for WATFORD. It is not genuine. He must have pinched it and made it out himself. I still had no reason to suspect his actions, and the first I heard that he'd been mixed up in any trouble was next morning, when he was reported to have been picked up in LONDON. I was definitely not in on the deal, and have never at any time been mixed up intentionally in any crime where Unit transport may have been used.

I have read over the above statement, which has been made voluntarily, without fear of any threat, or hope of favour, and it is true./ENDS

(SGD) J.C. JEYNES October 13th 44.
(WITNESSED) F.S. WILSON, S/Sgt., S.I.S.

This is exhibit "U" referred to in the summary of evidence in the case of :-

S/Sgt Streatfeild, E.J. CQMS Miskimmons, M.
Sgt Gammell, N.A. Sgt Lawless, J.C.
Sgt Johns, A.T. Cpl Jeynes, J.C.M.
Rfn Lemman Dudley, L.L.C.

taken before me this First and Second day of November, 1944

Officer taking summary

This is Exhibit " V " referred to in the

summary of evidence in the case of:-

S/Sgt Gretzik, R.J.
Sgt Gemmell, P.A.
Sgt Johns, R.T.
CMMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Joynes, J.C.M.
Rifleman Dudley, R.D.C.

taken before me this First and Second day of

November, 1944.

Officer taking summary

Statement by:- [illegible], Gnr Goods, A.C. 6th Aug/44.

Sir:-

On the 5th of Aug/44 I was detailed to take the Hot. Stores [illegible] bet to Altley. I went to Altley and arrived there about 0900 hrs. I did numerous [illegible] round the Camp. I then came back to Aldershot. I arrived back at Aldershot at about 1200 hrs. then we got back to Aldershot the Sgt said that he had to have the vehicle in the afternoon and would have to think up some way to wangle it. He then told me to report back to the garage and he would want me again at 1300 hrs. Then he said after you park the truck come to the N.A.A.F.I. and I will buy you a beer. I went to the N.A.A.F.I. and I had three (3) pints. I bought myself a pint and him. He bought the others. I then received a little meal chit from the messing Sgt for a late lunch at Corunna [illegible]'s Mess. After lunch I picked up the Hot. Stores Sgt at his quarters in Corunna Barracks. He then got in the vehicle and said take me to Camberly. I drove him to where he wanted to go. I then explained to him that my Pork Ticket was not in order for Camberly. He replied; Oh that won't matter I we won't be stopped anyway. The road I took to Camberly was via Cove. This brought us by the Public House known to me now to be called [illegible]. The Sgt then said pull in here. This I did. The Sgt went inside and he bought ten (10) pints of beer. The Sgt then came out about 1400 hrs. He directed me to return to Aldershot. We arrived back in Aldershot at about 1430 hrs. The Sgt then started to look around the Barracks for the Messing Sgt. We first went into Corunna Sgt's Mess. While there the Messing Sgt bought me a half (½) pint of beer. The Sgt then said that we had to go to Aide Sgt's Mess. When we got there he told me to come in. The Hot. Stores Sgt then bought me a pint of beer and after I tasted it I noticed that there had been gin put in it. The Sgt then left the Mess and went to the Messing Stores. Then he came back I drove the Two Sgts went away and got his car. Then he came back to Corunna Sgt's Mess. Then he came out to the truck and they brought some [illegible] to the Messing Sgt to [illegible]. This I did. Then we got to Altley I was directed by the Sgt as to where to be. The Sgt got out took the box that contained the beer with him and went in the house. He came out and gave me two half pints of beer. The time was about 1630 hrs. I then returned to Aldershot and the Hot. Stores Sgt as he had directed that I do this when I returned. I found him at his quarters. He was just getting slothed up. Then he had finished L. told me to come and have my supper. This I did in the Sgt's Mess Corunna. The time by now was about 1830 or 1900 hrs. The Sgt then said he wanted to go to Camberly. Then we got to Camberly he took me to Pub where we had a pint of beer that he bought. He then said take me to the Red Lion. He then directed me to it. (We had tried another one before this but it was shut). Then we got to the Red Lion he bought me three Gins and three pints of beer. I then took him to his girl friend's house in Camberly. The time was about 2100 hrs. He then said thats all I want. I then start d for home. I came home via Cove. On the way to Cove I stopped the vehicle as I did not feel very well and thought I had better straighten myself up. I must have gone to sleep for a short while. When woke up I started right back for Camp. I arrived back at about 2320 hrs.

Signed A.C. WOOD

6th Aug/44.

Statement by:- B-11[illegible], Gnr Woods, A.C.

Sir:-

On the 5th of Aug/44 I was detailed to take the Lob. Stores Sgt to Witley. We went to Witley and arrived there about 0900 hrs. We did numerous Barracks duties around the Camp. We then came back to Aldershot. We arrived back at Aldershot at about 1200 hrs. When we got back to Aldershot the Sgt said that he had to have the vehicle in the afternoon and would have to think up some way to wangle it. He then told me to report back to the garage and he would want me again at 1300 hrs. Then he said after you park the truck come to the N.A.A.F.I. and I will buy you a beer. I went to the N.A.A.F.I. and I had three (3) pints. I bought myself a pint and him. He bought the others. I then received a late meal chit from the Messing Sgt for a late lunch at Corunna Mess's Mess. After lunch I picked up the Lob. Stores Sgt at his quarters in Corunna Barracks. He then got in the vehicle and said take me to Camberly. I drove him to where he wanted to go. I then explained to him that my Work Ticket was not made out for Camberly. He replied; Oh that won't matter we won't be stopped anyway. The route I took to Camberly was via Cove. This brought me out by the Public House known to me now to be called by the name like Ifs. The Sgt said pull in here. This I did. He then said carry on and have a drink. We went inside and he bought me two (2) pints of beer. The time was about 1400 hrs. We then left the Pub and he said take me this way. He directed me to a Transp near Camberly where I understand the Mother of his girlfriend lives. We went inside and had a glass of lemonade. After this the Sgt said take me into Camberly to the girlfriends and I will only be about 10 min. After he came out fro talking to the girl he directed me to return to Aldershot. We arrived back in Aldershot at about 1630 hrs. The Sgt then started to look around the Barracks for the Messing Sgt. We first went into Corunna Sgt's Mess. While there, the Messing Sgt bought me a half (½) pint of beer. The Sgt then said that we had to go to Haide Sgt's Mess. When we got there he told me to come in. The Lob. Stores Sgt then bought me a pint of beer and after I tasted it I noticed that there had been Gin put in it. We then left the Mess and went to the Messing Stores. The Messing Sgt then went away and got his pass. Then he came back I drove the Two Sgts to Corunna Sgt's Mess and they bought some beer. They brought this out to the truck in a box. The Lob. Stores Sgt then told me to take the Messing Sgt to Witley. This I did. When we got to Witley I was directed by the Sgt to a house near the Fribourg Laundry. The Sgt got out; took the box that contained the beer with him and went in the house. He then called me. He gave me two half pints of beer. The time was about 1830 hrs. I then returned to Aldershot and the Lob. Stores Sgt as he had directed that I do this when I returned. I found him at his quarters. He was just getting cleaned up. When he had finished he told me to come and have my supper. This I did in the Sgt's Mess Corunna. The time by now was about 1830 or 1900 hrs. The Sgt then said he wanted to go to Camberly. When we got to Camberly he took me to Pub where we had a pint of beer that he bought. He then said take me to the Red Lion. He then directed me to it. (I had tried another one before this but it was shut). When we got to the Red Lion he bought me three Gins and Three pints of beer. I then took him to his girl friend's house in Camberly. The time was about 2100 hrs. He then said thats all I want. I then started for home. I came home via Cove. On the way to Cove I stopped the vehicle as I did not feel very well and thought I had better straighten myself up. I must have gone to sleep for a short while. When woke up I started right back for Camp. I arrived back at about 2320 hrs.

Signed A.C. WOOD

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

18 OCT 44

STATEMENT of:

Regt. No. B-112533, Gnr. WOOD, A.C.,
M.T. Sect., "A" Wing, No.1 CGRU, CRU Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, any may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) A.C.WOOD

STATES:

I have been a driver at No.1 C.G.R.U. for over a year. I have never had much trouble in the M.T. Section, but on 5 AUG 44 I was driving CQMS MISKIMMINS who is N.C.O. i/c Mob. Stores at the Unit. He got me into trouble by taking me on a lot of unauthorized journeys and also getting me drunk. On 6 OCT 44 I was paraded before Capt. KEEN, my O.C. I made to him a statement which he typed out and which I signed. It is the statement you have in your possession. The Mob. Stores Sgt. referred to is CQMS MISKIMMINS.

While I was driving him that day (I can't remember just when), CQMS MISKIMMINS said to me: "Some day when we get a chance you and I are going to make ourselves some money on some blankets. We'll get about Forty or Fifty Pounds apiece out of it". He meant that he wanted to get me to deliver some blankets for him some place where he would sell them. I didn't know what the set-up was, and made no promises. I didn't think very serious of the idea and heard no more about it from him or anybody else. He never sold anything that day when I was with him; but when I heard last week that my friend Rfm. DUDLEY was caught with a load of blankets I figured who it was who got him to take them in his truck.

I have read over the above statement, and it is true.

(SGD) A.C.WOOD. Oct. 18/44.

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

This is exhibit "W" referred to in the summary of evidence in the case of :-

S/Sgt Greatrix, R.J.	CQMS Miskimmons, W.
Sgt Gemmell, N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Jaynes, J.C.M.

Rifleman Dudley, R.D.C.

taken before me this First and Second day of November, 1944

Officer taking summary

This is Exhibit " X " referred to in the

summary of evidence in the case of:-

S/Sgt Greetrix, R.J.	CQMS Miskimmons, W.
Sgt Gammell, P.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Joynes, J.C.M.
Rifleman Dudley, R.D.C.	

taken before me this First and Second day of

November, 1944.

Officer taking summary

(SGD.) SIS/C-4-44

RE: INVESTIGATION

14 OCT 44

STATEMENT of:

Regt. No. L-414, Gnr. GOULD, E.G.,
"A" Wing, 1 C.G.R.U.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) E.G.GOULD

STATES:

I am attached to Accomodation Stores, 1 C.G.R.U., where, with one short absence of about 6 weeks last Summer I have been for about a year. I am a storeman in that Department.

On Thursday, 5 OCT 44, I was working at the Accomodation Stores all day. I can't quite remember what I was doing during the morning, but after lunch I was at the Blanket Store supplying palliasses in company with Pte. TOMS, D., another Storeman, C/MS MISKIMMINS came over and told us to load 1000 dirty blankets into a 60cwt. truck driven by Dvr. OLSEN. We had about 1200 there in bundles of 10. At about 14:00 hrs. C/MS MISKIMMINS, Pte. TOMS and I went with the truck-load of blankets to the Field Laundry near F.RENLN and left the blankets there to be cleaned. We then loaded 600 clean blankets for return to the Unit. We always exchange 1000 blankets at a time at the Laundry.

The reason why we did not bring the full 1000 back was that TOMS made a bad job of loading at the start, it was raining hard, and we couldn't get more than 600 on the truck without getting the last ones wet. C/MS MISKIMMINS made arrangements to collect the remaining 400 due on the following morning.

We got back at about 16:00 hrs., and TOMS and I unloaded the blankets into the store. Dvr OLSEN drove his truck away. About half-an-hour later another 60cwt. backed up to the store. C/MS MISKIMMINS arrived on his bicycle about the same time and said we had to load 700 clean blankets for Reception Coy. TOMS & I were a bit sore, having just unloaded them, but C/MS MISKIMMINS and the driver, to whom I paid no attention, gave us a hand, and I counted out the bundles. The driver stacked them in the truck.

I distinctly remember C/MS MISKIMMINS telling the driver: "Take that to Reception". They had a Fatigue party over there, so we didn't go with the truck, but C/MS MISKIMMINS followed the truck away on his bicycle. The driver never said anything at all. We worked fast because it was getting late. I do know that Reception Coy. had been hollering for blankets for several days. TOMS and I just went on working with the palliasses, and that's all I know about it.

At no time had I any reason to suppose that the blankets were to be taken elsewhere than to Reception Coy.

I have read over the above statement, and it is true.

(SGD) E.G.GOULD 18/10/44

(WITNESSED) F.R.NELSON, S/Sgt., SIS.

This is Exhibit " Y " referred to in the summary of evidence in the case of:-

S/Sgt Greatrix, R.J.
Sgt Gemmell, M.A.
Sgt Johns, R.T.
Riflemen Dudley, R.D.C.
CQMS Miskimmons, W.
Sgt Davies, J.C.
Cpl Jeynes, J.C.M.

taken before me this First and Second day of November, 1944.

Officer taking summary

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

19 OCT 44

THIRD STATEMENT of:

Sgt. No. B-64113, Sgn. DUDLEY, R.D.C.
M.T. Sect., "A" Wing, No. 1 C.G.R.U., CRU Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) R. DUDLEY

STATES:

I have read over the statement of B-96927, Cpl JEYNES, J.C.M., dated 13 OCT 44, and wish to state:

The man who asked me if I wanted to take the blankets to LONDON, and arranged it all for me was Cpl. JEYNES. I was willing to take the rap myself, and the only reason for not saying who he was at first was to keep him out of trouble if I could. I'm no squealer.

All I said in my other statement is true, except that I didn't steal the Work Ticket. During the afternoon after he spoke to me about the job Cpl. JEYNES came to me and gave me two work tickets. One he had made out as a sample for me to copy, and the other, which is the one you have, was blank. He told me to fill it in like the one he made out, and to destroy the sample for his protection. I did this that afternoon, and put the one he made out down the toilet in the Provost Lines opposite the Garage.

Cpl. JEYNES also told me I'd get about £15 for the job, and I figured he'd get a good cut out of it as well. He said: "You know who's running this, don't you?", and I said: "I have a pretty good idea" and left it at that. I figured it was CQMS MISKIMMINS, and I'm sure that's who he meant. What day he told me to gas up my truck and take some I don't recall.

I was busy that day like I said on a draft job. The first idea was to get the blankets from the laundry at FARNHAM, but when I didn't get back till 14:00 hrs. he said: "Never mind, you can pick them up at the Blanket Store", and made out my Work Ticket for 15:30 hrs. He knew I had the other one to cover me for the LONDON trip.

I never asked Cpl. JEYNES for the job - he asked me in the first place and fixed it all up himself. I never did any jobs before for CQMS MISKIMMINS (taking stuff out, I mean) but I kind of figure others have, and I know Gnr. WOODS got caught over him once on a buckshee run when they got him drunk and he got back late.

I have read over the above statement, which I have made of my own accord, without fear of any threat or hope of favour to come, and it is the truth. ENDS

(SGD) R. DUDLEY 19/10/44

(WITNESSED) F.P. NELSON, S/Sgt., S.I.S.

COPY SIS/C-4-44

SPECIAL INVESTIGATION SECTION

19 OCT 44

SECOND STATEMENT of:

Regt. No. B-96927, Cpl. JEYNES, J.C.M.,
Trnspt. Sect., "A" Wing, No. 1 C.G.R.U.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) J.C. JEYNES.

STATES:

On Thursday, 5 OCT 44, at about 09:30 hrs., Sgt. JOHNS, of Clerks' Coy., 1 CGRU, came to me in the Despatch Office, M.T. Section, where I am in charge, and asked me if I could fix him with a big truck to take some blankets to LONDON. I asked him how long it would be needed and he said from about 16:00 hrs to 19:30 hrs. I said I'd let him know later, but he said he'd have to know before 2 o'clock. He said there would be about 700 blankets and that the driver and I would receive about £40 between us, depending on what they got for them. He didn't say who else was in the deal, but as the blankets were coming from Mob. Stores, I concluded that CQMS MISKIMMINS was in it. I told him I'd fix it for him unless some emergency arose and I'd have to cancel it. He gave instructions that the truck was to be at the stop-lights in FARNHAM just below the Hale Laundry at exactly 15:55 hrs., when a Sergeant would be there to direct the driver. He didn't say what Sergeant. I stipulated that there was to be no drinking on the trip. I told Sgt. JOHNS to expect No. L-762820, as that was the logical vehicle for the job. He said "O.K.", and left the office.

I immediately left the office to contact Rfn. DUDLEY, the driver of this 60 cwt. L-762820, and met him outside the office. I asked him if he wanted to take a buckshee trip to LONDON, and mentioned that there would be roughly £15 in it for each of us. He agreed to take the trip, and I told him I'd fix up a sample of a work-ticket for him to make out to cover his journey. I gave him his directions as instructed, warning him also against drinking, and be careful with his driving. I picked DUDLEY because I know him and knew I could trust him. He doesn't know LONDON, but I figured somebody would show him the way.

I returned to the office, and when I was alone I stamped two blank Work Tickets, making one out for DUDLEY to copy. I stamped it several times so that it would be unusable. At about 10:00 hrs. I met Rfn. DUDLEY at the Workshop door and gave him the two work-tickets with the warning that the sample work-ticket must be destroyed after he had copied it. He agreed to do this, and I told him that he was on his own hook once he was on the road with his vehicle. I later advised him to see he had enough gas. He did a trip to ALTON, and I gave him his Work Ticket for FARNHAM and FARNBOROUGH to cover him through the area at 15:20 hrs. I can remember no change of plan, and he must have received instructions elsewhere to go to Blanket Stores.

The driver for Mob. Stores that day was Pte. OLSEN, who was on that job the day before, and was warned that night

(cont'd)

SECOND STATEMENT of:

Regt. No. B-96927, Cpl. JEYNES, J.C.M.,
Trnspt. Sect., "A" Wing, No. 1 C.G.R.U. (cont'd)

and was warned that night/

that he would be needed again at 08:30 hrs., 5 OCT 44. At no time during that day was any call received at the Transport Office from Mob. Stores for another vehicle. Rfn DUDLEY was sent solely in consequence of the request of Sgt JOHNS that morning. I knew nothing of any further arrangements connected with the deal.

When I made my first statement on 13 OCT 44 I figured that to tell all I knew would do nobody any good. Now I feel it isn't fair for Rfn. DUDLEY to take all the blame. I have read his statements, dated 6 OCT 44 and 19 OCT 44, and with the exception of the differences I have pointed out above, his statement is correct to the best of my knowledge. I am quite sure that he has never been mixed up in anything of this kind before. Neither have I.

I have read over the above statement, which has been made voluntarily, without fear of any threat or hope of favour to come, and it is the truth./ENDS

(SGD) J.C. JEYNES, Oct. 19/44.

(WITNESSED) F.R. NELSON, S/Sgt S.I.S.

This is Exhibit "Z" reverred to in the summary of evidence in the case of:-

S/Sgt Greatrix R.J.	C/S Hiskinmons, W.
Sgt Gemmell N.A.	Sgt Davies, J.C.
Sgt. Johns, R.P.	Cpl Jeynes, J.C.M.

Rifleman Dudley, R.D.C.

taken before me this First and Second days of November, 1944.

Officer taking summary

(COPY) SIS/C-4-44

SPECIAL INVESTIGATION SECTION

20 OCT 44

STATEMENT of:

Rest. No. H-108347, Pte. TOEWS, D.,
"A" Wing, No.1 C.G.R.U.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understood this caution, I sign my name here.

(SGD) D. TOEWS

STATES:

I am attached to Reception Stores, I CORps where I have been working since JUNE, 1944.

On Thursday, 5 OCT 44, I was working in connection with Reception Stores all day. I was with Gnr. GOULD all morning at the Blanket Store emptying palliasses. At noon CQMS MISKIMMINS, who was i/c Reception Stores, told us to beat the Blanket Store at about 14:00 hrs., as we were going to get blankets from the Hole Laundry, PARNHAM, having taken a thousand there to be cleaned a couple of days before. When the truck arrived, driven by Spr. OLSEN, CQMS MISKIMMINS, Gnr. GOULD and I went with it to the laundry at PARNHAM, where we started to load clean blankets in bundles of ten. C.Q.M.S. MISKIMMINS said we were going to take 700, so I wasn't too busy. Now I started loading. When I had loaded that 500 he said we'd better take 1000, but I didn't pile them very tightly in the 3/4 ton truck, and only got 800 on. I'd have had to empty the truck again to have taken the full thousand, but he said not to bother. It was raining that day, and if I'd put on more than 800 they'd have got wet at the back of the truck.

We brought the 800 blankets and unloaded them into the Blanket Store, and the truck went away. Gnr. GOULD and I went on working on the palliasses for a half-hour or so, when the 3 ton cat. truck, driven by Pte. DUDLEY, pulled up. I asked him what he wanted, but he didn't seem to know, and said CQMS MISKIMMINS wanted him to report there. A minute or two afterwards CQMS MISKIMMINS came up on his bicycle and told us to load up 700 blankets for Reception Coy. We thought that kind of funny because we could have taken them straight over in the first place, but he said that's what they wanted now, so we just got busy and loaded them and the driver stacked them in the back of his truck. Gnr. GOULD counted them, on CQMS MISKIMMINS's instructions. I didn't hear any instructions given to the driver, but when we had finished loading at about 16:30 hrs. the truck pulled away with the blankets, and that's the last I saw of them. I figured they were for Reception Coy., and CQMS MISKIMMINS said we didn't have to go with the truck because there was a fatigue down there to unload it. I had no reason at all to suspect that there was anything wrong, and just went on with my work.

(Contd OVER)

with my work/.

I didn't know anything had happened until next day, when I heard some talk around the Camp that the truck-load of blankets had been picked up in LONDON.

I have read over the above statement, and it is correct./ENDS

(SGD) L. TOKWS 20-10-44

(WITNESSED) F.R.NELSON, S/Sgt., S.I.S.

This is Exhibit "Z 1" referred to in the summary of evidence in the case of:-

S/Sgt Greatrix R.J.	C.[illegible] Mickimmons, W.
Sgt Gemmell N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Jeynes, J.C.M.

Riflemnn Dudley, R.D.C.

taken before me this First and Second days of November, 1944.

Officer taking summary

SPECIAL INVESTIGATION SECTION 24 OCT 44

STATEMENT of:

Regt. No. B-88451 C.[illegible].M.S. MISKINNINS, W.,
"A" Wing, No. 1 C.G.R.U., C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

STATES:

Having made a true statement to Civil Police concerning some chairs, tables, and sheets which I disposed of from Unit Stores through Sgt. GEMMILL to a civilian in [illegible] last August, I want to tell you the truth and make a complete statement about the seven hundred blankets which S/Sgt. [illegible], Sgt. [illegible], [illegible], and JOHNS, Cpl. JEYNES, and Pte. [illegible], the driver, arranged to sell in LONDON, and which I gave them out of the Unit Blanket Store on 5 OCT 44.

About a week after Sgt. GEMMILL had sold the chairs, tables and sheets referred to he came to me in the "[illegible]" N.A.A.F.I. and asked me if I had any more chairs to sell. I must explain that the 12 chairs, easy, tables, writing, and 20 sheets, were not in charge to No.1 C.G.R.U. I had previously returned their equivalent to the R.A.O.C. Salvage Dump at TONGHAM, several weeks previously, and they were thus surplus. I kept this furniture for several weeks in store. That was all the furniture surplus I had, and I told Sgt. GEMMILL this when he asked. I remember telling him, though, that I had a lot of surplus blankets. He asked me how many, and I said: "[illegible]". As a matter of fact, I had about 2000 surplus blankets which I had carefully collected over a long period of time in order to make good any shortages which might at some time occur.

A day or two later Sgt. GEMMILL came to me again in the N.A.A.F.I. and told me that he had arrangements made to dispose of seven hundred blankets. He didn't tell me any of the details. I asked him what it would be worth to me, and said £30. I then agreed to let him have the 700 blankets when it could be arranged. That was early in the first week of October, 1944. I saw Sgt. GEMMILL each day that week in the N.A.A.F.I. and he told me the names of those who were arranging the deal when I asked him. I never had anything to do with this part of the deal, and can't recall discussing the matter with any he saw Sgt. GEMMILL. He told me that he had fixed for a truck to pick up the blankets on Thursday, 5 OCT 44. I don't know who was arranging the transport, but I know there had been a hitch about it earlier in the week. At that time I had 1000 blankets at the Hole Laundry, FARNHAM, and as I thought that that would be a good place to pick them up from I told Sgt. GEMMILL to have a truck there at 15:30 hrs., that Thursday. I changed my mind about this, however, because they only wanted 700, so I brought 300 back from there to the Unit Blanket Store right after dinner that day. I was going to take the whole 1000, but couldn't get any more on the truck. I previously told Sgt. GEMMILL to have his truck sent to the Blanket Store instead at 10:00 hrs. I saw it pull in there, went over on my bike, and told my store on, Ptes. GOULD and TOENS to load 700 blankets. I gave them a hand. When the truck was

When the truck was/
loaded I began to feel a bit guilty and s id to the driver, Pte.
DUDLEY: "Slim, take them to Reception Coy. To Hell with it!" He said:
"O.K., Bill", and drove off. He looked a bit scared, too. I thought he
was going to do as I said, and even went down to Reception Coy. on
my bike to see if he was there. I would have had them unloaded right
there, the way I was feeling, honest to God, but he didn't show up.
Neither Ptes. GOULD or TOMS knew what was going on, and I really
meant what I said to the driver. I knew something had gone wrong
next morning when Capt. LANE called me into his office to ask me
about the truck which was missing. That is all I have to do with the
deal, and I'm sorry now that I ever had any part in it. I was not
short of money, and I honestly don't know whatever made me consent to
it.

It is true that Reception Coy. needed more blankets, as those I
had previously sent were dirty, and had to be replaced by clean ones.
Some fellow I don't know signed for a few days previously that the
police in ALDERSHOT were watching for a blanket deal that was supposed
to be coming off, and that is why I was getting a bit scared about
the whole thing.

The statements I previously made are pretty untrue, because I
knew I had a surplus to cover the loss and I thought that I might be
relieved of blame.

I admit that for a long time past I have been scrounging stuff
to make good deficiencies in the Unit, but I can truthfully say that
apart from the above two instances, when I disposed of stores to Sgt.
GRENELL, I have never sent anything to unauthorized persons, or sold or
disposed of stores to civilians. I don't think that a complete Unit
inventory would show any shortages in my agreement. It might even show
a surplus.

I have read over the above statement, which has been made
voluntarily, of my own free will, with no fear of any threat, or hope
of favour from any person or persons, and it is all true.

(SGD) _____ C.P.R.S.,
B-88451, W. MISKIMMONS,
"A" Wing, No.1 C.S.R.M.

(WITNESS EL) _____ S/Sgt.
M-1889, F.M.NELSON
S.P.S., Can. Provost Corps, CMHQ.

ALDERSHOT
24 OCT 44

This is Exhibit "Z2" referred to in the summary of evidence in the case of:-

S/Sgt Greatrix R.J. — C.S.M. Miskimmons, W.
Sgt Gammell M.A. — Sgt Davies, J.C.
Sgt Johns, R.T. — Cpl Jaynes, J.C.M.
Rifleman Dudley, M.D.C.

taken before me this First and Second days of November, 1944.

_____
Officer taking summary

SIS/ C-4-44

SPECIAL INVESTIGATION SECTION

25 OCT 44

STATEMENT of:

Regt. No. L-18134, Sgt. GEMMEL, N.A.
Clerks' Coy., No. 1 C.G.R.U., C.R.U. Command.

BEGINS:

I have been cautioned by S/Sgt. NELSON, of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understant this caution, I sign my name here.

_____

STATES:

I have read over the statement of CQMS MISKIMMINS, dated 24 OCT 44. There is one thing I want to say, and that is that I was never concerned at any time with anyone in disposing of tables or a leather-backed chair which I saw yesterday in the Police Station at ALDERSHOT. At the present time I have no comments to make on the remainder of his statement.

I have read over the above statement, which has been made voluntarily, and it is true.

(SGD) _____ SGT.
L-18134, N.A. GEMMELL,
Clerks' Coy., No. 1 C.G.R.U.

(WITNESSED) _____ S/SGT.
L-1889, P.R. NELSON,
S.I.S., Cdn. Provost Corps, CMHQ.

ALDERSHOT
29 OCT 44

This is Exhibit "E3" referred to in the summary of evidence in the case of:-

S/Sgt Greatrix R.J.	CQMS Miskimmons, W.
Sgt Gemmell N.A.	Sgt Davies, J.C.
Sgt Johns, R.T.	Cpl Jeynes, J.C.[illegible]

Rifleman Dudley, R.D.C.

taken before me this First and Second days of November, 1944.

_____
Officer taking summary

MM

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
L-1161	Pte (A/S/Sgt)	GRATRIX R.J.	#1 C.G.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, R.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, pronounce being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

NIL

Number of instances of gallantry or distinguished conduct,

xx Nil

2. ~~[illegible]~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~[illegible]~~ in civil custody, and ~~47~~ 49 days in military custody, making a total of ~~47~~ = 49 days, of which — days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ M.F.M. 4 is 27 years

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ M.F.M.4 is 14 Sep 39

7. ~~[illegible]~~

8. ~~[illegible]~~

9. ~~The accused [illegible]~~

10. The accused is in possession of, or entitled to, ~~[illegible]~~ 1939-43 Star & C.V.S.M. & Clasp

11. ~~[illegible]~~

12. ~~[illegible]~~

(*16348) Wt.50246/862 75,000 12/40 A.&E.S.W. Ltd. Gp.498
(27622) Wt.48401/1987 25,000 4/41 " "

E x B
MB

Schedule of Convict[illegible] Martial or Civil Court, of summary awards under Section 47 of the Army [illegible] and of cases in which trial has been dispensed with of accused.

No. L-1161 Rank Pte (A/3/3gt) Name GRATRIX H.J. of #1 C.G.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 22 Jul 43	1. Sec. 11 A.A.	Reduced to the Ranks and awarded 8 months detention.	
F.G.C.M.	Field 7 Sep 43	1. Sec 22 A.A. 2. Sec 15(1) A.A.	Detention for 9 months and 15 days (Concurrent with award of 22 Jul 44)	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~10th~~ day of November 1944

23 Nov 44

[illegible] Capt & Adj
#1 C.G.R.U.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of A/3gt 3 months XXXX

In the rank of A/3/3gt 3 months 22 days XXXX

In the rank of years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No. 1.1161 Name GRATRIX R.J. Sqn, Battery, or Company | Corps C.M.S.C. | Date of enlistment 14/9/39 | GC Badges 1 | Service or Proficiency Pay N.A. | 3/17 MFM 6 (AFB 122) 46(P&S)/138 (5415)

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No 4 | Signature OC Company, etc (SGD) (H.D. Hay) Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entry on previous sheet, destroyed 14-9-41 on completion of 2 years Service (SGD) (H.D. Hay) Capt									
Field	8 Jun 43	Cpl		A.A. Sec 11, WOAS Neglecting to obey Overseas Routine Orders, in that he at 49 Triangle Place Clapham on or about 8 Jun 43 did sell to Mr Frederick John Billahm 49 Triangle Place, cigarettes received as gift from Canada contrary to Overseas Routine Order 3062 and amended by Routine Order 3473		Reduced to the ranks and awarded 8 months detention	22 Jul 43	F.G.C.M.	Total forf of pay 267 days

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Jul 43	Pte		1. Sec.22 A.A. While in Confinement escaping. 2. Sec.15 (1) A.A. - AWL from 0615 hrs 30 Jul 43 to 1300 hrs 31 Aug 43. Absent 32 days, 6 hrs. 45 mins.	Documentary	Detention for 9 months & 15 days. (Concurrent with award of 22 Jul 43).	7 Sep 43	FGCM	

RELEASED from the DETENTION
Field
18 Dec 43 Released by Senior
Auth- Marks 940
Commandant

Certified true copy of original document in my possession.

(W.E. McNaughton) Capt.
Adj. No. 1 Cdn Gen Rft Unit

COPY

27 Nov 44

Lt Col D.L. Redman,
PERMANENT PRESIDENT, Courts Martial
HQ CRU.

F.C.C.M. - Tpr Dudley

1. At the recent Court Martial of the m/n OR, he declared that he had been threatened by myself, as officer taking the Summary of Evidence. He called, as witnesses, six ORs on whom a Summary was also being taken.

2. I feel that in view of his evidence, an explanation is required.

3. The nature of this threat was that I had stated that I would make a pitchfork out of the evidence against them by laying a great number of charges.

4. The facts are: when Dudley and the remainder of the accused appeared before me 1 Nov 44 for the purpose of taking a Summary of Evidence, I carefully explained to them their rights at the Summary; told them that if they had witnesses for the defence they could call them or not as they pleased; told them that in due course they would be given an opportunity of making a statement in regard to the charges but that they did not have to do this and also advised them as to their rights in cross-examining the witnesses. I then read the charge sheets to them; explained to them that the charges now laid against them were not necessarily the charges which would finally be laid; explained also that it was quite probable that more than one charge would be laid against them depending upon the evidence brought out at the summary.

5. At this point Dudley himself asked me why more than one charge would be laid and whether it was legal to do this. I told him that it was and in order to make the position clearer to him I stated that Law was like a pitchfork, that in committing a crime a man frequently runs afoul of one tine of the fork and at the same time runs ~~xkxxk~~ into another, pointing out to him that he was charged with stealing blankets, that apparently his share in the crime was to drive a veh to London and that in doing so he laid himself open to a possible charge of illegal use of the veh. This is an explanation of the 'pitchfork' phrase, about which the accused talked at Dudley's trial.

6. I have taken a great many Summaries of Evidence and have always been particularly careful to explain the exact position of the accused. In this case I was even more careful than usual because of theserious nature of the charges. I took the greatest pains to see that all the accused thoroughly understood what was going on. Whenever any witnesses referred to any of the accused by name or when any evidence was brought out mentioning any of the accused, or in any way affected them, I invariably called the attention of the man concerned to the fact and once more explained to him that at the end of the witnesses' evidence, he had the right to cross-examine him. I was particularly careful to do this in the case of Tpr Dudley, who obviously had only a vague idea of what was going on, and in the case of Sgt Johns, against whom the evidence was not particularly strong, but who was affected because all the witnesses mentioned his name and all of the accused, except himself, had made statements involving him. None of the accused were in any way prejudiced in their defence by anything stated or done at the Summary. All of them were treated with great fairness and consideration and the entire Summary was taken in the strictest accord with the Rules of Procedure.

7. For your information, please.

(Signed) M.L. Magill, Capt
3 C.A.C.R.U.

Dupuis

Capt Thompson

[illegible]

Not Barrule

PO

Capt P B Reid CSA

Not Barrule

Capt

DO. H C Rees 2 Cam

Received 1 Truck
CL 762820. + 700 Army
Blankets.

[illegible] Capt

LIST OF EXHIBITS FOR THE PROSECUTION

A - Statement of Det Sgt E. Cook New Scotland Yard d/9 Oct 44

B - Statement of Det Sgt A. Webb New Scotland Yard d/9 Oct 44

C - Transport Ticket

D - Transport Ticket

E - Copy of letter d/5 Oct 44 re despatch of blankets

F - Statement of B64113 Rfn Dudley, R.D.C. No. 1 C.G.R.U. d/6 Oct 44

G - Statement of L1161 S/Sgt Gratrix R.J. No. 1 C.G.R.U. d/7 Oct 44

H - Statement of L18134 Sgt Gemmell N.A. No. 1 C.G.R.U. d/10 Oct 44

I - Second Statement of B64113 Rfn Dudley R.D.C. No. 1 C.G.R.U. d/

J - Second Statement of L1161 S/Sgt Gratrix R.J. No. 1 C.G.R.U.

K - Second Statement of L18134 Sgt Gemmell N.A. No. 1 C.G.R.U. d/11 Oct 44

L - Statement of B91032 Sgt Davies J.C. No. 1 C.G.R.U. d/11 Oct 44

M - Second Statement of B91032 Sgt Davies J.C. No. 1 C.G.R.U. d/11 Oct 44

N - Notes of S/Sgt Nelson

O - Statement of C/MS Miskimmins W. No. 1 C.G.R.U. d/12 Oct 44

P - Second Statement of B88451 C/MS Miskimmins W. No. 1 C.G.R.U. d/12 Oct 44

Q - Third Statement of L1161 S/Sgt Gratrix No. 1 C.G.R.U. d/13 Oct 44

R - Third Statement of Sgt Gemmell N.A. No. 1 C.G.R.U. d/13 Oct 44

S - Transport Work Ticket, Drivers Call Sheet

T - Statement of H59092 Pte Olsen G.R. No. 1 C.G.R.U. d/13 Oct 44

U - Statement of B96927 Cpl Jaynes J.C.M. No. 1 C.G.R.U. d/13 Oct 44

V - Statement of B112533 Gnr Woods A.C. No. 1 C.G.R.U. d/5 Aug 44

W - Statement of B112533 Gnr Woods A.C. No. 1 C.G.R.U. d/18 Oct 44

X - Statement of L414 Gnr Gould R.G. No. 1 C.G.R.U. d/18 Oct 44

Y - Third Statement of B64113 Rfn Dudley R.D.C. No. 1 C.G.R.U. d/19 Oct 44

Z - Second Statement of B96927 Cpl Jaynes J.C.M. No. 1 C.G.R.U. d/19 Oct 44

Z1- Statement of H102347 Pte Toews D. No. 1 C.G.R.U. d/20 Oct 44

Z2- Statement of B88451 C/MS Miskimmins W. No. 1 C.G.R.U. d/24 Oct 44

Z3- Statement of L18134 Sgt Gemmel N.A. No. 1 C.G.R.U. d/25 Oct 44

--- 700 blankets

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of ....Lt. Brodie.....
if he is available.

R J Gratix

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of .....Major. Bellamy.....
if he is available.

.....B. Dudley.....

4F-149
Pt Section 4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-61401 Pte FERNAND GRATTON, 1st Cdn Sp Sv Bn 5th Coy 1st Regt, F.S.F.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	SEC 15 (1) AA	GUILTY	GUILTY	EXCEPT THAT THE WORDS "YYYO has"
2nd	SEC 15 (1) AA	GUILTY	GUILTY	IN THE SECOND LINE OF THE STATEMENT
3rd	SEC YY, AA	GUILTY	GUILTY	OF PARTICULARS OF THE 1ST CHARGE
4th				SHOULD READ "YIDO HAS"
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) ..... (1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of YY days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR ONE (1) YEAR.
49 DAYS AUTOMATIC FORFEITURE OF PAY - 149 (1) (a) F.R. & I.
YY DAYS do. do do do.- 149 (1) (c) (i) F.R. & I.

(Sgd) R.W. Becket Lt-Col 13 Nov 44 (Sgd) J.G. Bourne Lt-Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Remit 60 days detention

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) F.K. Wakehurst Lt Col

Date 15 Nov 44 Commanding 1 Cdn Sp Sv Bn

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D61401 Pte Gratton F.	16 Nov 44	J.G. Bourne Maj Judge Advocate.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

HF-149

(Form 106 (to face of AFAS) 40/1 & 8/13648 (40/08))

4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 5 DEC 1944 JAG BRANCH CMHQ

Convened by Order of Lt.-col. J.F.R. Akehurst Comd 1st Cdn Sp Sv Bn dated 10 Nov 44.

ACCUSED.

(Add for the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61401	Pte.		Fernand	GRATTON	1st Cdn Sp Sv Bn 5 Coy 1 Regt FSSF

PROCEEDINGS REVIEWED
Hubert Maurice Lieut
6 Dec 44
REVIEWING OFFICER, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 13 Nov 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is duly amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(6). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.-col.	J.G. Bourne	1st Cdn Sp Sv Bn 2 Bn 3 Regt FSSF
Member	Capt.	M.H. Goodwin	1st Cdn Sp Sv Bn 2 Bn 1 Regt FSSF
Member	Lieut.	M.H. Marchessault	1st Cdn Sp Sv Bn H.Q. 3 Regt FSSF
Judge-Advocate	Lt.-col.	R.W. Becket	1st Cdn Sp Sv Bn H.Q. 3 Regt FSSF
Prosecutor	Lieut.	V.C. Jackson	1st Cdn Sp Sv Bn H.Q. 1st Regt FSSF
Defending Offr	Lieut.	A.R. Coyston	1st Cdn Sp Sv Bn 5 Coy 2nd Regt FSSF

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32.)

A8. The accused D-61401 Pte GRATTON F. before arraignment make(s) (no) ~~not~~ plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and one separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without outhy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *end of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 80, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No SIR (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) fn 1.*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D5.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 116.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans . Do you intend to call witnesses on your behalf ?

Ans . Are they witnesses as to character only ? Ans

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF Art 5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Notes the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(B).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated forthwith.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(1) (c), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans YES SIR

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Age and Particulars of Service(1), and certified true copy of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES SIR IN MITIGATION OF PUNISHMENT ONLY (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(1), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, RP 46. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 180. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D61401 Pte. Gratton, F., First Canadian Special Service Battalion C.A.(A)., 5th Company 1st Regiment, First Special Service Force, a soldier of the Canadian Army on Active Service, is charged with:

1st Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

at Nice, France, absented himself without leave from 1800 hrs 3 Sept 44 until apprehended at 2230 hrs 16 Sept 44. (Total time absent 13 days, 4 hrs, 20 mins). Close Arrest.

2nd Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

At Nice, France, absented himself without leave from 1000 hrs 18 Sept 44, when he broke confinement, until apprehended at 1100 hrs 22 Oct 44. (Total time absent 34 days, 1 hour). Close Arrest.

3rd Charge
Sec 22
Army Act

WHEN IN CONFINEMENT, ESCAPING

in that he,

at 2130 hrs on 24 Oct 44, when in confinement in the First Special Service Force Stockade, at Nice, France, escaped.
Close Arrest on apprehension 25 Oct 44.

In the Field
France
8 Nov 44.

(J.V.J. Biscoe) Major.
1st Cdn Spec Serv Bn C.A.(A).
Commanding, Base Detachment.

To be tried by Field General Court Martial.

In the Field
France
10 Nov 44.

(J.F.R. Akehurst) Lt.-col.,
1st Cdn Spec Serv Bn C.A.(A).
Commanding.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D61401	Pte.		Fernand	GRATTON	1st Cdn Sp Sv Bn 5th Coy 1 Regt F.S.S.F.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Nov 44. endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.-col.	J.G. Bourne	1st Cdn Sp Sv Bn 2 Bn 3 Regt FSSF.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	M.H. Goodwin	1st Cdn Sp Sv Bn 2 Bn 1 Regt FSSF.
Lieut.	M.H. Marchessault	1st Cdn Sp Sv Bn 3 Coy 3 Regt FSSF.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt.	M.M. Willison	R.C.A.P.C. Attached 1st Cdn Sp Sv Bn FSSF

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt.-col.	R.W. Becket	1st Cdn Sp Sv Bn H.Q. 3 Regt FSSF.

On Active Service in the Fd

in France (Country.)

J.D. Rakehurst (Signed personally. RP 105 fn 2.) Lt.-col., (Rank.)

Date 10 Nov 44.

Commanding 1st Cdn Spec Serv Bn C.A.(A).
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1897 (4821)

MEDICAL OFFICERS CERTIFICATE

I hereby certify that D61401 Pte. Gratton, F., 1st Canadian Special Service Battalion, C.A.(A), is fit to undergo trial by Field General Court Martial.

13 Nov 44.

.....Capt.
Medical Officer
First Special Service Force.

E.1. EVIDENCE OF ACCUSED AND WITNESSES AS TO CHARACTER.

1ST WITNESS: D61401 PTE GRATTON F
1ST CDN SP SV BN CA (A)

Q.1. WILL YOU GIVE IN YOUR OWN WORDS ANY EVIDENCE YOU WISH TO MAKE REGARDING YOUR CHARACTER AND SERVICE?

A.1. I JOINED THE ROYAL 22ND REGT. IN SICILY AND WAS IN COMBAT ALL THROUGH SICILY AND IN ITALY. BEFORE WE BROKE THROUGH THE GUSTAV LINE, WE WENT BACK FOR A REST. AT THAT TIME, I WENT A.W.L. FOR SEVEN (7) DAYS, BUT I REJOINED MY UNIT JUST BEFORE THE ACTION. AFTER THE BREAKTHROUGH OF THE HITLER LINE, I WAS HOSPITALIZED FOR MALARIA. I PARTICIPATED IN THE BATTLE OF ORTONA.

THE PROSECUTION DECLINED TO CROSS-EXAMINE.

Q.2. (BY J.A.) WHERE DID YOU JOIN THE

FIRST SPECIAL SERVICE FORCE ?

A. Y. I JOINED THE FORCE AT SANTA MARIA D. CASTELLABATE, ITALY, IN JULY 1944 AND I TOOK PART IN THE INVASION OF FRANCE WITH THE FORCE

2ND WITNESS : 3619468 T/4 CLARKE D.J. 5TH COY, 1ST REGT, FIRST SPECIAL SERVICE FORCE

Q. 3. WILL YOU GIVE THE COURT A CLEAR AND CONCISE REPORT ON THE CHARACTER OF THE ACCUSED FROM THE TIME HE JOINED YOUR MACHINE GUN CREW, UNTIL HE LEFT ?

A. 3. GRATTON WAS PUT IN MY MACHINE GUN CREW IN SANTA MARIA, ITALY, AND THROUGH THE TRAINING DID HIS JOB WELL — AND EVERYTHING HE WAS ASKED TO DO. HE WAS WITH US ALL THROUGH THE ISLANDS. HE WAS ALWAYS WILLING TO ANYTHING, ANYTIME HE WAS ASKED. HE CAME TO THE MAINLAND OF

FRANCE, CAME WITH US AS FAR AS THE TOWN OF DRAIN AND DID HIS JOB VERY WELL.

THE PROSECUTION DECLINES TO CROSS-EXAMINE

Q. H. (By J.A.) ARE YOU THE MACHINE GUN SERGEANT OF THE CREW TO WHICH YOU HAVE BEEN REFERRED

A. H. YES SIR.

Q. 5 (By J.A.) HOW LONG HAVE YOU BEEN THE SERGEANT OF THAT CREW?

A (5). 5 months SIR.

E. 3. STATEMENT IN MITIGATION OF PUNISHMENT BY DEFENDING OFFICER:-

THE ACCUSED HAS BEEN IN SERVICE OVER FIVE YEARS, PRACTICALLY ALL OF WHICH WAS SERVED OVERSEAS.
THE CONDUCT SHEET SHOWS 10 CRIMES OVER THE WHOLE FIVE YEAR PERIOD AND THE CRIMES ARE NOT SERIOUS ONES. THIS IS NOT A BAD RECORD.
HIS SERVICE IN THE FIELD UP UNTIL HIS LAST DISCREPANCY, ALTHOUGH NOT ABOVE REPROACH, WAS AS GOOD AS COULD BE EXPECTED AND HE TRIED TO CARRY OUT HIS DUTIES AS ORDERED.

—

JB Pres.

Ex. A.

SUMMARY OF EVIDENCE

In the case of D61401 Pte. Gratton, F., 1st Canadian Special Service Battalion, C.A.(A), 5th Company 1st Regiment, First Special Service Force., a soldier of the Canadian Army placed on Active Service.

CHARGES: 1. Absenting himself without leave.
2. Absenting himself without leave.
3. When in confinement escaping.

The Commanding Officer directs that the evidence be taken on Oath.

FIRST WITNESS: 11040983 1st Sgt Potz, David F, First Special Service Force, having been duly sworn states:

I am 11040983 1st Sgt Potz, David F., 1st Sgt of 5th Company 1st Regiment, First Special Service Force, on 3 Sept 44 at 1800 hrs, it was reported to me by S/Sgt Parker, G.W., 1st Platoon Sgt of 5th Company that Pte Gratton, whom I recognize as the accused, was absent without leave, and I reported him as such on my Company Morning Report. At the time of his absence the Company was on the move to take up more advanced positions. We were in combat operations, and although not at the time in contact with the enemy, we were expecting to make contact at anytime. This Gratton well knew, and also that every man was needed to do the job to which he was assigned.
Pte. Gratton has never returned to the Company since that date.

The accused declines to ..1st Sgt D.F. Potz.....
cross examine.

SECOND WITNESS: 2/Lieut Raymond E. Corbin, First Special Service Force, having been duly sworn states:

I am 2/Lieut R.E. Corbin, First Special Service Force. At 2130 hrs on the 24th Oct 44, while acting in my capacity as Assistant Provost Martial, I was Officer of the Guard when I heard shots, at which time I investigated and found that two men or more had escaped from the Force Stockade. On taking a physical check of the prisoners the escapees were found to be Pte. Massie and Pte. Gratton, the latter whom I recognize as the accused. It was reported to me at approximately 1700 hrs 25 Oct 44 by the A.B.T.F., M.P's that they had apprehended Gratton and were holding him in custody for transfer into my custody. I went down and brought him back to the Force Stockade at approximately 2100 hrs 25 Oct 44.
I submit as further evidence a certified true extract of the Guard Book in my possession, showing the accused's first apprehention on 16 Sept 44, his escape from the First Special Service Force Stockade on 18 Sept 44, his second apprehention by myself on 22 Oct 44 and his second escape on 24 Oct 44, and his confinement on 25 Oct 44.
Report marked as Exhibit "A".

Q1 You have checked this report with your Guard Book?
A1 Yes I have.
Q2 Have you the report of the A.B.T.F., M.P.'s apprehention of the accused on 25 Oct 44?
A2 Yes I do, sir.

Delinquincy Report marked Exhibit "B".

Accused declines to cross examine. ..Raymond E. Corbin.....

(Cont'd)

THIRD WITNESS: 19099417 Pte. Lowry, F.A., Headquarters Company, M.P. Platoon, First Special Service Force, having been duly sworn states:

I am 19099417 Pte. Lowry, F.A. At 2130 hrs on the 24th Oct 44 I was guarding the main gate of the Force Stockade, when Pte. Gratton whom I recognize as the accused, and a few of the other prisoners were standing around talking, when he suddenly rushed the gate and got away. I hollered at him to stop, he didn't, and I fired at him.

Q3 Was the gate not locked?
A3 No, sir, there never was a lock on it until now.

The accused declines to Cross examine.

Question to the Accused-

Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused-

I have nothing to say.

I certify that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Taken down by me in the presence of the accused at Nice, France, this 31st dat of October, 1944.

(J.W.J. Biscoe) Major.
1st Cdn Spec Serv Bn.
OFFICER DETAILED TO TAKE SUMMARY OF EVIDENCE.

Exhibit "A"
for identification.

OFFICE OF FORCE PROVOST MARSHAL

Subject: Escape of Prisoner 31 Oct 44

To: Major Bisson.

Pvt. Fernand Gratton D-61401, 5th Co. 1st Regt.

1.) Rcd in conf. 2100 hrs 14 Sept 44

2) Escaped from conf. 1090 hrs. 18 Sept 44.
Witness - Pvt. Simmons, Sv. Co.

3) Apprehended and conf. 1100 hrs. 22 Oct 44
Witness - Lt. Corbin, Arresting Officer

4) Escaped from conf. 2130 hrs. 24 Oct 44
Witness - Pvt. Frnt A. Lowry 13099417 Hq Co Sv Bn.

5) ~~Apprehended and conf.~~ 1500 hrs. 25 Oct 44
Apprehended by 1st ABTF M.P.

6) Conf. Fox Stockade 2100 hrs. 25 Oct 44

Pres.

Raymond P. Corbin
2nd Lt. F.D. E
Asst Provost Marshal.

Exhibit "B"

HEADQUARTERS 1ST AIRBORNE TASK FORCE
APO 758 U S ARMY

DATE 25 October 1944

SUBJECT: Report of delinquency.

TO : C.O. 5th Co. 1st Regt. 1st Special Service Force.
(Commanding officer, regimental or separate unit of

APO 4934 US Army.
offender) (including APO number)

Offender Gratton, Ferdinand D-61401 Pvt.
(Name) (Serial No.) (Grade)

5th Co. 1st Regt. 1st S.S.F.
(Organization)

Offense and circumstances under which same occurred:

Reported as escaped prisoner from Stockade, 1st Sp Sv Force.

Date of offense 25 Oct 44 Time occurred 1445 Hours.

Place of offense Nice, France.

Witnesses: T/Sgt Redash & S/Sgt. Weikel, Co B, 550th Inf A/B Bn.

Now attached to 1st ABTF M.P.'s.

Disposition of offender by MP's: Confined pending release to Organization.

Report prepared by Cpl. John E. Betlach, Co. B, 550th Inf A/B Bn.

The delinquency reported above is forwarded for further investigation and appropriate action.

A report of final action will be reported to this office by indorsement hereon.

By command of Major General FREDERICK:

Ex. B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D61401	Pte.	Fernand GRATTON	1st Cdn Spec Serv Bn 5th Coy 1st Regt FSSF

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15(1) A.W.L.	6 times.
For	A.A. Sec 40	2 times.
For	A.A. Sec 11	1 times.
For	A.A. Sec 9(2)	1 times.

Date of first entry in Field Conduct Sheet 29 Nov 39

Date of last entry in Field Conduct Sheet 26 Jul 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 22 days in military custody, *i.e.*, Nil days in open arrest, 22 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 Years 5 Months

6. The date of his ~~[illegible]~~ attestation is 14 Sept 39.

7. The service which the accused is allowed to reckon is

†State the military decorations (if any) held by accused.

8. ~~[illegible]~~

9. ~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Hammer Arcol Pres.

W1 88900/1602 20,000 2/44 51-4751. Forms/B.296(War)/2

Exhibit "B"

HEADQUARTERS 1ST AIRBORNE TASK FORCE
APO 758 U S ARMY

DATE 25 October 1944

SUBJECT: Report of delinquency.

TO : C.O. 5th Co. 1st Regt. 1st Special Service Force.
(Commanding officer, regimental or separate unit of
APO 4994 US Army.
offender) (including APO number)

Offender Gratton, Ferdinand D-61401 Pvt.
(Name) (Serial No.) (Grade)
5th Co. 1st Regt. 1st S.S.F.
(Organization)

Offense and circumstances under which same occurred:
Reported as escaped prisoner from Stockade, 1st Sp Sv Force.

Date of offense 25 Oct 44 Time occurred 1445 Hours.

Place of offense Nice, France.

Witnesses: T/Sgt Redash & S/Sgt. Weikel, Co B, 550th Inf A/B Bn.

Now attached to 1st ABTF M.P.'s.

Disposition of offender by MP's: Confined pending release to Organization.

Report prepared by Cpl. John E. Betlach, Co. B, 550th Inf A/B Bn.

The delinquency reported above is forwarded for further investigation and appropriate action.

A report of final action will be reported to this office by indorsement hereon.

By command of Major General FREDERICK:

Ex. B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D61401	Pte.	Fernand GRATTON	1st Cdn Spec Serv Bn 5th Coy 1st Regt FSSF

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15(1) A.W.L.	6 times.
For	A.A. Sec 40	2 times.
For	A.A. Sec 11	1 times.
For	A.A. Sec 9(2)	1 times.

Date of first entry in Field Conduct Sheet 29 Nov 39

Date of last entry in Field Conduct Sheet 26 Jul 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 22 days in military custody, *i.e.*, Nil days in open arrest, 22 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 Years 5 Months

6. The date of his attestation is 14 Sept 39.

7. The service which the accused is allowed to reckon is

8. ~~[illegible]~~

†State the military decorations (if any) held by accused.

9. ~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

J. Fournier Lt Col Pres.

Wt 88000/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this Tenth day of November 44

[illegible]
C/o Admin.

EX. C

M.F.M. 6
(A.F.B. 122)
500M—11-41 (2498)
H.Q. 1772-23-1552

No. 061401 Name GRATTON, FERNAND Sqn., Battery, or Company } Corps 1ST COM SPEC SERV BN Date of enlistment } 14-8-39 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } NIL Period not reckoning towards freedom from extra fine } NIL Sheet No. Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
MONTREAL.	28-11-39	PTE		AA SEC 15(1) AWL FROM 2230 HRS 28-11-39 TO 2230 HRS 5-12-39 (7 DAYS)	CSM. LEMAY	7 DAYS C.B.	6-12-39	MAJOR A GROTHE	FORTS 4 DAYS PAY UNDER FR. I 149(1)
MONTREAL.	28-1-40	PTE		AA SEC 15(1) AWL FROM 2359 HRS 25-1-40 TO 0300 HRS 29-1-40. (4 DAYS)	PTE. LAMBERT. CSM. TREBOUTAT	ADMONISHED	29-1-40	LT COL P E GREMER	FORTS 4 DAYS PAY UNDER FR. I.
COVE. HANTS	9-2-41	PTE		(1) AA SEC 40. AN ACT TO THE PREJUDICE, ETC, IMPROPER USE OF WD VEHICLE AND PETROL. (2) AA SEC 40. AN ACT TO THE PREJUDICE, ETC. IMPROPER POSSESSION OF A WORK TICKET, NOT GENUINE. (3) AA SEC 11, NEGLECT TO OBEY GARRISON ORDER, BEING IN CHARGE, LEFT WD VEHICLE UNATTENDED.		7 DAYS ORD PAY	13-2-41	MAJOR DUEHARME	

ON 13 SEPT 41 THIS SOLDIER COMPLETED 2 YEARS SERVICE, AND IN ACCORDANCE WITH THE RO (71) THE ABOVE ENTRIES WERE TRANSFERRED FROM PREVIOUS SHEET, WHICH WERE THEN DESTROYED.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
IN THE FIELD	8 JUN 42	PTE		AA SEC 15(1) AWL. W.O.A.S. ABSENT FROM 1600 HRS 8 JUN 42 UNTIL 1330 HRS 12 JUN 42. (3 DAYS 21 HRS, 30 MINS)	Cpl. OUELLETTE	14 DAYS C.B.	12 JUN 42	CAPT. P.P. SAVOY	FORF 4 DAYS PAY UNDER FR. I 149(1) A.
IN THE FIELD	30 APR 43	CPL		AA SEC 15(1) AWL, WOAS, ABSENT FROM 2300 HRS 29 APR 43 TO 0015 HRS 30 APR 43. (ABSENT 1 HR 15 MINS)	DOCUMENTARY	REPRIMANDED	8 MAY 43	LT. COL. J.G. GAUVREAU	
IN THE FIELD	20 JUN 43	L/CPL.		AA SEC 15(1) AWL, WOAS, ABSENT FROM 0700 HRS 20 JUNE 43 UNTIL 0900 HRS 21 JUN 43. (ABSENT 1 DAY, 2 HRS)	L/CPL LECOUPLE L/CPL. DESAULNIERS	REPRIMANDED	22 JUN 43	LT. COL. BRISTOWE	FORFS 2 DAYS PAY FR. I 149(1)(A)
IN THE FIELD	14 MAY 44	PTE		AA SEC 15(1) AWL. WOAS, ABSENT FROM 1400 HRS 14 MAY 44 UNTIL 2200 HRS 21 MAY 44.	RSM TREMBLAY SGT. DOIGLE	7 DAYS PAY FOR AWL FORFS 8 DAYS PAY TOTAL 15 DAYS FR. I 149(2)	30 MAY 44	LT. COL. S.V. AUARD	
IN THE FIELD	26 JUL 44	PTE		AA 9(2), DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER	C.S.M.	FORF 10 DAYS PAY FR. I 149(2)	20 JUL 44	MAJOR. G.W. McFADDEN.	

Certified true copy.
[illegible] Maj. Asst Admin.

FORM OF APPLICATION FOR A COURT MARTIAL

1st Cdn Spec Serv Bn C.A.(A).
.....REGIMENT

STATION...Nice, France.. DATE...10 November.....19..44..

Application for a,,,.....Field General Court Martial.....

Sir,

I have the honour to submit....3.....charge.....against

Number...D61401 Private Fernand GRATTON.....

of the..Base Detachment.....under my command, and request you will

~~obtain the~~ sanction ~~of~~.....that a .....Field General Court-Martial may be assembled for his trial at...Nice, France.....

THIS CASE WAS INVESTIGATED BY (a)...Major J.V.J. Biscoe.....
1st Cdn Spec Serv Bn C.A.(A).

.....

A COURT OF INQUIRY WAS HELD ON (b).....N/A.....(date)

at.....(Station)

President..... Ranks, names and corps.

Members.....

.....

The accused is now at..Base Stockade..His General Character is...Bad.

I enclose the following documents (d):-

1.....1.....Charge Sheet....(In duplicate) (e) Copy
2. Summary of Evidence, original (f) and .....1..... ~~Copies~~
3. ~~Original Exhibits (g)~~
4. List of witnesses for the prosecution and defence (Present station)
5. ~~List of Exhibits (h)~~
6. ~~Correspondence (i)~~
7. Statement as to character (M.F.B. 355) and ~~regimental and company, etc, conduct sheets (or~~ Field Conduct sheets) of accused (g)
8. Statement by accused as to whether or not he desires an officer to be assigned by the Convening Officer to represent him at the trial.

Your obedient servant,

SIGNATURE OF COMMANDING OFFICER...(J.V.J. Biscoe) Major.....
1st Cdn Spec Serv Bn C.A.(A).
Commanding, Base Detachment.

MEDICAL OFFICER'S CERTIFICATE

I certify that No...D61401 Pte. Gratton, F.....1st Cdn Spec Serv Bn C.A.(A) Regiment,

is*...FIT.....to undergo trial by Court-Martial.

.....P. Kaye.....Capt.
Signature of Medical Officer
First Special Service Force.

*insert "fit" of "unfit"

- -

LIST OF WITNESSES

For the Prosecution:

01174260 2/Lieut. R.E. Corbin
H.Q. Company, First Special Service Fo

0490731 Lieut. W.P. Caskey
H.Q. Company, First Special Service Force.

32709372 Pte. Simmons, E.J.
Service Coy, First Special Service Force.

19099467 Pte. Lowry, F.A.
H.Q. Company, First Special Service Force.

39826388 S/Sgt. Parker, G.E.
5th Coy 1st Regt, First Special Service Force.

Major J.V.J. Biscoe
1st Cdn Special Service Bn C.A.(A).

For the Defence:

36194628 T-4 Clarke, D.J.
5th Coy 1st Regt First Special Service Force.

(Gratton)

LIST OF WITNESSES

For the prosecution:

01174260 2/Lieut. R.E. Corbin
H.Q. Company, First Special Service Force.

0490731 Lieut. W.P. Caskey
H.Q. Company, First Special Service Force.

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39826388 S/Sgt. Parker, G.E.
5th Coy 1st Regt, First Special Service Force.

Major J.W.J. Biscoe
1st Cdn Special Service Bn C.A.(A).

For the Defence:

36194628 T-4 Clarke, D.J.
5th Coy 1st Regt First Special Service Force.

OFFICERS UNDER INSTRUCTION

Lieut. W.F. Morrison, First Canadian Special Service Battalion, 5th Company, 1st Regiment, First Special Service Force.

Lieut. H.M. Rayner, First Canadian Special Service Battalion, 6th Company, 2nd Regiment, First Special Service Force.

Lieut. W.S. Story, First Canadian Special Service Battalion, 4th Company, 2nd Regiment, First Special Service Force.

J.F. Akehurst

(J.F.R. Akehurst) Lt.-col.,
1st Cdn Spec Serv Bn C.A.(A).
Commanding.

8 Nov 44.

STATEMENT OF ACCUSED: I wish to have the Convening Officer detail an Officer to represent me at my forthcoming trial.

F. Gratton
D61401 Pte. Gratton, F.
1st Cdn Spec Serv Bn C.A.(A).

FIRST CANADIAN SPECIAL SERVICE BATTALION C.A.(A).

In my opinion, Officers other than those of the First Canadian Special Service Battalion, C.A.(A)., are not available to sit as members of the Field General Court Martial in the case of D61401 Pte. Gratton, F.

J.F.R. Akehurst

(J.F.R. Akehurst) Lt.-col.,
Officer Commanding,
First Canadian Special Service Battalion,
C.A.(A).

005
PTE GRATTON G

D-46846, Pte. Gerard GRATTON
R. 22e R., 6 CIRU

00-5

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fourteenth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Headquarters "A" Group Cdn Rft Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~ } seal

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~[illegible]~~ } seal

*Omit if not applicable.

Proceedings 30 Aug 43 for [illegible]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W. Lavigne (R. de Mais.)	6 CIRU

Members.

Rank.	Name.	Regiment.
Capt.	J.P. Verge (C.I.C.)	6 CIRU
Lt.	W.R. Marin (R. de Mais.)	6 CIRU
Waiting Member Lt.	D.L. Bastien (C.I.C.)	6 CIRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be outlined by him.

*Signed [signature]
(J.A. Calder) Col.,
Commanding "A" Gp C.R.U., C.A.(O).
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-46846, Pte. Gerard GRATTON R. 22e R., 6 CIRU	First Charge A.A. Sec. 15(1) Second Charge A.A. Sec. 9 (1)	guilty Not guilty	Guilty To undergo detention for a period of thirty days and to be put under stoppages of pay for the amount of £1-0-7. Not guilty	Confirmed [illegible]
	(SEE CHARGE SHEET ATTACHED)		16-8-43 W Lanigne maj pres	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— no way

(Signed) [signature] (Signed) W Lanigne maj.
(J.A. Calder) A/Col.,
Commanding "A" Gp C.R.U., CA.(O). R/E Rus 6 CIRU
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Sixteenth day of August 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(3. ~~The Interpreter)~~ [initials]
*(4. ~~The officers under instruction)~~ [initials]

were duly sworn.

*Omit if not applicable.

Signed this 16th day of Aug. 1943.

W Lanigne maj
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of [initials] 19 .~~

~~President of the Court Martial.~~

*See footnote (b) on page 782 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ [initials]

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19th day of Aug 1943.

[signature] A/Col
Confirming Officer
FAR GROUP CDN. FEIN. UNITS.
CA.(O).

Promulgated and extracts taken in the case of D46846 Pte Gerard Gratton R.22e R - 6 C.I.R.U.

(a) (Dated) 19 Aug 43 (Signed) C.G.A. Garrett A/Capt Adjt 6 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

CHARGE SHEET

The accused, No D-46846, Private Gerard GRATTON, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave from 1200 hours on the 12th day of June, 1943, until he was apprehended at Coventry at 2100 hours on the 18th day of June, 1943, thereby incurring expenses for his return to his unit to the amount of one pound and seven pence (£1.0.7). (Total absence, 6 days, 9 hours).

Second Charge
Section 9(1)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING IN SUCH MANNER AS TO SHOW WILFUL DEFIANCE OF AUTHORITY A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE,

in that he,

at Birmingham, on the 30th day of June, 1943, when in custody at the Moor Lane Guardroom, upon being ordered to peel some potatoes by Sgt L.R. Brades, his superior officer who was then in charge of the Prisoners' Compound, did not do so, saying: "I am not doing any work at all," or words to that effect.

16-8-43

(G.O. TASCHEREAU), Lt-Col
Officer Commanding
"H" Wing, No 6 Cdn Inf Bft Unit

Algonquin Camp,
Witley, Surrey,
12th day of August, 1943.

To be tried by Field General Court Martial.

(J.A. Calder) A/Col.,
Comd.,
"A" Gp C.R.U., C.A.(O)

14 Aug 43

16-8-43

MEDICAL OFFICER'S CERTIFICATE.

I certify that I have this morning examined No. D-46846 PTE.

16-8-43 GRATTON. G.

and that, in my opinion, he is fit/unfit to undergo trial by Court-Martial.

CAPT. J. L. A. HURTEAU M.O.
R.C.A.M.C.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Algonquin Camp Wilts ON THE 6th DAY OF Aug 42

TRIAL OF:-No. D46946 Pte Gerard Bratton Unit R.22R 6 C.I.R.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. M.P. Menard (Unit) R.22R. 6 C.I.R.

Defending Officer:- (Name) Lt P. Faulkert (Unit) R.22R. 6 C.I.R.

At 1400 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - no

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:-

President Major W. Lonergan .....(Unit) R.22R. 6 C.I.R.

Members Capt. J.P. Verge .....(Unit) R.22R. 6 C.I.R.

Lt. V.P. Mann .....(Unit) R.22R. 6 C.I.R.

~~The officers under instruction are duly sworn.~~

~~Q2 Do you object to.....reporting as shorthand writer? A2 -~~

~~The shorthand writer is duly sworn.~~

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lt. M.P. Menard ...(Unit) R.22R. 6 C.I.R. sworn, produces AFB 296 and KFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - Yes.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

W Lonergan Maj
pres

WL C D 46846 Pte G. Gratton
R. 22 R. 6 CIRU.

Proceedings on plea of Not Guilty on Second Charge A.A. Sec 9 (1)

The Prosecutor does not make an opening address.

1st Witness for Prosecution: 13020048 Sgt Leslie Robert Brades 334th Coy. Pioneer Corps having been duly sworn states:

I recognise the accused. On the 30th June 43 at about 1130 hrs, at Moore Lane Guardroom, Birmingham, I was N.C.O. in charge of Prisoners Compound. I told to the accused that he was to peel potatoes for the midday meal. He replied: "I will not". In the presence of Cpl Baker I read him an extract from King's Rules & Regs. Sec 7 Para 566 and explained him why he should comply with my order. I then said: "Peel those Potatoes" He replied "I will not do any work at all". I therefore placed him on a charge report. I gave them about five minutes to execute my order. We have a Compound surrounded by barbed wire. It was not raining that day, it was sunshine nearly as much as to day. I did not gave orders to make fire that day, as much as I can remember. I did not see any one attempting to make a fire, and we had no stuff to make one. Nevertheless when the weather is very inclement it has happened that a fire is lit. On that time I gave order to peel potatoes that they were at least six prisoners outside their hut in the yard apart from the three accused. Inside the guardroom, there always a box of biscuit and if it can be proved that a prisoner had had no meal we can give him something to eat. In this case I cannot remember if the accused told me he had no breakfast because if it has been so I could have given them some biscuits.

W. C1

Cross-examined by the defence:

Q1- Were the biscuits shown to the accused
A1- no because they have not asked for.
Q2- Did the accused tell you that he was ordered to stay inside the guardroom
A2- no it is perfectly untrue.
Q3- Did the accused ask you to see the orderly officer because he was sick.
A3- no.
Q4- Do you remember any expression about the Canadian and British army
A4: The only thing I could have said: These Kings Regs & Regs to apply as well to the Canadian than to the British army.
Q5- Who went to the guardroom to fetch the Kings Rules & Regs.
A5- Cpl Baker and he was there when I read them to the accused. The R.P. 83(b) has been complied with.

2nd Witness for Prosecution: 130225 Cpl Cesar Charles Baker 337th Coy Pioneer Corps having been duly sworn states:

I recognise the accused. On the 30th of June 43 I was on duty at Moore Lane guardroom, about 1130 hrs I heard the Sgt Brodie giving order to peel potatoes. The accused did not comply with order. The Sgt then sent for an extract of Kings Rules & Regs. He read this abstract. In my presence he gave the order to peel potatoes and the accused replied that he was not going to do it. The Sgt then placed him under a charge report. It was not raining that day but it was cloudy and misty. I am sure that the other prisoners were

not outside, but in their hut. When the Sgt read the King's Rules & Regs I was outside of the barbed wire. The Sgt called for me as witness when he gave to the accused his last order to peel potatoes.

Cross-examined by the Defence.

Q1- Did you go yourself to the guardroom to fetch the King's Rules & Regs. The Sergeant sent someone else for them.

A1- NO.

Q2- Do you keep some food or biscuits in the guardroom.

A2- They are some biscuits every day but that is for the supper.

The R.P 83(b) has been complied with.

The Prosecution is their closed.

Wb D

The R.P. 40 (A) & (B) having been complied with, the accused wishes to give evidence as a witness and to call witnesses as to the facts:

1st Witness for defence D 46 846 Pte Gerard Gratton, the accused R. 22 R. 6 C/RU having been duly sworn states: On the 30th of June 43 I arrived, with Ptes Sabourin and Lacas, to Moore Lane Guardroom at about 1100 hrs, and we have been undressed as prisoners. It was cold and raining. We went into the Compound. I asked to my escorts to see an officer. They took me to the Officer in charge who asked me what I wanted. I explained to him that it was cold in the hut and asked him if I could get back my blouse, if we could eat because we had no breakfast that morning and if I could see the M.O. because I was suffering of trench mouth. He replied to me that it was impossible to see the M.O because I was not belonging to that Camp, but that He was to make light a fire in the hut and told me to stay inside untill the meals hour. I went back to my hut where were my two other friends. Then an escort came in the Hut asking: "are you the three bloody french canadian just arrived, the Sgt wants you." We went outside and the Sgt told us: If you want to eat, you have to peel those potatoes. There was a big bag of potatoes. I then explained to him what the officer told me. The Sgt replied to me that I had no reason to see that officer. He then asked somebody to feath the King's Rule & Regs.

Wf

D.1

He told us also: "If in the Canadian army you do whatever you like, here you will do what you will be told." He ~~then~~ then read the extract, and after having called Cpl. Balmer to be a witness, he ordered us to peel potatoes. I replied to him: "I am not going to work at all unless you give us something to wear blouse or fatigue dress. He then made us go in the hut and went away. I had never heard of that charge untill when I attended to the Summary of Evidence. They were no other prisoners outside, they were in their hut. I got the trench mouth in the civilian prison where we stayed about ten days. On my arrival here I reported myself to the M.O. who sent me to the Dentist and I followed a treatment.

Cross examined by the Prosecutor.

Q1 - Has a fire been lit in your hut?

A1 - Yes

~~2d Witness~~ The R.P. 83(b) has been complied with and I certify that to the best of my knowledge and ability it is the true translation of the testimony.

2d Witness for defence: D 59200 Pte Jos. Aime Sabourin R.22R 6 C1R4 having been duly sworn states: On the 30th of June 43 at about 11 30hrs it was raining, and a fire has been lit in our hut because it was cold. We were just the accused and the sgt in the yard, the other prisoners were in their hut. The accused, Pte Gratton, was suffering of something in the mouth, and as soon he has arrived here he followed a treatment at the Dental Clinic.

The R. P. 83 (b) has been complied with and to the best of my knowledge and ability it is the exact translation of the testimony.

3rd Witness for Defence: E 5708 Pte Emile Lacas R. 22. R. 6 C.I.R. having been duly sworn states:

I know the accused. On the 30th of June 43 he was with me and Pte Sahaurin at the Moore Lane Guardroom. When we arrived to the Compound the accused asked to be paraded to an officer because he was suffering of trench mouth. After that, a fire has been lit-in and but the Sergeant did not change his mind. That day it was cold and raining. We had no time to work outside and the accused to the Sgt that he was sick and could not work outside. When the escort came in to tell us that the Sgt wanted us, he said "are you the three bloody french canadians just arrived this morning. The Sgt before reading us the King's Rule-Regs told us: If in the Canadian army you do whatever I am like here you will do what you will be told. When we got outside to the Sgt, he told us if you want to eat-peel those potatoes.

The R. P. 83 (b) has been complied with and to the best of my knowledge and ability this is an exact translation of his testimony.

The defence is closed

WL

The Defending Officer make his closing address.
According to the evidence given before this
court it is still more clear that there has
been provocation before the orders for peeling
potatoes have been given. Moreover the condi-
tions for the execution of the order were not
suitable. Besides that the accused was sick
has been paroded to an officer who gave him
the permission to stay inside of his hut.
The testimony of the Sgt is very doubtful.
he says that it was a very nice day, and
I have three witnesses saying it was raining
and even the Cpl Baker who says now
that it was cloudy and misty. Sgt Brades
says that they were at least six other prisoners
outside of their hut and Cpl Baker says
that they were in their hut. Moreover Cpl
Baker says having been called as a witness
only at the last orders, and the Sgt says
that he was there for reading the King's Rules
Regs what it has been denied by Cpl Baker.
As no wilful defiance of authority has
been shown in that case. I ask to the Court
that the accused should be acquitted.

The Prosecutor in his reply:
As in the previous case all the elements
of the charge have been proved and I
ask to the Court to give his decision.

The court is closed for the finding.

The court is reopened

The accused is acquitted on the second
charge.

W Lavigne maj.
pres.

W.

Statement of the accused in mitigation of Sentence.

Since December 1941 I was with Le Regiment de Maisonneuve. I have been transferred to R 22e R about four months ago and I was fed up. My conduct sheet is white. I am waiting since two months in detention for my trial. On the 5th of August I helped the M. P. to prevent other prisoners to escape during a big fight in the Guardroom.

1st Witness as to Character: D 56219 Pte Brois J. N. R de Mais 6 CIRU having been duly sworn states:

I know the accused since about the 1st of July 43. On the 5th of August 43 while during a big fight which occurred in the Guardroom at 0125 hrs, he helped me with ten other prisoners to restablish order and prevent some other one escaping from the Guardroom.

The Court is then closed for the Sentence.

Prov. R.O. 3262 are complied with.

Signed at Witley
This 17th of Aug. 43.

W. Lareigne maj
6 CIRU. pres

Exhibit "A"

FIRST ORDER ISSUE D

REAR PARTY 1 CANADIAN BASE REINFORCEMENT DEPOT
Part II Orders Issued by
CDN SEC GHQ 2nd ECHELON DET AT CAN RECORDS

NO: 1
5 Aug'43

"A" OFFICERS
NIL

"B" OTHER RANKS

(be) S.O.S. to 6 C.I.R.U. w.e.f. 12 June 1943 whilst A.W.L.

from; 1200 hours 12 June 1943

Auth: EDS/0067 d/27 July 1943
D-46846 Pte Gratton G

Certified true copy of extract from Part II Order No. 1 dated 5 Aug 1943 of Rear Party 1 Cdn Base Reinforcement Depot, issued by Cdn Sec G.H.Q. 2 nd Echelon Det at Can Records and signed by W.J.C JOHNSTON Lt

[signature] Capt.,
Officer i/c Records,
6 Canadian Infantry Reinforcement Unit.

Exhibit "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. D-46846 . Rank .Pte.. . Name GRATTON, G. . . . . .

Unit .1.C.S.B.D. . . . . was arrested at COVENTRY . . .(place)

at . 2100. .(hour) on 18 June 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or ~~(Civilian clothes)~~ Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
30 June 43

. . . . . Capt.
(W. Forn) D. A. P. M.,
London Area

Wrongsonaj pres
16-8-43

Exhibit "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 5

Reg. No. D 46846 Rank Pte Name Gratton, G Unit 1 C S B D RLLR

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Birmingham

Date	Particulars (½ portion)	Amount		
1 July 43	Escorts return fare from LONDON To Birmingham		8	6
	Prisoners single fare to LONDON From Birmingham		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		3	7
	Total £	1	0	7

Foreign Mgr pres 16-8-43

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

SUMMARY OF EVIDENCE 16-8-43

In the case of No D-46846, Private Gerard GRATTON, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First Witness for the Prosecution. Lt. R Rocque, Regiment de La Chaudiere, 6 CIRU, having been duly sworn, states:

I am Lt R. Rocque, of Le Regiment de la Chaudiere, 6 CIRU. I hereby produce the following documents concerning the accused, No D-46846 Pte Gratton, G.:

(a) Extract from Part II Order (Rear Party 1 CBRD) No 1, dated 5 Aug 43. This document is marked Exhibit "A" and is attached to the Summary of Evidence.

(b) Certificate of arrest in accordance with PC 2797 of 10 Apr 42, dated 30 Jun 43. This document is marked Exhibit "B" and is attached to the Summary of Evidence.

(c) Expense Voucher in accordance with KR Can 539, dated 1 Jul 43. This document is marked Exhibit "C" and is attached to the Summary of Evidence.

(d) Statement of Sgt L.R. Brades and Cpl CC Baker, CMP. This document is marked Exhibit "D" and is attached to the Summary of Evidence.

The accused declines to cross-examine this witness.

.....Lt.

Second Witness for the Prosecution (Documentary) The following statement, by No 13020048 Sgt L.R. Brades, Corps of Military Police, is then read to the accused:

"At about 1130 hours on the 30th June at Moor Lane Guardroom I was NCO IC Prisoners' Compound. I told Pte Gratton that he was to peel some potatoes for the mid-day meal. He said: I will not. I read him an extract from KR's, section VII, para 566 and explained why he must comply with my order. In the presence of Cpl Baker I said to him: Now peel those potatoes. He replied: I am not going to do any work at all. I therefore placed him on a charge report."

(Signed) L.R. Brades, Sgt

A statement of this witness's evidence, purporting to be signed by him has been read to the accused and is included in this Summary of Evidence. Owing to expense and loss of time involvied, the attendance of this witness, giving documentary evidence, can not, in my opinion, be readily procured. The accused does not require the presence of this witness for cross-examination.

.....Lt.
Officer taking Summary

SUMMARY OF EVIDENCE

In the case of No D-46846, Private Gerard GRATTON, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Third Witness for the Prosecution. (Documentary)

The following statement by No13012225 Cpl Baker, C.C., Corps of Military Police, referring to Sgt Brades's statement is then read to the accused:

"I have read over and corroborate the above statement".

(SIGNED) CC Baker, Cpl.

A statement of this witness's evidence, purporting to be signed by him, has been read to the accused and is included in this Summary of Evidence. Owing to expenses and loss of time involved, the attendance of this witness, giving documentary evidence, can not, in my opinion, be readily procured. The accused does not require the presence of this witness for cross-examination.

W. P. Menard ....Lt.
Officer taking Summary.

The accused, having been duly cautioned in French in accordance with RP 4 (E) and Overseas RO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 10th day of August, 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

W. P. Menard ....Lt.
Officer taking Summary

Algonquin Camp,
Witley, Surrey,
11th day of August, 1943.

MPM/JLN

[redacted] H.Q., "A" Group, C.R.U. F.C.C.M. AGR Form 52

ACKNOWLEDGEMENT BY PRESIDENT

I hereby acknowledge receipt of the Convening Order (A.F.A.3) and relevant documents for the trial by Field General Court Martial of Number D-46846 Rank Pte. Name Gerard GRATTON Unit 6 CIRU R. 22e R., which will be held at 1000 hrs. on Mon. 16 Aug 43 at No. 2 Sgts' Mess, ALGONQUIN Camp

Date 14.8.43 Signature [redacted] Rank [redacted]

Unit [redacted]

LIST OF WITNESSES

In the case of No. D-46846, Private Gerard CHATTON, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit a soldier of the Canadian Army Overseas, on active service.

Defence

Lieut. R. Roeque, Regiment de la Chaudiere, 6 CIRU.
No. 13020048, Sgt. Brades L.H. Corps of the Military Police.
No. 13012225, Cpl Baker, C.G. Corps of the Military Police.

Defence.

Nil

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

Lieut. ~~[illegible]~~ P. de Mars
Faubert

if he is available.

Cle. Gerard Grattan

Algonquin Camp,
Witley, Surrey,
12th day of August, 1943.

P. Faubert Lieut.

Original not available Last Sheet last voyed 17 Jun 42

M.F.M. 6

No. 546846 Name Gratton G Compiled from MFM 4 Sqn., Battery, or Company Corps R22R Date of enlistment 17 dec 41 G.C. Badges N/A Service or Proficiency Pay N/A (A.F.B. 122) 40/P & S/136 (2627)

Date of last entry in Company Conduct Sheet 24 Feb 42 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				certified true copy consisting of one sheet ~~9 aug 43~~ 16 aug 43					
				Officer having custody of original document					

Wanigue may pris.

16-8-43

(P.T.O.)

W. Langford Hay
6-8-43

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D-46846	Private	Gratton Gerard	Royal 22 Regt, No 6 CIRU

~~The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets†~~ of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 817, K.R., 1940.

* The numbers hereto stated should correspond with the number of entries in the conduct sheets, provided being given to the most serious charge in each entry and to any recommended special mode of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~ Nil.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~ Nil.

4. The accused has been in confinement, awaiting trial on the present charges, for 12 days in civil custody, and 47 days in military custody, making a total of 59 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 17 Dec 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 240 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 years 240 Days service.

9. The accused is entitled to reckon 1 years 240 Days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward).)~~

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the ~~rank~~ Nil

rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated ,

~~and in his regiment (or corps or department) the rank of~~ dated Nil

[*46846] W3.30246/982 75,000 12/40 A.&E.W.Ltd. Gp.999

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-46846 Rank Private Name Graston, G. of R 22 R [illegible] Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of Aug 43

[illegible]
Officer having custody of original document

(Instruction.—If any matter to any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

Date of Promotion.

JJJ 6
PTE GRATTON G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.46846 PTE. GERARD GRATTON 1 CDN BASE RET GP) ICGRD.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AIA Sec 15 (1)	Not Guilty	Guilty	Under A.P. 44D the court finds the
2nd AIA Sec 24(a)	Not Guilty	Guilty	accused guilty of AWL from 0600 hours
3rd			22 Mar 43 until 1300 hours 8 Dec 43
4th			Total absence 15 days, 7 hours
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

As present (other sentence for) ~~[illegible]~~ (awaiting) ~~[illegible]~~ (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 57 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~To undergo detention for a period of 120 days, to be forfeited 1446 days~~ To undergo detention for a period of 120 days, and to undergo ~~R.P.~~ stoppages of pay to make good expenses in hut. ~~Fine not to exceed~~ $22.65

(Sgd) ..... Judge-Advocate, if any. 27 March 44 Date awarded. (Sgd) G.T. Blair Major President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittal requires no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I do not confirm the finding of the Court on the second charge. I confirm the finding on the first charge and the sentence of the Court but remit $22.65 Stoppages

I direct that the accused be not committed to prison or detention barracks until further orders.(1) Ent

(1. AA 57A. Delete if not used.)

Date 31 Mar 44 (Sgd) Asst Adjutant Gen Brig

Commanding COMMANDER 1 CDN BASE RET GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
D46846 Pte Gratton G.	2 Apr 44	[signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 JJJ-6

FIELD GENERAL COURT-MARTIAL

CFAA8 (To face of AFA2) (C.P.A.C. 13864)

Convened by Order of BRIG. E.W. HALDENBY Comd 1 CDN BASE RET GP dated 26 MAR 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, date, see AA (B2), (B3), fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D46846	PTE		Gerard	GRATTON	1 BN - 1 CDN RD

PROCEEDINGS REVIEWED 5 APR 1944 [illegible]

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 27 MARCH 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is subject and amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to LIEUT B. FENITIER as interpreter? Ans No

~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member ret res. RP 58(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	G.T. BLAIR	CIC	2 BN - 1 CDN RD
Member	CAPT.	W.W. HUGHES	CIC	3 BN - 1 CDN RD
Member	CAPT.	J. BRADEN	CIC	3 BN - 1 CDN RD
Judge-Advocate				
Prosecutor	LIEUT	C.E. SENECHEL	CIC	1 BN - 1 CDN RD
Defending Offr	LIEUT	M. COUTRE	CIC	1 BN - 1 CDN RD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~no~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (AP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the statements made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the above sheet(1). The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet(1). The accused records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when severed accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5).
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole if part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..... initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused of ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is (re-)opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Intend to give evidence myself. Do you intend to call witnesses on your behalf ? Ans No. Are they witnesses as to character only ? Ans No.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1st and 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and deals with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (~~a~~) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes. Yes.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprising the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 341-346, Overseas RO 209, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 69(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

GTB.

CHARGE SHEET

The accused, D.46846 Pte. Gerard GRATTON, a soldier of the Canadian Army Overseas, on the strength of 1 Canadian Base Reinforcement Bn., 1 C.B.R.D. is charged with:-

FIRST CHARGE A.A. Sec. 15(1) WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in North Africa, absented himself without leave from 0600 hours, 23 Nov 43 until apprehended at 1800 hours, 30 Jan 44 at ORAN (Total absence 68 days 12 hours).

SECOND CHARGE A.A. Sec. 24(b) WHILE ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING, AND REGIMENTAL NECESSARIES,

in that he,

In the Field, in Italy, on 22 Mar 44 was deficient of articles of kit as under:-

Article	No.	100% Value	75% Value
Greatcoat	1	17.22	12.94
Jersey Pullover	1	1.66	1.24
Braces	1	.29	.22
Brushes Shaving	1	.30	.23
Brushes Tooth	1	.09	.07
Dressing Field	1	.34	.25
Knives Clasp	1	1.16	.87
Tin Mess Rec	1	.67	.50
Shirts Bush-	2	3.50	2.62
Shorts K.D.	1	1.34	1.00
Trousers K.D.	1	1.58	1.18
Puttees	1	1.45	1.09
Hosetops	1	.86	.64
	TOTAL	$ 30.36	$ 22.65

(R.D. Glendenning) Major
T/Commanding Officer,
1 Cdn Base Rft Bn., 1 C.B.R.D.

In The Field,
22 Mar 44.

To be Tried by Field General Court Martial

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Gp
Cdn Army CMF

In the Field
in Italy
24 Mar 44

G.T.B.

CFA95 (In lieu of AFA2)
40/P&S/1097 (2883)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.46846	Pte		Gerard	GRATTON	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached ~~and on~~ (date) 26 Mar 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial". EWH

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ EWH

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ EWH

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ EWH

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	G.T. Blair	(L Edm R) CIC	2 Bn 1 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt	W.W. Hughes	(Irish Regt) CIC	3 Bn 1 CBRD
Lieut	Y. Beaulieu	(R 22e R) CIC	1 Bn 1 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Capt	J. Braden	(SLI) CIC	# Bn 1 CBRD

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country)

E W Haldenby (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(E.W. Haldenby)

Date 26 Mar 44

Commanding 1 Cdn Base Rft Gp CA-CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE.

I certify that No. D 46846 Pte. Gratton G. 4713

Regiment No 1 Bn. 1 C.B.R.D. is @ Fit to undergo

trial by Court Martial.

@ Insert "fit" or "unfit".

A.L. Duffy Wilson Capt. R.C.A.M.C.
Medical officers Signature.

27 March 1944.

March 27. 44

Lieut of Beaulieu 1 Bn. ICBRD not being available the working member Capt of Broadus 3 Bn ICBRD takes his place in the court.

G F Blair Major.

1, 47B

Evidence taken in the case of D 46846 Pte Gratton G

Opening adress Prosecution

It is the intention of the prosecution to show by documentary evidence that the accused was absent from his unit as charged

1st Witness. Lieut D.B. Dickson Assistant adjt 1 Bn-ICBAD having been duly sworn states

I produce herewith exhibit A a certified true copy of declaration of a court of inquiry assembled on 13 Dec 43 which shows the accused A.W.L. 21 days and still absent, also shows a list of kit deficiencies of that date, I also produce exhibit "B" Certificate of apprehension of the accused signed by DAPM. Stating the accused was arrested at Oran at 1800 hours 30 Jan 44. The above came to my possession through normal channels.

Defence - Has no questions
R.P. 83 "B" complied with

2nd Witness D 36848 CQMS Crosbetter GAQ 1 Bn-ICBAD states. On 22 March 44 I made a kit inspection of the accused. On deducting from deficiencies listed in court of inquiry (exhibit A) 47B held in N. Africa when the accused was A.W.L. I found the deficiencies listed here in Exhibit "C"
R.P. 83 "B" complied with

Case for the Defence:

1st Witness - Accused having been duly sworn states

A. Will you tell the court in your own words what happened to you in Nov + Dec 43.

A. On 23 Nov 43 I left camp in Phillipville and went to Algiers. Then to Bledda, then to Casablanca. Then on 8 Dec 43 at approximately 1300 hours I reported to the American M.P.s. They took me to a British airport then took me to a medical officer, and from there sent me to a disciplinary training centre. I was sent to hospital at the centre and was there until 18 Jan 44. On 27 of Jan they sent me to Oran under

escort arriving there on 30 Jan 44 I was turned over to the British Provost

Q2- Re. the second charge what can you tell us about that.

A2- A few days before leaving camp, I was ordered by the D.M. to turn in all tropical kit, which I did, they never gave me back my part 3 pay book.

Q3- Why is this charge re. clothing wrong

A3- The articles I object to are all those dealing with tropical kit.

Cross examined by Prosecutor

Q4- On 5 Dec you were taken to a British airport, then went to a Disciplinary training centre, what did you go to hospital for?

A4- Infection of the legs.

Q5- What hospital were you in?

A5- I dont remember but it was attached to the Disciplinary training centre and was an American Hospital.

Questioned by court.

Q6- When you returned tropical kit to the D.M. did you have it taken out of your part 3 pay book.

A5- Yes I did.

Q6- Where is your part 3 pay book.

A6- I dont know, I never got it back from the D.M. I turned it in about 16 Nov-43

R.P. 53 "B" complied with

036848 CDMS Crocketer S.F. recalled

Questioned by the court.

Q1- Were you C.D.M.S. of Coy the accused was in when he went A.W.L.

A1- Yes.

Q2- Did the accused return N.D. to you

A2- I dont think he did, all part 3 pay books were returned to me. But N.D. was recalled the latter part of Oct or early Nov. I dont recollect the accused turning any N.D. in

R.P. 53 "B" complied with

GJB

Defence closing adress

This case is different his absence was much longer than the others, As he was in hospital for a long period it was not possible to return him to his unit. The time spent in hospital should be taken off. Paper from the hospital shows the accused was in hospital, (MARKED FOR IDENTIFICATION. D ~~EXHIBIT D~~) The accused was taken to the British police and then returned to the Americans. The British police should have submitted this paper. All K.D in cog was turned in at end of act, according to the C.O.M.S. The accused has been a long time in custody. Therefore he should get a break in this respect.

Prosecutions closing adress

The Dems are man to let his C.O. know that he is detained involuntarily. The accused did not try to do this. Therefore the court should hold accused responsible for his actions until so far ** AFB-296 and MFM-6 of accused given to court

EXHIBIT-A-
[illegible]

This is Exhibit "A" to the Summary of Evidence in the case of D 46846 Pte Gratton G. taken before me on 22 Mar 44
[illegible]
Officer detailed to take Summary

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 13th. day of December 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D 46846 Pte Gratton, G. 1 Bn., (R 22e R)

DECLARATION

The Court declare that No. D 46846 Pte Gratton, G. 1 Battalion, 1 Cdn Base Reinforcement Depot (R 22e R) illegally absented himself without leave In the Field at 0600 hrs. on the 23rd day of Nov. 43; and that on the 23 Nov 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE 100%		ARTICLES	VALUE 75%	
See attached list	$ 52	61	See attached list	$ 38	68

M. Devlin Lieut President

C. Gagnon Lieut Member

J. Leclerc Lieut Member

Signed at In the Field

this 14th. day of Dec 19 43

Signature of Commanding Officer W.P. Bristowe Lt-Col
Officer Commanding
1 Bn., 1 Cdn Base Rft Depot

Certified true copy:

K.J. Cannon Capt
(K.J. Cannon) Adjutant, 1 Bn, 1CBRD

Mil. Bk. 58
5000 Bks.—6-41 (940)
H.Q. 1773-61-48

List of Deficiencies in the case of D 46846 Pte Gratton, G.

Article	No.	100%	75%
Blouse B.D.	1	6.18	4.63
Boots Ankle	1	4.81	3.61
Caps F.S.	1	.82	.61
Greatcoat	1	17.22	12.94
Jersey Pullover	1	1.66	1.24
Shirts A.D.	2	3.20	2.40
Trousers B.D.	1	6.24	4.68
Braces	1	.29	.22
Brushes Shaving	1	.30	.23
Brushes Tooth	1	.09	.07
Dressing Field	1	.34	.25
Knives Clasp	1	1.16	.87
Tin Mess Rec	1	.57	.50
Shirts Bush	2	3.50	2.62
Shorts K.D.	1	1.34	1.00
Trousers K.D.	1	1.58	1.18
Puttees	1	1.45	1.09
Hosetops	1	.86	.64
	TOTAL--	$ 52.61	$ 38.68

EXHIBIT - B - [illegible]

This is Exhibit "B" to the Summary of Evidence in the case of D 44846 Pte Gratton G taken before me on 22 Mar 44 [illegible] detailed to [illegible] summary

Certificate in accordance with the Army Act Section 163 (1)(ii)

I certify that No. D 44846 PTE GRATTON G ..... of the 22 Regt

.....R.C.A.....was arrested at...ORAN.....at 1800 hrs, on 30 JAN 44

Signature of Provost Marshal, A.P.M.)
or other Officer into whose custody)
the above named person was taken on)
arrest.)

[illegible] Captain

GARRISON ADJUTANT, ORAN

EXHIBIT - C

List of Deficiencies in the case of D.46846 Pte. Gratton, G.

Article	No.	100% Value	75% Value
Greatcoat	1	17.22	12.94
Jersey Pullover	1	1.66	1.24
Braces	1	.29	.22
Brushes Shaving	1	.30	.23
Brushes Tooth	1	.09	.07
Dressing Field	1	.34	.25
Knives Clasp	1	1.16	.87
Tin Mess Rec	1	.57	.40
Shirts Bush	2	3.50	2.62
Shorts K.D.	1	1.34	1.00
Trousers K.D.	1	1.58	1.18
Puttees	1	1.45	1.09
Hosetops	1	.86	.64
TOTAL		$30.36	$22.65

I hereby certify that I have checked the kit of D.46846 Pte. Gratton, G. and find that he is now deficient as herein listed.

G.A. Crochetiere

B36848 (Crochetiere, G.A.) CQMS
"C" Coy, 1 C.B.R.Bn., 1 C.B.R.D.

22 Mar 44.

This is Exhibit "C" to the Summary of Evidence in the case of D.46846 Pte. Gratton, G. taken before me on 22 Mar 44.

W.B. Reid

(W.B. Reid) Lieut.
Officer Taking the Summary.

~~EXHIBIT~~

G W Hoier

MARKED "D" FOR IDENTIFICATION

[illegible]
[illegible]
OFFICE OF THE REGISTRAR
APO [illegible]

Date 18 Jan 1943

SUBJECT: Disposition of Hospital Personnel.

TO : Commanding Officer D.T.C.

1. Gratton, Gerard (Name) 19 Jan (Rank) D-46846 (ASN)

has been discharged from this hospital [illegible]. He is directed to proceed to organization. [illegible] MANDUSA, dated 6 November 1943, adequate transportation and [illegible] have been provided. Further authority for disposition: Administrative Memorandum, #102, HQ, ABS, dated 28 August 1943.

2. Patient is Classified as Class A.

3. Remarks: advise no legging or duties that required prolonged standing for at least 2 weeks. To be rechecked by M.C. at that time

For the Commanding Officer:

Paul W Majerus

PAUL W. MAJERUS
1st. Lt., M.C
Registrar

LIST OF WITNESSES

In the case of D 46846 Pte GRATTON, G., a soldier of the Canadian Army Overseas, on the strength of 1 Canadian Base Reinforcement Bn., 1 C.B.R.D.

FOR THE PROSECUTION

Lieut. D.B. Dickson ---- 1 Cdn Base Rft Bn., 1 C.B.R.D.
D 36848 CQMS Crochetiere, G.A.- 1 Cdn Base Rft Bn., 1 C.B.R.D.

FOR THE DEFENCE

NIL

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 23 Mar 44

L. Bratton

CHARGE SHEET

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 23 Mar 44 P. Grattan

CHARGE SHEET

Summary of Evidence

In the case of

J46546 Pte Gratton G a soldier of the Canadian Army Overseas on the strength of 1 Canadian Base Reinforcement Bn, 1 CBRD.

The commanding officer directs that the evidence be taken under oath

First Witness for Prosecution.

Lieut D B Dickson, 1 CBR Bn, 1CBRD, having been duly sworn, states :-

"I am lieut D B Dickson employed as assistant adjutant at 1 CBR Bn, 1CBRD. I herewith present a certified true copy of "Record of a Declaration of a Court of Inquiry" dated 13 Dec 43 showing that J46546 Pte Gratton G was A.W.L. from 0600 hrs 23 Nov 43 and that on 13 Dec 43 was still absent and that he was deficient of kit to the value of $52.61, 75% of the price being $38.68. I also produce a "Certificate of Arrest" in accordance with the Army Act Sec 163(i)(j) which shows that J46546 Pte Gratton G was arrested in Oran at 1500 hrs 30 Jan 44 having come to my possession through normal channels.

D B Dickson Lieut."

Cross-examined :- "Did you have any other evidence about my kit"

Ans :- "Not able to answer that question"

The "Record of a Declaration of a Court of Inquiry" referred to by the witness produced, read over to the accused marked Exhibit "A", signed by me and attached hereto.

Supplied by officer detailed to take summary

The "Certificate of Arrest" referred to by the witness produced, read over to the accused marked Exhibit "B", signed by me and attached hereto.

Supplied by officer detailed to take Summary.

Second Witness D36848 C.Q.M.S GROCHETIERE S.A.
For prosecution C. COY I.C.B.R.D. HAVING BEEN DULY SWORN STATES.

I kit inspected Pte GRATTON G. D46846 and found the ~~following~~ defficiency from the count of singing taken in Month African to be as per list. ~~[illegible]~~ for the account at 75% of $22.65.

which I submit dated 22 Mar 44

G.A. Grochetiere C.Q.M.S

The accuse declined to cross examine the Witness

The "Detailed list of shortages" referred to by the witness, produced, read over to the accused, marked Exhibit "C" signed by me and attached hereto.

W.B. Reid Lt
Officer detailed to take the Summary

Question to the Accused

Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: -

I reserve my defense

Pte G. Gratton

[illegible]

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (i)(d)(e)(g) and 9 have been complied with.

W.B. Reid Lt
Officer detailed to take Summary.

LIST OF EXHIBITS

In the case of D 46846 Pte GRATTON, G., a soldier of the Canadian Army Overseas, on the strength of 1 Canadian Base Reinforcement Bn., 1 C.B.R.D.

EXHIBIT "A" --- Certified true copy of "Record of the Declaration of a Court of Inquiry".

EXHIBIT "B" -- Certificate of Arrest.

EXHIBIT "C" -- Detailed List of Shortages of Kit.

EXHIBIT 'D' - HOSPITAL DISCHARGE PAPER

EXHIBIT E - AFB - 296

EXHIBIT F - MFM - 6

G. McCain Major

No. D-46846 Name Grotton Gerard. Sqn., Battery, or Company | EXHIBIT - F Corps 42B | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		A.W.L. from 1200 hrs					
				app. by civil police at 2100 hrs. Charges A.A. sec 15(1) A.W.L. 6 days 9 hours ~~[illegible]~~					
	F.G.C.M.			Finding Guilty on the first charge only. Sentence 30 days Det. and to be put under stoppage of pay to the amount of £1-0-7 cost of apprehension. Finding sentence confirmed by Commander A. supp. G.R.U. 19 Aug 43					
				Close arrest from 2100 hrs 18 June 43 to 2400 hrs 16 Aug 43. (58 days 3 hours)					
				Forfeitures 30 days pay under F.R. I 149(1)(B)					
				7 " " " F.R. I 149(1)(A)					
				57 " " " F.R. I 149(1)(C)(2)					
				£1-0-7 sick F.R. I 172(8)					
				Total forfeitures 95 days pay and £1-0-7					
				Put under stop of pay £5-0-0 (22.21) as the result of his conviction on 24 June 43 (cost of summary jurisdiction as below coldfield					
	22 Nov 43			A.W.L. from 0600 hrs 22 nov					
				Total 8 days					

Certified True Copy. [illegible] 23 Mar 1944
Taken from M.F.M. 4.

(P.T.O.)

EXHIBIT - F.
478

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
246846	Pte.	Gratton, G.,	#1 C.B.R.Bn., #1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental ~~and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the marks for conduct in the conduct sheets, and instances (even though in the same offence) which are recognised entries such as gallantry, etc., or distinguished conduct.

In accordance with the above regulations the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15-(1)	1 times	1 times.
For ~~K.R.~~	~~times~~	~~times.~~
For ~~K.R.~~	~~times~~	~~times.~~
For ~~K.R.~~	~~times~~	~~times.~~
For ~~K.R.~~	~~times~~	~~times.~~

~~Number of instances of gallantry or distinguished conduct,~~
~~— nil —~~
~~There are no entries in the conduct sheets of K.R. accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at present time is under sentence for~~ ~~beginning on the K.R. day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 53 days in military custody, making a total of 53 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 22

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 17 Dec 41

~~7. The service which the accused is allowed to reckon towards discharge under the reserve is K.R.~~

~~8. The accused is entitled to deferred pay or gratuity in respect of K.R. service.~~

~~9. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward).)~~

~~11. (If the accused is a warrant officer.) The accused before he was appointed a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of K.R. dated~~
~~and in his regiment (or corps or department) the rank of K.R. dated~~

(*14220) W.V.15402/144 125,000 8/41 A.&E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D46846 Rank Pte. Name Gratton, G. of #1 C.R.R. Bn. #1 C.R.R.D. Regiment (or as the case may be).

(*INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	15 Aug 43. In the Field.	A.A. Sec. 15 (1), A.W.L. 6 days 9 hours	30 days detention	—
			Stoppage of pay £1-0-7	
			" " " £5-0-0	
			Total forfeiture of pay - 95 days pay.	

Extracted from M.F.M.4.

K.J.C.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of March, 1944.

K.J. Cannon
Capt.
Adj. Ccdn Base Reinf. Bn
1 C.R.R.D.

—13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

—Date of Promotion

—In the rank of ..... years.

—In the rank of ..... years.

—In the rank of ..... years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

CC-15

PTE GRAVEL J.J.

CC-15

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTY-FIRST day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 5 CDN INF BDE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint:~~

~~*1. Three Officers to form the Court;~~

~~*2. A Field Officer as President;~~

~~*3. Three Officers having more than one year's service;~~

~~for the following reasons, namely:-~~

Proceedings Reviewed

Reviewing Officer

24 Apr 43

President.

Rank.	Name.	Regiment.
Major	B.MacKenzie	Calg. Highrs.

Members.

Rank.	Name.	Regiment.
Capt	to be appointed by O.C. R.H.C.	R.H.C.
Lieut.	to be appointed by O.C. R.H.C.	R.H.C.
	WAITING MEMBER	
Lieut.	to be appointed by O.C. R.deMais.	R. de Mais.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G.V.Whitehead) Brigadier

Commanding 5 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D/71397 Pte. Joseph Jacques GRAVEL, R. de Mais. a soldier of the Canadian Army Overseas	FIRST CHARGE A.A. Sec 40 (see charge sheet attached)	guilty	guilty	
	SECOND CHARGE A.A. Sec 40 (See charge sheet attached)	guilty	guilty	
	THIRD CHARGE A.A. Sec 40 (see charge sheet attached)	guilty	guilty	
	FOURTH CHARGE A.A. Sec 15 (1) (see charge sheet attached.	guilty	guilty	
		To undergo detention for 120 days 8 apr 43 [signature]		I confirm [signature]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [signature] (G.V. Whitehead) Brigadier
Commanding 5 Cdn Inf Bde
Convening Officer (e)

(Signed) [signature]
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 8th day of April 1943.

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

* See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ [initials]

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 8 day of Apl 1943

[signature]
Confirming Officer. Brig
COMD. 5 CDN. INF. BDE.

Promulgated and extracts taken in the case of D71397 Pte Gravel JJ.

(a) (Dated) 9 apr. 43 (Signed) [signature] Lt. Colonel
O.C. Le Regiment de Maisonneuve CA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, D-71397 Pte. Joseph Jacques Gravel
Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas,
is charged with

First Charge A.A. Sec 40	Conduct to the prejudice of good order and military discipline, in that he, in the Field, on 22 Mar 43, being in posession of a document purporting to be a genuine leave pass, knowing it not to be genuine.
Second Charge A.A. Sec 40	Conduct to the prejudice of good order and military discipline, in that he, in the Field, on 22 Mar 43, being in posession of an M.B.M. Part 2 containing a false entry, purporting to be genuine, knowing it not to be genuine.
Third Charge A.A. Sec 40	Neglect to the prejudice of good order and military discipline, in that he, in the Field, on or about 22 Mar 43, neglected to take sufficient precautions thereby permitting his pages 17 and 18 of his M.B.M. part 1 to be removed.
Fourth Charge A.A. Sec 15(1)	Absenting himself without leave, in that he, in the Field, at or about 1030 hours on the 6 Mar 43 absented himself without leave, until apprehended by the Canadian Provost Corps at or about 1045 hours on the 22 Mar 43. (Total absence: 16 days, 0 hrs, 15 min)

Dated this 3rd day
of April 1943

H. Lefort Bisaillon

(H.L. Bisaillon,) Lt.-Col.
Commanding Officer,
Le Regiment de Maisonneuve, CA(AF).

To be tried by FGCM.

APR 2 1943

G Wheeler
COMD. & CON. INF. BDE

B2
B M Long D Major
President

MEDICAL CERTIFICATE (K.R.(Can) 587)

I certify that I have this morning examined No D71397 Pte

Gravel J of Rae Mais and in my opinion

he is fit to undergo trial by Court Martial.

~~[illegible]~~

Station In the Field

Date 8-7-43

L. Carette Capt

Medical Officer

B.M.K. [illegible]

Presented [illegible]

MEDICAL OFFICER
R.A.P.
8 APR 1943
LE REGIMENT DE MAISONNEUVE (C.A.)

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at in the field on the 8 day of April 1943 by order of Brig G.O. Whitehead

Commanding 5 Cdn Inf Bde

BMK. dated the 31 day of ~~April~~ March 1943

President.

Major B. McKenzie, Calg. Hghrs

Members.

Capt. G.A. Ross, RHC.
Lieut J.C. Cote, R de Mais

~~, Judge Advocate~~

Trial of* D71397 Pte Joseph Jacques Gravel, R de Mais

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court. BMK

~~The Court satisfy themselves that is not available to serve owing to~~ BMK

~~, waiting member takes his place as a member of the Court~~, BMK

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut HEC Keith, R de Mais

~~Counsel,‡ or~~ defending officer† Lieut J. Major, R de Mais

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16839/78. 25,000 sets. 6/40. K. & H., Ltd. G657/11. Forms A 9155.

CHARGE SHEET

The accused, B-71397 Pte. Joseph Jacques Gravel
Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas, is charged with

First Charge
A.A. Sec 40 — Conduct to the prejudice of good order and military discipline, in that he, in the Field, on 22 Mar 43, being in posession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

Second Charge
A.A. Sec 40 — Conduct to the prejudice of good order and military discipline, in that he, in the Field, on 22 Mar 43, being in posession of an M.B.M. Part 2 containing a false entry, purporting to be genuine, knowing it not to be genuine.

Third Charge
A.A. Sec 40 — Neglect to the prejudice of good order and military discipline, in that he, in the Field, on or about 22 Mar 43, neglected to take sufficient precautions thereby permitting his pages 17 and 18 of his M.B.M. part 1 to be removed.

Fourth Charge
A.A. Sec 15(1) — Absenting himself without leave, in that he, in the Field, at or about 1030 hours on the 6 Mar 43 absented himself without leave, until apprehended by the Canadian Provost Corps at or about 1045 hours on the 22 Mar 43. (Total absence: 16 days, 0 hrs, 15 min)

Dated this 3rd day
of April 1943

H.L. Bisaillon

(H.L. Bisaillon,) Lt.-Col.
Commanding Officer,
Le Regiment de Maisonneuve, CA(AF).

To be tried by F G C M.

APR 2 1943

COMD. 6 CDN. INF. BDE

62

" I wish to have Lieut. Jean Major defend me at my trial by Field General Court Martial if he is available, failing this I request that an officer be a pointed by my Commanding Officer to defend me."

Signature of accused

Signed in the Field
This 3rd day of Apr. 1943.

Witness

MEDICAL CERTIFICATE (K.R.(Gen) 557)

I certify that I have this morning examined No D71397 Pte

Gravel J of Rex Mais and in my opinion

he is fit to undergo trial by Court Martial.

Station In the Field

Date 8-7-43

L. Carette Capt

Medical Officer

B.M.K. [illegible]

[illegible]

MEDICAL OFFICER
R.A.P.
8 APR 1943
LE REGIMENT DE MAISONNEUVE C.A. (1.5)

B

The President, members ~~and judge-advocate~~ are duly sworn. R.M.W.

The following officers under instruction are duly sworn.

Capt R M Wynn Calg Highrs
Lieut F R Wigg RCCS, 5 Cdn Inf Bde
Capt W M W Shaw. HQ 2 Cdn Div

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

guilty *Answer.*

The accused having pleaded Guilty to all the charges the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at in the field

on the 8 day of April 19 43 by order of

Brig S.O. Whitehead

Commanding 5 Cdn Inf Bde

dated the 31 day of ~~April~~ March 1943

President.

Major B. McKenzie, Calg Highrs

Members.

Capt. G.A. Ross, RHC.

Lieut J.C. Cote, R. de Mais

, ~~Judge Advocate~~

Trial of* D71397 Pte Joseph Jacques Gravel, R. de Mais

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

The Court satisfy themselves that ~~is not available to serve owing to~~

, ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut H.E.C. Leith, R. de Mais

~~Counsel,~~ defending officer† Lieut J. Major, R. de Mais

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W1663/28. 25,000 sets. 6/40. K. & H., Ltd. Gp67/11. Forms A 9/55.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ BMK

The accused D71397, Pte Joseph Jacques Granel is found guilty of all the charges.

†The summary (~~or abstract~~) of evidence is read, marked "G" BMK signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No, Sir

Answer. ~~The accused in mitigation of punishment says:—~~ BMK

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~ BMK

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character? No Sir

Question to the accused.

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~ BMK

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*~~The Court being re-opened, the accused is again brought before it~~ BMK

Lieut HEC Keith, prosecutor is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* AFB296 + MFM6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked J1 + J. signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

Not Cross-examined by the accused.

Construction.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer* yes thru my defending officer (see over)

~~The Court is closed for the consideration of the sentence.~~

BMK

F

~~Sentence~~.

~~The Court sentence the accused~~ Sentence.

accused has pleaded guilty. Since attestation has never been in hospital or sick - not afraid of work. First time he has ever used false documents. Take into consideration record of service & minor offences only in MFM6. Accd now only 19 yrs after 3 yrs in army appeal to court to take into consideration all circumstances.

Court closed to consider sentence

[illegible] Capt

Gravel

SUMMARY OF EVIDENCE IN THE CASE OF No D71397 Pte Joseph Jacques Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The CpO. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: No D57943 L/Cpl C.L. Lessard, Le Regiment de Maisonneuve, sworn states:-

During the Spartan Exercise I was i/c of the rear party of 'B' Coy. On or about 1030 hours on the 6 Mar 43 Pte Gravel was absent. I reported the fact to Cpl. Steben and Capt. Tremblay At 2230 hours I made the tattoo and the accused was still absent.

The accused declines to cross-examine.

(Sgd) "C.L.Lessard" L/Cpl.

SECOND WITNESS for the prosecution: No D56972 Sgt R. Provost, Le Regiment de Maisonneuve, sworn states:-

I present:

Forged pass purporting to be signed by Capt. H. Masseau complete with unit orderly room stamp. (Attached as Exhibit "A")

M.B.M. part 2 purporting to be signed by Lieut R.M. Brousseau, whom he denies to be his signature. (Attached as Exhibit "B")

M.B.M. part 1 where pages 17 and 18 have been removed. (Attached as Exhibit "C")

Certificate of apprehension purporting to be signed by O.C. No. 6 Coy., Canadian Provost Corps. (Attached as Exhibit "D")

Certificate in accordance with P.C. 2797 of 10 Apr 42 purporting to be signed by Officer i/c Detention Room, No6 Coy Canadian Provost Corps. (Attached as Exhibit "E")

Certificate of receipt purporting to be signed by N.C.O. i/c Guard. (Attached as Exhibit "F")

Certificate of costs of return, purporting to be signed by O.C. no 6 Coy., Canadian Provost Corps. (Attached as Exhibit "G") all of which relate to the accused, whom I recognise.

The accused declines to cross-examine.

(Sgd) "R. Provost" Sgt.

THIRD WITNESS for the prosecution: No D56941 L/Cpl A. Cote., Le Regiment de Maisonneuve, sworn states:-

At 1615 hours on the 23 Mar 43 I received the accused from the No 6 Coy., Canadian Provost Corps. I signed for him, and brought him to our Regimental Detention Room.

The accused declines to cross-examine

(Sgd) "A. Cote" L/Cpl.

FOURTH WITNESS for the prosecution: Lieut R.M. Brousseau., R.C.A.P.C. att'chd Le Regiment de Maisonneuve, sworn states:-

I have examined the accused's M.B.M. part 2, and the signature which relates to the last entry is not mine.

The accused declines to cross-examine

(Sgd) "R.M. Brousseau" Lieut.

FIFTH WITNESS for the prosecution: Capt H.Massue, O.C. 'B' Coy., Le Regiment de Maisonneuve, sworn states

I have examined the pass and do not recognise the signature as mine.

The accused declines to cross-examine.

(Sgd) H. Massue Capt
" H. Massue " Capt.

SIXTH WITNESS for the prosecution: NO. K53452 Cpl J. Faucher., Canadian Provost Corps:

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is included in this summary (Attached as Exhibit "H"), having regard to the expense involved the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

(Sgd) K.E.C. Leith Lieut
"K.E.C. Leith" Lieut.
Officer detailed to take the summary

The accused having been duly cautioned in accordance with R.P. 4(2), says:

" I do not wish to say anything"

The accused does not wish to call witnesses in his defence at this point."

"CERTIFIED THAT R.P 4 complied with."
In the field,
30 Mar 43

(Sgd) K.E.C. Leith Lieut
"K.E.C. Leith" Lieut.
Officer detailed to take the summary.

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D-71397 NAME J.J. Gravel UNIT Regiment de Maisonneuve, C.A.O.
AGED 19 years MARRIED OR SINGLE S NO. OF DEPENDENTS n/a
DATE OF ATTESTATION 19 Feb 40
No. OF DAYS SPENT IN CLOSE ARREST (to date of trial)
CIVIL n/a MILITARY 16 HOSPITAL n/a TOTAL 16 days.
DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

n/a

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM.

(OFFICER i/c Records)
A. Cuddihy Lieut. & Adjt.
Regiment de Maisonneuve, C.A.O.

Dated at in the Field
this day of 1943.
(To be dated and signed as date of trial.)

calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment R. Se Maisonneuve

Army Form [illegible]
(In pads of 100)

PASS

No. D71391 (Rank) PTE (Name) CAVEL J.

has permission to be absent from his quarters/duty, from 1600 Mo the 16/3/43 to 2230 the 30/3/43

for the purpose of proceeding to Glasgow

(Station) in the Field

(Date) 6/3/43

Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

Wt. 29424/909. 350m. 10/40. D.P.W. 51-7653.

CERTIFICATE TO ACCOMPANY ARMY F.C. 1797 of 10 APR 42

I CERTIFY that No. D-71327. Rank Pte. Name Gravel. J. was arrested at Edinburgh. (Place)

Unit Regt de Mais.

at 1045. (Hour) on 22-Mar-43. (Date) and that at the time of his arrest he was wearing (Military Uniform) or XXXXXXXXXXXXXXXX.

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

(Strike out part inapplicable).

XXXXX Capt.

Officer i/c Detention Room,
No. 9 Coy., Canadian Provost Corps.

File No. .....

'Officer Commanding
Regt de Mai s.

Re:- D-71397. Pte.Gravel. J.

1. Forwarded for your information and necessary action, please and disposal under C.A.C.R.O. No. 388 dated 29 Oct. 40.

London

Re Complaints

for XXXXXXXXXX O.C. No.6 Coy.,
Canadian Provost Corps.

XXXXX. Capt.

RECEIPT.

No. D-71397. Rank PTE.

Name GRAVEL. J.

Regt R. DE MAIS

was handed over to me by the C.M.P. at

about 11.20. on the 22/3/43

he was S & P D

(Signed) J McIntosh Sgt

N.C.O. i/c Guard.

Regt. A & S Hn.

Statement of **EVIDENCE** in the case of

D-71397 Pte. Gravel, J.J.
Regt. de Mais.

Sir:

At Edinburgh at about 1045 hrs on 22 Mar 43, I was on duty at the Scottish Rest House in company with L/Cpl. MacWilliams when I checked the a/m soldier for his pass. He produced the attached pass which I was not satisfied with. I then asked him for his pay book which he produced and on examining it I found that there was a false entry in his M.B.M. Part 2 and also that Pages 17 and 18 had been torn from his M.B.M. Part 1. I questioned him on the matter and he admitted that the pass was not genuine and he was A.W.L. I placed him under arrest and escorted him to the Barrier Gate guard room were I handed him over to the N.C.O.i/c guard to be detained.

Edinburgh.
22-March-43.

J. Faucher Cpl.
(R-53[illegible]2. Faucher. J)

Sir;

I have read over and corroborate the abov statement.

Edinburgh.
22-March-43

W.E. Mac. Williams L/Cpl
(C-17920. MacWilliams. W.C

REMARKS

W. FERN CAPT.
D.A.P.M.
LONDON AREA

CHARGE

Army Form B 252
(See King's Regulations)

Regt. de Mais. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. D-71397 Rank Pte.

Name GRAVEL, J.J.

Place Edinburgh Date of Offence 22 Mar 43

OFFENCE W.O.A.S. Being in possession of a document purporting to be a genuine leave pass and well knowing it to be false. (2) Making a false entry in his M.B.M. part 2 i.e., forging an Officer's signature. (3) Defacing his M.B.M. part 1, i.e., Did destroy pages 17 and 18, when arrested by the Cdn Provost Corps at the Scottish Rest House at about 1045hrs on the 22-March-43.

Names of Witnesses:—

Cpl. Faucher, J. Cdn. Prov. Corps.

L/Cpl. MacWilliams, W.C., Cdn. Prov. Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By Whom Awarded

W. FERRY CAPT.
D.A.P.M.
LONDON AREA

Adjutant.

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1219-20)
H.Q. 1771-33-1852

No. D71397 Name Gravel, Joseph Jacques Sqn., Battery, or Company Corps R de Mais Date of enlistment 15-3-41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 28-7-41 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Leon Grossian major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old sheet discharged after six months service CARO 2084 Leon Grossian mgr 19-7-42									
Gordon	6/1/42	Gun		A.W.L. from 1415 hrs 6-1-42 to 1730 hrs 6-1-42 3 hrs 15 mins A.A. SEC 15 (1)	Bdr McCollum Gun & Sitzgohn Documentary	14 days C.B	7-1-42	Lt Col L Roberts	
Gordon	18/4/42	Gun		W.O.A.S. A.W.L. from 1330 hrs 18-4-42 to 2155 hrs 18-4-42 8 hrs 25 mins. AA 15 (1)	Lieut Ashfield 2/Bdr Stewart	14 days C.B	21-4-42	Lt Col G. P. Ford	
				Failed to comply with an order A.A. 40	Bdr Bell 2/Bdr Stewart	1 day pay	21-4-42	Lt Col G. P. Ford	Forfeit 1 day pay FR 21-149 (1)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentide Camp	7-7-42	Pte		W.O.A.S. neglect to the prej A.A. 40 at about 1010 hrs 7-7-42 neglected to obey an order given by a N.C.O. when ordered to be silent on parage.	D56469 S/Sgt Grotian, O.A. D57698 Sgt Hawley, A.L.	10 days pay	8-7-42	Lt Col. H.C.A. Hervey	Forf. 10 days pay R.R.D. 149(1)
Laurentide Camp Whitley	11/8/42	Pte		W.O.A.S. conduct to the prej A.A. 40 was late 5 mins on P.A. Parade	D56928 CSM Rapin, A.	7 days C.B.	12-8-42	Major Leon Grossman	HCAH
Laurentide Camp	13/8/42	Pte		W.O.A.S. A.W.L. 0630 hrs till 0700 hrs. 13-8-42 - absent 30 min. A.A. SEC 15 (1)	Sgt Angrignon S/S Sgt Hellwell	7 days C.B.	13/8/42	Lt Col H.C.A. Hervey M.D.	HCAH

No. D71397 Name Gravel, J.J. Sqn., Battery, or Company | Corps R. de Mais | Date of enlistment 15-3-41 | G.C. Badges | Service or Proficiency Pay

M.F.M. 6
(A.F.B. 122)
[illegible]
H.Q. 1772-30-1652

Date of last entry in Company Conduct Sheet 28/7/41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentide Camp	14/8/42	Pte		W.O.A.S. using insubordinate language to his superior offr. in that he at Laurentide Camp between 0630 hrs and 0730 hrs on 14/aug 42 while on defaulter's parade used insolent language towards his superior offr. A.A. SEC 1-2	K 52075 S/Sgt Helliwell H 17211 Cpl. Pisdale E.S.	Forfeits 5 days pay	15/8/42	Lt. Col H.C.A Hervey V.D.	
Laurentide Camp	24/8/42	Pte		W.O.A.S. absenting himself w.o. leave in that he at L Camp was absent from O.M. parade from 1815 until 1915 hr. 24/8/42 absent 1 hr A.A. SEC 15(1)	Capt P. Gundrean Sgt Arquimon 9161 E Champagne	Forfeits 3 days pay	25/8/42	Lt. Col H.C.A HERVEY V.D.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentide Camp	28/9/42	Pte		1) W.O.A.S. A.W.L. from 1830 hr 28/9/42 until 1930 hr 28/9/42 absent 1 hour. AA SEC 15 (1) 2) W.O.A.S. A.W.L. from 2200 hrs 29/9/42 till 0600 hr 30/9/42 absent 8 hrs AA 15 (1)	SGT Sinneville L/C Trepanier L/C Levesque	14 days C.B.	30 Sep 1942	Lt Col H.C.A. HERVEY-VD	Forfeits 8 days pay under Rule 149-(1)-(a)
Laurentide Camp	30/9/42	Pte		W.O.A.S. A.W.L. from 1730 hr on 30/9/42 till 1030 hrs 5/10/42 absent 4 days 17 hrs) AA. SEC 15 (1)	L/C Levesque L/C Trepanier	21 days Detention	5/10/42	Lt. Col. H.C.A. HERVEY-V.D.	Forfeits 6 days pay under Rule 149-1-(a)
Laurentide Camp	26/10/42	Pte		W.O.A.S. A.W.L. from Church Parade at 0900 hrs 25/10/42 A.A. SEC 15 (1)	C.S.M. Bruhé Sgt Gagné	2 days C.B.	25/10/42	Lt. Col. H.C.A. HERVEY-V.D	
Laurentide Camp	3/11/42	Pte		W.O.A.S. Neglect to good order and military discipline AA 40 - was apprehended without his face piece adjusted on respirator drill	Documentary Evidence	1 day C.B	5/11/42	major Rear Thomson	

M.F.M. 6
(A.F.B. 122)
17536—7-41 (1219-20)
H.Q. 1772-35-1652

No. D71397 Name Gravel, J.J. Sqn., Battery, or Company 'A' Corps Rde Mais Date of enlistment 15-3-41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 3-11-42 No. and date of last drunk ✓ Period not reckoning towards freedom from extra fine Sheet No. 3 Signature O.C. Company, etc. J. Bibeau Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bognor	11/12/42	Pte		W.O.A.S. Neglect to the prejudice of good order and military discipline in that he at Bognor on the 11/12/42 neglected to go on sick parade. AA 40	C.S.M. Derrochers P	7 days C.B.	11/12/42	J. Bibeau Capt.	
in the field	9/1/43	Pte		W.O.A.S. Act to the prejudice of good order and military discipline in that he in the field on the 10/1/43 contrary to company instruction equipment was left in his billet AA 40	C.S.M. Derrochers P	14 days C.B.	22/1/43	H. C. Bisaillon Lt Col.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
in the field	24/1/43	Pte		W.O.A.S. A.W.L. in that he in the field on the 24/1/43 was absent from Church Parade AA SEC 15 (1)	C.Q.M.S. Chartier J.P.	3 days Pay.	H.L. 3/2/43	Gisaillon Lt Col.	

Certified True Copy of Original MFM 6
Signed by Officer in Records
Puddily/Lieut
A/Adjt

COUNTER NUMBER 434200

HOUR 18.00

OPERATOR'S INITIALS E. M.

RELIEVING OPERATOR P. L

22-37 (case #3)

Pte GRAVEL JJ

See CC-15 for 1st case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-71397 Pte Joseph Jacques GRAVEL - 6 CIRU - CIC.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A. A. Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned RO

~~To undergo imprisonment~~ with hard labour for one year.

(Sgd) W. E. Osler Major

Judge-Advocate, if any. Date awarded. 11 Jan 45 (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part 1 is:

I confirm the finding and sentence of the Court, but commute the sentence so that it shall be "to undergo detention for a period of Six (6) months" RO

(1. AA 57A. Delete if not used.)

(Sgd) W. E. Osler Major

Date 12 Jan 44 Commanding "A" GROUP CON. REPR. UNITS. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-71397 Pte Joseph Jacques Gravel 6 CIRU - CIC	12 Jan 44	Capt Barrett, Capt Adjt 6 CIRU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

22-37

CFA96 (In lieu of AF33) A.G. P. to S. 1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of A/Col J. A. Calder Comd "A" Gp CRU dated 9 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-71397	Pte		Joseph Jacques	GRAVEL	6 CIRU (CIC)

PROCEEDINGS REVIEWED
20 Jan 44
F. H. Varcoe Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 January 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn e. 2. AA 49, 50, RP 105-107. 3. RP 59-73, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt C. Gay as interpreter? Ans NO

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187 MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	W. E. OSLER	2 CIRU (Camerons of C)
Member	Capt	J. B. Farrell	2 CIRU (Camerons of C)
Member	Lt	J. Pratt	6 CIRU (R. de Chaud)
~~Judge-Advocate~~			
Prosecutor	Capt	G. L. Archambault	6 CIRU (R. de Maisn)
Defending Offr	Lt	A. Ralette	6 CIRU (R. de Maisn)

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings (for information of Conv Offr).
2. If Pros a lawyer and Def Offr not, accused is encitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D71397 Pte Joseph Jacques GRAVEL before arraignment make(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; witness several accused to be tried separately see RP 71(C), and use separate copies of CF AF96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N.O.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be cleared to consider the statement. 2. Delete whole as inapplicable not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B1, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by vote of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 80(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....

Do you intend to call witnesses on your behalf ?

Ans.....

Are they witnesses as to character only ? Ans.....

(*1. RP 185. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans N.O.

(*1. If evidence has already been given by accused or witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E1 and Ex E2 respectively.(3)

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 148, 179(A), KR Can 306, 330, 562-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

In the case of No D-71397, Private Joseph Jacques GRAVEL, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, did absent himself without leave from 2200 hours on the 21st day of December, 1943, until 1100 hours on the 6th day of January, 1944.

(Total absence: 15 days, 13 hours).

Witley, Surrey,
8 Jan 44.

H. Gavan Power
(H. GAVAN POWER), Lt-Col
A/Commander
6 Can Inf Rft Unit

To be tried by Field General Court Martial.

(J. A. Calder) A/Col.,
Comd,
"A" Gp Cdn Rft Units,
C.A.(O).

9 Jan 44
Witley, Surrey

CFAMS (To Item of AFA2)
#10FA02/1607 (2/68)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-71397	Pte	Joseph Jacques	GRAVEL	6 CIRU (CIC)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~been~~) committed the offence(s) set forth in the Charge Sheet attached and on (date) 9 Jan 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

(~~I hereby restrict or appoint to the Offrs to form the Court but a Fd Offr as President for the reasons I have entered hereon~~)

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

(~~I also appoint as Judge Advocate Major W. E. OSLER~~)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	W. E. OSLER	2 CIRU (Camerons of C)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO 2 CIRU	
Lieutenant	" " " " CO 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieutenant	" " " " CO 6 CIRU	

(~~JUDGE ADVOCATE~~)

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 9 Jan 44

J. A. Calder (Signed personally. RP 165 to 23)

(J. A. Calder)

A/Col. (Rank.)

Commanding "A" Gp Cdn Rft Units, C.A.(O). Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 269.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(D)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 95(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 1(*c*)), as evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 86.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions where accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (on *matters other than* in mitigation of *punishment*) by Defending Offr or accused. (*See RP 40 fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement (by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, *if any*. RECORDS, FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*k*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 90(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after sentence of sentence awarded. (*AA* 53(9), *RP* 113(*C*), *MML* p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Wd. . A!

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: D71897 Pte Gravel F
(Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit to undergo
trial by Court Martial.

Station

Date Jan-11-1944

CAPT. J. L. A. HURTEAU, M.Q.
R.C.A.M.C.

Sgd. J. L. Hurteau
(Medical Officer)
CAPT.
MEDICAL OFFICER

E3 EO 11-8-44

Declaration made by the defendant officer. Lt Katelle in the case of Pte Grovel J.J.

This man that you will now judge & was classified B2a year ago. He was willing to fight & after many efforts he was reclassed A-1 & fit to join his comrades in Italy. He was on the next drafts for the R.22.R. & he was suppose to leave according to hear say around the end of January. He was granted 7 days leave ~~according to hear~~ during his leave he asked by cablegrams for an extension of 72 hours because he had personnel affairs which I can ~~not~~ ~~disentered~~ disculpe, & to fix before going to action. Before his leave had expired, he reported down at the Provost Corps at Edimburgh. He explained his case & said he was waiting for reply for his extension. The reply did not come so he proceeding down to the camp and arrived there 20 hours

late He was proceeded down to
the C. O. and did'n have any chance
to explain his case & he had 14 days C.B.
He was discouraged & what A.W.C.
Now Monsieur le President &
Members of the court. A man who
have not enough courage, a man
who have enough heart not to left
his comrades to do the job alone
but by many effort he was classified
A-1. He is willing to fight & go into
action as soon as possible & I am
asking the Court to be clement

Yours truly
Junior member

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been servedwith a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

Lt Em P Menard R Jt de Mais

if he is available.

[signature]

Algonquin Camp,
Witley, Surrey,
8th Day of Jan 1944

DG10 hrs.

B1 RD

SUMMARY OF EVIDENCE

In the case of No D-71397, Private Joseph Jacques GRAVEL, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the Prosecution.

E-57708 Cpl Vaillancourt, A., of the Canadian Infantry Corps, on the strength of 6 CIRU, having been duly sworn, states as follows:

On 21 Dec 43, at 2300 hours, I called the roll of "F" Company, at Algonquin Camp. The accused, whom I now recognise, did not answer his name at this roll call. I placed his name on the Absentee Report. From then on until 6 Jan 44, I called the roll of the Company daily at 0630 and 2300 hours. The accused did not answer his name at any such roll call nor did he appear on any parade during this period.

The accused declines to cross-examine this witness.

Vaillancourt A. ...Cpl

Second Witness for the Prosecution.

D-56496 Sgt Laurin, L., of the Canadian Infantry Corps, on the strength of 6 CIRU, having been duly sworn, states as follows:

On 6 Jan 44, at 1100 hours, the accused, whom I now recognise, reported to me as an absentee without leave.

The accused declines to cross-examine this witness.

Laurin L. ...Sgt.

The accused is then cautioned in French as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say, or any evidence you may give, will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with.

...Lt.
Officer detailed to take the Summary of Evidence.

Algonquin Camp,
Witley, Surrey,
7 Jan 44.

/FLN

E2

NoD-71397 Name Joseph Jacques GRAVEL | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 15 Mar 41 | GC Badges n/a | Service or Proficiency Pay n/a | MFM 6 (AFB 122) 40/P&S/126 (2438)

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc P. Loranger Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 6 Jan 42		Pte		A.A.15(1)AWL fr 1415 hrs 6 Jan 42 till 1730 hrs 6 Jan 42(3 hrs 15 mi)	Bdr McCollean Gun Jitzhohon	14 days C.B.	7 Jan 42	L/Col Roberts	Forf
Field 18 Apr 42		Pte		1-A.A.15(1)AWL fr 1330 hrs 18 Apr 42 till 2155 hrs 18 Apr 42(8 hrs 25 mi) 2-A.A.40 Conduct to the Prejudice of Good Order and military Dicipline(Failed to complied with an order)	Lt Arkfield 2/Lt Stewart Bdr Bull 2/Bdr Steward	14 days C.B.	21 Apr 42	L/Col Nash	Forf 1 day pay for AWL
Field 7 Jul 42		Pte		A.A.40 Conduct to the Prejudice of Good Order and Military Dicipline (speaking on parade)	L/Sgt Groleau A/Sgt Hawley	10 days pay	8 Jul 42	L/Col Hervey	

Certified true copy dated: 11 Jan 44

for Officer having custody of original documents

(PTO)

NoD-71397 Name Joseph Jacques GRAVEL | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 15 Mar 41 | GC Badges n/a | Service or Proficiency Pay n/a | MFM 6 (AFB 122) 40/P&S/126 (2438)

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 2 | Signature OC Company, etc P. Loranger Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 30 Sept 42		Pte		A.A.15(1)AWL fr 1730 hrs 30 Sep 42 till 1030 hrs 5 Aug 42(4 days 17 hrs)	Cpl Levesque Cpl Trepenier	21 days Detn	5 Oct 42	L/Col Hervey	Forf 5 days pay for AWL
Field 25 Oct 42		Pte		A.A.15(1)AWL fr Church parade	CSM Berube	2 days C.B.	25 Oct 42	L/Col Hervey	
Field 11 Dec 42		Pte		A.A.40 Conduct to the Prejudice of Good Order and military dicipline (Neglect to go on sick parade)	CSM Desrochers	7 days C.B.	11 Dec 42	Capt Bibeau	
Field 9 Jan 43		Pte		A.A.40 Conduct to the Prejudice of Good Order and military dicipline (Desobey company instruction)	Sgt Paquette	14 days C.B.	11 Jan 43	L/Col Bisaillon	
Field 24 Jan 43		Pte		A.A.15(1)AWL fr Church parade	CSM Chartier	3 days C.B.	3 Feb 43	L/Col Bisaillon	

certified true copy dated: 11 Jan 44

for Officer having custody of original documents

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 11 Aug 42		Pte		A.A.40 Conduct to the Prejudice of Good Order and military discipline (Late on P.T. parade)	CSM Bopin	7 days C.B.	12 Aug 42	Maj Burnison	
Field 13 Aug 42		Pte		A.A.15(1)AWL fr 0630 hrs 13 Aug 42 till 0700 hrs 13 Aug 42(30 mi)	Sgt Angrignon Sgt Mellewell	7 days C.B.	13 Aug 42	L/Col Harvey	
Field 14 Aug 42		Pte		A.A.8(2) Using insubordinate language to a superior officer	Sgt Mellewell Cpl Tisdale	5 days F.P. 5 days pay.	15 Aug 42	L/Col Harvey	
Field 24 Aug 42		Pte		A.A.15(1)AWL fr 0815 hrs 24 Aug 42 till 1915 hrs 24 Aug 42(1 hr)	Capt Boudreau Sgt Angrignon	3 days F.P. 3 days pay.	25 Aug 42	L/Col Harvey	
Field 28 Sep 42		Pte	1-	A.A.15(1)AWL fr1830 hrs 28 Sep 42 till 1930 hrs 28 sep 42(1 hr)	Sgt Somneville Cpl Trepanier	14 days C.B.	30 Sep 42	L/Col Harvey	Forf 1 day pay for AWL
			2-	A.A.15(1)AWL fr 2200 hrs 29 sep 42 till 0800 hrs 30 Sep 42 (8 hrs)	Cpl Lavasque Cpl Trepanier				

Certified true copy dated: 11 Jan 44

Officer having custody of original documents

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 6 Mar 43		Pte		1-A.A.40 Conduct to the Prejudice of Good order and military dicipline (Used a false documents)	Documentery	180 days Detn	31 Mar 43	F.G.C.M.	Forf 17 days pay for AWL and 9 days pay for time in arrest
				2-A.A.40 Conduct to the Prejudice of Good order and military dicipline (Used a false documents)		Relesse fr Detn 12 Jul 43 Remission 14 days.			
				3-A.A.40 Conduct to the Prejudice of Good order an military dicipline (Pay book altered)					
				4-A.A.15(1)AWL fr 1030 hrs 6 Mar 43 till 1045 hrs 22 Mar 43(16 days 15 mi)					
Field 24 Jul 43		Pte		A.A.40 Conduct to the Prejudice of Good order and military dicipline (Desobey unit order)		3 days F.P. 3 days pay.	24 Jul 43	C.O. 149 d/26 Jul 43	

Certified true copy dated: 11 Jan 44

Officer having custody of original documents.

No D-71397 Name Joseph Jacques | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 15 Mar 40 | GC Badges n/a | Service or Proficiency Pay n/a | MFM 6 (AFB 122) 40/PAM/156 (3838)

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 3 | Signature OC Company, etc P. Lorenger Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Oct 43	Pte		A.A.11 Neglecting to obey an Order Did not comply with camp order	Sgt Sauve Sgt Valiquette	14 days pay.	3 Oct 43	L/Col Power	
Field	3 Oct 43	Pte		A.A.15(1) AWL fr 2200 hrs 2 Oct 43 till 1120 hrs 3 Oct 43 (6 dys 13 hr 20 mi)	Documentary Sgt Plouffe	27 days F.P. 27 days pay.	11 Oct 43	L/Col Power	Forf 7 days pay for AWL
Field	11 Nov 43	Pte		1-A.A.40 Conduct to the prejudice of good order and military dicipline (improperly dressed no anklets) 2-A.A.40 Conduct to the prejudice of Good order and military dicipline (used insubordinate language)	Lt DeBelle-feuilles Sgt Goulin	27 days F.P. 27 days pay.	13 Nov 43	L/Col Taschereau	

Certified true copy dated: 17 June 44

Officer having custody of original documents.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 6 Nov 43	Pte			1-A.A.15(1) AWL fr 2200 hrs 6 Nov 43 till 2340 hrs 6 nov 43 (1 hr 40 mi) 2-A.A.40 Conduct to the Prejudice of Good order and military dicipline (making a false statement to CO?)	Documentary Sgt Grondin	14 days C.B.	19 Mar 43	Col Morgan	
Field 19 Dec 43	Pte			1-A.A.15(1) AWL fr 0830 hrs 19 Dec 43 till 1000 hrs 19 dec 43 (30 mi) 2-A.A.40 Conduct to the prejudice of Good order and military dicipline (Bad conduct on o.c. orders 20 dec 43)	CSM Plamondon Sgt Goulin Cpl Dupuis	14 days C.B.	20 Dec 43	L/Col Taschereau	

Certified true copy consisting of three sheets dated: 11 Dec 44

Officer having custody of original documents.

E1 152

ARMY FORM B 2[illegible].

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-71397	Private	Gravel J.J.	Can Inf Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this statement may be compiled from the said conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677 K.R. 1940.

* The question herein stated should correspond with the entries of crime in the conduct sheets, punishment being given to the said entries in chronological order, and to any recorded remission and to all forfeiture of [illegible] conduct.

Insertion.—If the [illegible] is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1) AWL	5 times	13 times.
For A.A. 40	6 times	10 times.
For A.A. 6 (2)	Nil time	1 time.
For A.A. 11	1 time	1 time.
For	time	times.

Number of instances of gallantry or distinguished conduct. NIL

or

~~There are no entries in the conduct sheets of the accused~~ AD

~~The accused has not been previously convicted, or~~ AD

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence for~~ AD

~~commencing on the day of~~ AD

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 15 March 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 51 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 51 days service.

9. The accused is entitled to reckon 2 yrs 51 days. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to any military decoration or reward.~~ AD

~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental~~ AD

rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated

and in the regiment (or corps or department) the rank of dated

(19120) W.15882/144 125,000 6/41 S.S.E.V.3.c Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-71397 Rank Private Name Gravel J.J. of Cdn Inf Corps. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	Field 31 Mar 43	A.A. 40	120 days Detn.	16 days.
		A.A. 40		
		A.A. 40		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of [illegible]

[signature] for officer having custody of original documents.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

4B-57

PTE GRAVEL J.L

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 66118 Pte Jean Louis GRAVEL R22R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A A 12(1)(a)	NOT GUILTY	NOT GUILTY OF DESERTION - BUT GUILTY OF ABSENCE WITHOUT LEAVE.	W.T.
2nd			
3rd			
4th			
5th	W.T.		
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in list of kit see RP 44 fn 6.)

At present under sentence for W.T. beginning on (date) W.T. (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court: TWENTY EIGHT DAYS FIELD PUNISHMENT. AND TO FORFEIT TWENTY EIGHT DAYS PAY. ~~To undergo imprisonment (1) ... days and to forfeit ... days pay.~~ W.T.

(Sgd) ... Judge-Advocate, if any. 7 Oct '44 Date awarded. (Sgd) W. Thexton Lieut. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding + sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ W.T.
(1. AA 57A. Delete if not used.)

Date 12 October 44 (Sgd) L. E. Bernatchez Brig
Commanding 3 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D66118 Pte Gravel Jean Louis R22R.	14 Oct 44	Adjutant 1 Can Para Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 100 4B-57

RECEIVED 7 NOV 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA80 (To Issue of AFA21 40-P.M.R.(1)868 (40/3))
4/38B

Convening Offr (Rank) Brig L.E. BERNATCHEZ Comd 3 C.I.B. dated 5 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Frmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 66118	Pte		Jean Louis	GRAVEL	R22R

PROCEEDINGS RENEWED
In the Field 1 Nov 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 7 Oct '44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ W.T.
(1. KR Can 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to E.4201 PG MAHONEY, A. as interpreter? Ans No
The Interpreter is sworn.(1) ~~Do you object to ... as shorthand writer? Ans ... The shorthand writer is sworn.(1)~~ W.T.
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	R.G. THEXTON	Wpg N.S.R.
Member	CAPT	J.M. BURSEY	C.Y.R.
Member	CAPT	C. GAGNON	R 22e R.
~~Judge-Advocate~~	W.T.		
Prosecutor	LIEUT	L. DESROSIERS	R 22e R.
Defending Offr	LIEUT.	W.H. POPE	R 22e R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D.66118 PTE GRAVEL, J.L. before arraignment make(s) (no) (1) plea
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.) W.T.

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) W.T.

A10. The Court (~~adjourned~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D1

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4/13

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 85, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement. The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s). The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charges.(3)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I wish to give evidence myself. Do you intend to call witnesses on your behalf? Ans No. Are they witnesses as to character only? Ans N.A.
(1. RP 114. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 385. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Have the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42 (2)(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s) being subject to confirmation, will be promulgated later (1) on the President announces that the accused is found Not Guilty on all charges and is to be released forthwith (1) and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (1)~~
(1. AA 54(2) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: ~~Do you wish to give evidence yourself or to call any witnesses as to your character (on) (in mitigation)?~~ DO YOU WISH TO GIVE EVIDENCE YOURSELF OR TO CALL ANY WITNESSES AS TO YOUR CHARACTER? Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E1 and Ex E2 respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. Where several accused tried separately see RP 34(D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover off charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 363-366, Overseas RO 309, 2123, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D66118 Private Jean Louis GRAVEL, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service is charged with :-

FIRST CHARGE
A.A. Sec 12 (1) (a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, in ITALY, on the night 19/20 September 1944, after being warned that his platoon would soon proceed to take part in active operations against the enemy, with intent to avoid so proceeding, absented himself from his platoon from approximately 2345 hours 19 September 1944 until he voluntarily returned to his platoon at approximately 1300 hours 20 September 1944.

TOTAL ABSENCE:- 13 hours, 15 minutes.

(J V ALLARD) Lt.-Col.
Comd. Royal 22e Regiment.

In the Field,
29 Sep 44.

TO BE TRIED BY F.G.C.M.

(J P E BERNATCHEZ) Brigadier,
Comd. 5 Can Inf Bde.

In the Field,
5 [illegible] 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
D66118	Pte	Jean Louis	GRAVEL	R22R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable for delay the trial for reference to a superior qualified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated hereunder~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R G Thexton	WESR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	J M Bursey	CIR
Captain	G Gagnon	R22R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	L Jobin	R22R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 5 Oct 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 3 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (GPAS6 (To take place of AFA3) 40/P & S/1307 (4021))

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Con) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 50, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states: The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

I am a cpl of the pl to which Pte Smith belongs.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken verbatim, RP 83(C) will be complied with. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken by him verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions where accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 82.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Con 562(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con 557.*)

(iiia) Medical Certificate(s) and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Con 562. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and note thereof part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after announcement of sentence awarded. (*AA 33(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No D 66 118....

Rank [illegible]..... Name [illegible]....J. M.... of ..R. 22 R.....

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station [illegible]..

Date 7. 10. 44.....

[illegible]

(Medical Officer)

II 1

In the case of:

D66118 Pte Jean Louis Gravel R. 22 R.
a soldier of the Cdn. Army Overseas.

First Witness : E 23820 Sgt Vezina R. R 22 R.
For the prosecution : having been duly sworn, states:

The witness identify the accused
I am Sgt Vezina R of H 18 Pln
D Coy. On the night of the 19th
Sept at about 23 45 hrs I
was coming back from an
O Group and I transmitted
the orders I just received to
my Pln, and especially to
Pte Gravel who asked me what
we had to do I told him
that we were going to do
some mopping up. About
10 minutes later I was forming
up my Pln to leave, and Pte
Gravel was not there. It
was only on the following day
in the afternoon of Sept the 22nd

w/t.

that I saw Pte Gravel in a room loading Bren gun magazines.

Questions by the prosecution

Q-1- What was the orders you received at the O Group.

A - The orders I received were that we were leaving to do some mopping up in the rear of B Coy.

Q-2- Did you warn your Pln to that effect.

A - Yes, I warn my Pln. to be ready, that we were leaving shortly.

Q-3- Did Pte J. L. Gravel belonged to your Pln. at that time.

A - Yes.

Q-4- Was Pte Gravel present when you gave that warning to your Pln.

A - Yes.

Q-5- Did the accused reported to you or otherwise explained his absence

A - No sir

II 3 Questions by Defence

Q-1 — How long was Pte Gravel in your Plnr.

A — One day

Questions by the Court

Q 1 — Was the Plnr in the same house when Pte Gravel reported back

A — No, Pte Gravel did not return at the same house because the Plnr had make the attack and was on top of another ridge

R.P. 88(B) confirmed with W.T.

Second Witness For the prosecution

E 100 13 2 Cpl Cloutier Leopold R. 22 R having been duly sworn states

The witness identify the accused

I am E 100 13 2 Cpl Cloutier

Fr of # 18 Plnr D coy On the night of Sept 19th ~~at about~~ W.T. between 2100 hrs and 2200 hrs, the Sgt told us to be ready that we were about to leave. When we formed the Plnr Pte Gravel was missing at the

W.T.

roll call and the Sgt asked me if I have seen Pte Gravel. I said that I did not see him. I saw Pte Gravel again on the following day in the afternoon around 1500 hrs. I remember well because I had Pte Gravel to clean some Bren gun magazines.

Questions by the Prosecution

Q-1- Did the Sgt tell you what kind of operations you were leaving for

A- We were in reserve and we were supposed to go forward to clear the ground.

Q-2- Did the Sgt give any warning to the Pln to that effect.

A- The Sgt had notified all the Pln. It's pretty hard to say, because it was rather dark.

Q-3- Was Pte Gravel present when the warning was given.

A- I cannot say.

Q-4- When the Sgt told you that Pte Gravel was missing did you make any attempt to look for him.

b/t.

A-4- The Sgt asked me if Pte Gravel was with me and I answered No. I called for Pte Gravel's name but he did not answer.

Q-5- Did Pte Gravel report to you or otherwise explained his absence when he returned.

A- No, he did not report and explain his absence.

Questions by Defence

Q-1- How long was Pte Gravel in your Pln.

A- I cannot remember

R.P. P3(B) complied with. U/T

The prosecution is closed

Fresh w/ Witness For defence: 266118 Pte Gravel J.T.R. [illegible] having been duly sworn [illegible]

On the 19th of Sept. when we were going to take position and when we arrived there a few minutes later the Sgt told us to dig in. Few minutes later he came back and told

U.T.

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us to stop digging. I asked him what we were going to do, and he answered that we were supposed to move shortly to do some mopping up in the rear of B Coy. As I had no cover to protect me from the shells that were falling, I looked around the house to find a shelter and at about 40 to 50 feet from the house I found a dug out. I took shelter in this dug out until the Plm. was ready to move. Then I was tired and nervous and I fell asleep. Later on I was ~~I~~ awakened by soldiers escorting Germans prisoners when ~~some~~ one of the escort shouted to another. Then I came out of my ~~I~~ dug out and one of them asked me what I was doing there. I told him that I was with B Coy. He told me that there was no Coys left around and that

W.T.

they were all up the hill. At that moment I came to pick up my rifle that I had left in the dugout and I discover it was gone. There I did not know which way to take I decided to wait there until daylight. When daylight came I went up into the house to see if I can observe any of our troops in the vicinity. At about 300 yards to the right I noticed some of our troops moving around a house. It is then I left the house where I was to join the other troops at the house but as the ennemy was still up the hill it took me quite a while to get there. When I arrived at the house I discovered ~~I [illegible]~~ that they were men of B Coy guarding some prisoners. I asked them if they knew where T Coy was. One of them said that he thought had attacked in front of them but he was not sure of it.

W.T.

W.T.

W.T.

that Day

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I also asked them if they could
spare a rifle. They told ~~they only~~
had their own arms and that they
needed it to guard the prisoners.
As I was without arms I remain
there until I could get one.
~~Some~~ Some hours later, I took the
rifle of a wounded man and
started looking for D Coy. Then
I met a man belonging to
my Plu going up ~~to the hill~~ the hill
~~position~~ I asked him where
was the Coy and he told me that
the Coy was fighting upon the hill.
We had difficulties to go up the
hill because there was enemy
shell fire on the top of the hill.
We I waited in a slit trench
until the shelling was over.
When the shelling was over
we went on top the hill and
the battle was over. About
half an hour later Cpl Courtier
came and put me to work
on loading magazines.

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Questions by Defense

Q-1- Which day did you arrive at 18 Pln

A - I arrived in 18 Pln on the 18th sept.

Q-2- Was it your first action.

A- No sir I have been through Sicily

Q 3- ~~W~~ Have you been wounded

A No

Q 4- When did you leave the regt.

A - I left the regt for one month

Q 5 - Have you been in action on the Hitler Line

A - Yes, I have been through all of it.

Questions by Prosecution.

Q-1 - When you return to your Pln did you report to somebody

A - No, because there was no N.C.O. around.

Q-2 - Did you look for a N.C.O.

A - I looked in the rooms, some had gone on patrols, ~~[illegible]~~ and some were eating so I ate with them.

D 10.

Q 3 Why did you leave the Rest W.T. in Perugia

A - Because I was sent to the Field Punishment for 14 days

R.P. #3 (B) complied with W.T.

Closing address of prosecutor attached and marked D.10. M.

Closing address of the Defense attached and marked D 11.

W.T.

CLOSING ADDRESS BY PROSECUTOR

The evidence in this case is clear and I do not think it necessary for me to say anything more. The question of intention to defeat is for the court to decide.

H.T.

II.11

Summary of Defending Officers Closing Address

The accused has had 2½ yrs service. His record is good. He has only once had anything resembling detention - 14 days field punishment. He has served in the regiment since the Sicilian campaign and throughout the Hitler line show.

This was his first time in action in over 3 months. He had been back in the #18 platoon one day in which entering advance had been made. The night of the 19th Sept he was tired and rather naturally a little nervous. The enemy was shelling and he took shelter in a dug out, knowing that he would soon have to move off with his platoon. Unfortunately, he fell asleep and missed the mopping-up operations.

But does this constitute desertion? Hardly, for he did his best when he awoke to return to his platoon as soon as possible, only stopping long enough to re-arm himself. It has not been proved that the accused intended not to return to military duty. It has not been proved that he intended to avoid some important military service.

The accused is guilty neither of desertion or absence without leave. He just fell asleep

E 1.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B66118	Pte	Jean Louis CRAVEL	Royal 22e Regiment

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

† The conduct sheets mentioned should be produced to bear with this statement but not annexed to the proceedings.

‡ See para. 677, K.R. 1940.

* The soldier herein stated shall, once every year, be brought before his commanding officer or some other officer empowered to award punishment, and shall be informed of the contents of his conduct sheet, and his attention called to the said entries, and any improvement, special note or remark by his commanding officer.

‡ Insert here, if the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 15 (1)	twice times	twice times
For AA 11	once times	once times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct.~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence of~~ ~~imprisonment~~ ~~detention~~ ~~penal servitude~~ ~~for~~ ~~life~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges for ~~in civil custody~~ and twice days in military custody, making a total of twice days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 21 years 11 months

6. The date of his commission / attestation specified in his record of service / attestation paper is 24 February 1942

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve~~

8. The accused is entitled to deferred pay ~~or gratuity~~ in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds on the army the rank of dated

~~(Signature, appointment and address of officer.)~~

E 1 C.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~29th~~ 7 day of ~~September~~ OCT 1944

[illegible signature]

[illegible signature]

18. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION.—If any entries in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

MFM 6
(AFB 122)
40/P&S/136 (2838)

No. D66118 Name GRAVEL J. L. Sqn, Battery, or Company Corps C.I.C. Date of enlistment 24-2-42 GC Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No one Signature OC Company, etc [signature] Character

E2
W.T.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Last Sheet destroyed 24-8-42					
FIELD	10-2-44	Pte		WOAS AA15 (1) AWL TOTAL ABSENCE 11 hrs 30 mi	Cpt PARIZEAU Cpl LAGACE	ADMONISHED	10-2-44	Cpt PARIZEAU	1 Day Pay (149) (1) (A)
FIELD	8 Aug 44	Pte		AA SEC 11 neglect to obey an order given by a superior officer AA15 (1) AWL 6 hrs 30 mi	CSM Roy L/Sgt Daniel J.R.	14 Days F.P. 14 " Pays (149 (2	10 Aug 44	Lt Col ALLARD	1 DAY Pay 149 (1) (A)

Certified true Copy made by myself on 29 Sept 44

[signature] Orderly Com. Royal Zte Regt. [signature]

"E2"
W.T.
(PTO)

SUMMARY OF EVIDENCE

In the case of D 66118 Private Jean Louis GRAVEL, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

First witness For the Prosecution.

E 23820 Sergeant Vezina, R. Having been duly sworn states:-

I am E 23820 Sergeant Vezina, R. Royal 22e Regiment "D" Coy, in charge of No. 18 Platoon.
On the 19 September, 44, I was Platoon Sergeant of No. 18 Platoon, D 66118 Pte Jean Louis GRAVEL, belonged so to No. 18 Platoon. On 19 Sept 44, approximately 2345 hours, I warned my Platoon in about 10 minutes time, we were going to go foward, towards a starting line previous to a mopping up operation, on the enemy, on the morning of the 20th Sept. 44. Our duty was to mopp up behind "B" Coy Royal 22e Regiment.
D 66118 Pte Jean Louis GRAVEL, came to me and ask me in French something to that effect:- What are we going to do foward" and I answered that Platoon 18 was to make some mopping up during "B" coy attack. A few minutes later when I formed up my Platoon, Pte Jean Louis GRAVEL was absent.
On 20 Sept 44 approximately 0800 hours, No. 18 platoon attaked and just before the attack, and also immediately after the attack, I checked the roll and Pte Jean Louis GRAVEL was still absent. Though he never reported to me after his absence, on 20th Sept. 44. I saw him at or about 1600 hours helping other members of the Platoon to load Bren magazines. At that time, all fighting was over.

The accused declines to cross examine the witness.

R.P. 83 (B) complied with.

Sgt. Vezina R.

Second witness For the Prosecution.

E 100132 Corporal Leopold Cloutier, Having been duly sworn states:-

I am E 100132 Corporal Leopold Cloutier, Royal 22e Regiment, "D" Coy. #18 PLN
D 66118 Pte Jean Louis GRAVEL was a member of this Platoon on 19 Sept. 44.
On the Evening 19 Sept. 44 approximately 2345 hours the Platoon Sgt. warned Platoon 18 to be ready to move immediately. We were to do some mopping up operation. The Sgt. formed up his Platoon and noticed then that D 66118 Pte Jean Louis GRAVEL, was absent from the Platoon 18. I searched around for him but could not find him. After that I did not see him until the next day when the attack was over, on 20 Sept 44, approximately 1300 hours.

The accused declines to cross examine the witness.

R.P. 83 (B) complied with.

Cpl. Cloutier Liopold

W.T.

The accused having been duly cautioned in French, in accordance with AC 1424, reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 1 (one page, was taken down by me, in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f), and (g), were complied with.

S E Beauvais Lieut
Officer taking Summary.

In the Field
29 Sept.44.

LIST OF WITNESSES FOR PROSECUTION

in the case of

D 66118 Private Jean Louis GRAVEL, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF on Active Service.

FOR THE PROSECUTION

E 63820 Sgt Vedina, R. R 22e R.
E 100132 Cpl Cloutier, L. R 22e R.

FOR THE DEFENCE

N I L

I hereby acknowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of ..U.T. Pope.. lieut.

if he is available.

L Gravel D66118

In the Field
29 Sept 44.

W.T.

40-17

Pte Gravel M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of N/A days, of which N/A days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 53-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 — 48-17

RECEIVED 9 JAN 1945 JAG BRANCH

CF 486 (To lieu of AFB 40/P & B/1098)

FIELD GENERAL COURT-MARTIAL 4/368

Convened by Order of MAJOR GEN E L M BURNS Comd 6th Sec CMHQ letter 21/JAG dated 4 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-57681	Pte A/Cpl	MAXIME	GRAVEL	1 CDN ARMD REGT SERVICE CORPS RCASC

PROCEEDINGS REVIEWED
4 Aug Privileges limit
2 Febus

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 15 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 16/52

A1. The President, Members, waiting Member, ~~JA,~~ if any, and Offrs under ~~instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected(2) to be tried by court-martial instead of being dealt with summarily by the CO.(3)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~
~~The Interpreter is sworn.(1)~~ ~~Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	P.E. LAMBERT	FD A.R. II CORPS RCA
Member	CAPT	D.F. SCOTT	2 CDN A.G. OFF
Member	CAPT	S. ROY	2 CDN INF DIV
Judge-Advocate			
Prosecutor	LIEUT	J.H.E. CARON	2 CDN A.G. OFF
Defending Offr	LIEUT	D.R. CANADICE	2 CDN A.G. OFF

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1, p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ..... (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A Hqs Eng 66

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to all charges, use second alternative in para D8.) or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will thereto, or,* (iii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 90(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witness by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MAML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MAML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO .....(1)
(1. *If "YES", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ charge(s).(2) ~~The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. I'LL GIVE EVIDENCE AND UNSWORN. Do you intend to call witnesses on your behalf ?
Ans. YES. Are they witnesses as to character only ? Ans. SOME AS TO FACTS AND CHARACTER.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E. of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 3. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 109, 1957, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. D.57681, Pte (A/Cpl) Maxime Gravel, 14 Canadian Auxiliary Services Section attached to 16 Canadian General Hospital RCAMC, a soldier of the Canadian Army Overseas, is charged with:-

SEC 40 ARMY ACT

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on or about 16.15 hrs. 19 Oct 44, being the driver in charge of Auxiliary Services Vehicle No. CL/4251350, did leave said vehicle unattended and did neglect to immobilize same in accordance with Canadian Army Overseas Routine Order No. 3825.

J.F. Hazzard

(J.F. Hazzard) E.D., Colonel
Officer Commanding,
16 Canadian General Hospital

To be tried by Field General Court Martial.

E.L.M. Burns

(E.L.M. Burns) Maj-Gen
OIC
Cdn Sec GHQ 1 Echn - 21 A Gp

In the Field
10 Dec 44.

I

15 Dec 44
M

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-57681	Pte	(A/Cpl	Maxime	GRAVEL	14 Cdn Auxiliary Services Sec att 16 Cdn Gen Hosp RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Dec 44 endorsed by me, ~~xxxxxxxxxxxxxxxxxxxxxxxx~~, "To be tried by Field General Court-Martial". EdB

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~ EdB

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ EdB

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ EdB

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	P.H. Lambert	Fus MR, 11 CBR Bn
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt or Lieut (to be detailed by OC 11 CBR Bn)

Capt or Lieut	(to be detailed by OC 11 CBR Bn)	
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lieut	(to be detailed by OC 11 CBR Bn)	
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

------	--------	-----
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

E. Lee Burns (Signed personally. RP 105 fn 2.) (E.L.M. Burns)

Maj-Gen (Rank.)

Dat 15 Dec 44

Commanding OIC Cdn Sec GHQ 1 Ech - 21 A Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 96 (In lieu of AFA 9) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Approved
[signature]
Major
DJA

NO. 16 CANADIAN GENERAL HOSPITAL, RCAMC

16G 1-1-6

[redacted] Dec 44

I HEREBY CERTIFY THAT I HAVE THIS DAY EXAMINED D.57681 PTE.(A/CPL). GRAVEL, M. AND IN MY OPINION HE IS FIT TO UNDERGO TRIAL BY COURT MARTIAL.

T. J. Fox Major

MEDICAL OFFICER

12 Dec 1944

DATE

HH/lms

First Witness for Prosecution

Q. Give your name, Rank & occupation?

A. I am H/capt A.V. Russell C.C.S., Chaplain, att to 16 Cdn Gen Hosp. I am the Educational offr for this unit.

Q. Will you tell all you know in relation to the accused?

A. Under instructions from Col Hasgard I organize ~~trip~~ Educational trips to different pts of interest. A trip was arranged for a party of 22 N/S to visit Vimy Ridge & city of Lille on the afternoon of Oct 19. 1944. We left at 1230 hrs & after a short visit to Vimy Ridge we ~~proceed~~ proceeded to Lille. The veh used was a 60 cwt Ang Services truck. This veh was parked on Rue de Malmel, Lille, immediately outside Hotel de Moulin Wear. The time was 1615 hrs & I warned all personnel that they had to be back by 1645 hrs. I then spoke to the driver, Cpl Gravel, & said "If you leave the truck be sure and do something to it" after that I went down the St to make a few purchases and the ~~dr~~ dr spoke to me outside the drug store. I returned to purchase some fruit, passed truck about 1630 hrs. Went around corner to toilet - returned in a few minutes and found the truck had disappeared - Ptes Sinclair & Owens came out of a Cafe near by & spoke to me saying "Where is the truck". I assumed that Cpl Gravel had driven it away. I am not sure if I saw the two ptes Sinclair & Owens at 1630 hrs or when I noticed the veh had disappeared. Somewhere around 1645 hrs the first N/S turned up By 1655 hrs nine N/S had returned. Cpl Gravel

came up the street and immediately asked "Where is my truck". He spoke to a French Gendarme but got no information. Then proceeded to Grand Place is see a provost. I know that ~~pte~~ Cpl. Gravel had trouble with the switch of his truck.

Q. Were you in charge of personnel of veh incl driver?

A. Yes, I was.

Q. Did you make sure on your instructions to do something to veh, that the driver followed your instructions?

A. No.

Cross Examination

Q. Can you produce written authority for the trip to Vimy & back to St Omer via Lille?

A. There was no written authority for any of these trips. Col Huszard arranged with the Aux Services Offr for the use of his truck.

Q. When you ~~asked~~ told Cpl Gravel to do something to the truck, what was his reply?

A. There was a lot of confusion and there was no reply.

Questions by President

Q. Did you tell Cpl Gravel to do something to veh or ~~demobilize~~ Demobilize it?

A. To do something to it.

Q. With all the confusion going on, in your opinion could it be possible for Cpl Gravel to misunderstand you?

A. There was a tremendous confusion and it is possible

that he did not hear me attempt to - he looked at me.

2nd Witness for prosecutor.

I am Supvr J. W. Johnston, 14 Cdn aux Serv Sec, attached to 16 Cdn Gen Hosp.

A 1. Questions by prosecutor.

Q. 1.- What do you know of this tour of inspection?

Ans 1.- I had given permission to lend the truck by the C O's demand. The Padre was in charge of the party and this being the fifth tour. I personally gave the driver permission to drive the said party. I for the losing of the vehicle I was not there and do not know anything about it.

Pte Gravel in under me I must say. He his my truck driver and also my mechanic projector he also works in the canteen and his a No 1 man. He has been doing me a very good job.

B. Questions by the defense.

Q. 1.- When the padre asked for your veh what it for a half a day

Ans 1.- Yes.

Q 2.- Was Lille mentioned?

Ans 2.- No.

Q. 3.- Do you consider Lille to be out of the way to come back?

Ans 3.- Yes, I consider it.

C. Questions by the Court.-

Q. 1.- Is a/Cpl Gravel under your responsibilities

Ans 1.- Yes, he is.

Q. 2.- What are the instructions given to your driver?

Ans 2.- He is an army driver and rules are the same.

Q. T. O.-

Q. 3.- Have you ever given instructions to your driver as per R.A. 1125.-

Ans 3.- No, sir.

Q. 4. - How long as he been with you?

Ans 4. - About 6 mths and very dependable.

3rd Witness for prosecutor

I am L100541 Pte Sinclair I. M.
16 Cdn Gen. Hosp. Clerk.

Q. 1. What do y

Ans 1. I proceeded to Lille with the main tour at proximately 1630 hrs I met N/S Burns she informed me that they were on a tour and possibility for me to ride back in their veh. She told me where the veh was parked. I proceeded around there & found the veh. There was no body around the veh around 1645 hrs. We went in the cafe on the same of side of the street where the veh was park. When I came out from the cafe the veh had disappeared about 7 mts later. I then proceeded to the grd park to see if I could find the veh. Not seeing any of the party I returned to the spot where the truck was park & found Capt Russell & Cpl Gravel & also a few of N/S talking of where abouts as the truck. I came back with the requisition transportation & with the grp. That is all

Defense questions.

Q 1.- When you were told where the truck was & found the veh did you go up to it to see if anyone was in it.

Ans 1. He went to the front

Q 2. Can you tell if anyone was sitting in the back of the truck.

Ans 2. No, sir.

~~Questions by the court.~~

Q.

Defence

First Witness:

Q. Give your number, Rank, Name?

A. D 57681 A/Cpl W. Grant

Q. Have you ever had trouble starting your veh?

A. Yes sir. I have trouble with the starter switch.

Q. Do you know what to do to remedy this defect?

A. Yes sir.

Q. Has anyone else to your knowledge tried to start your veh?

A. Yes - Cpl Gannon + Pte Holland

Q. What happened when they tried to start your veh?

A. Cpl Gannin could not start my truck and had to get me to start it. I showed him how to work the switch.

Q What happened when the other pte tried to start it?

A. Pte Holland was the one that showed me how to start the ~~trouble with~~ my truck. He descovered the loose connection in my switch. Cpl Gannin tried to start my truck later.

Q. Does this happen everytime you want to start your veh?

A. Yes sir.

Q. Do you consider this fault a means of immobilizing the veh?

A. Yes sir!

Q. When you left the ruh in Lille, where did you go?

A. I went to the drug store to buy something for my teeth

Q. Did you hear Capt Russell say "No some thing to the truck".

A. No Sir.

Q. Did you in your own mind feel that the ruh towed the rope?

A. ~~In my idea I felt that~~

A. Yes Sir. It was always necessary to jug with the wires to get the ruh going, so I considered the ruh quite easy.

Cross. Examination

Q. Have you reported the defect in your starter switch to the unit garage?

A. No, because I always felt my truck was immediately immobilized once it came to a halt and I could readily fix it myself.

Q. During the time you were in charge of this truck did you always have trouble with the starter?

A. Yes sir.

Second Witness

Q. Give your name Rank, number, & pron?

A. E 14193 Cpl Gauvin L. cpl. in charge Tpt 16 Cdn Gen Hospital.

Q. Do you consider Cpl Gravel a good driver?

A. Yes Sir.

Q. You had occasion to try to start his veh?

A. Yes, several times.

Q. Would it start for you?

A. One day I tried to start it but couldn't and I had to get Cpl Gravel to start it.

Q. You knew that Cpl Gravel was using this means to immobilize his veh?

A. Yes. It was a good idea.

Q. Do you as Cpl of Tpt here feel that this fault is a secure means of immobilization of that veh?

A. Yes Sir.

No Questions by prosecution.

2nd Witness for defence.

I am, K89509 L/Sgt Scott. R.G. from the 16 Cdn. General Hospital, orderly.

Qn 1.- Have you ever been on a trip with Cpl Grand.

Ans 1.- Yes, sir.

Q. 2.- Did you know that he had trouble with his switch.

Ans. 2. No, sir.

Q. 3.- What position.

Ans 3.- In the back of the veh.

Q 4.- Was the truck cared for properly

Ans 4.- To my knowledge there was somebody around the truck at Armiance at all time

Questions by the prosecutor

Q 1.- Did you recognize people around the truck?

Ans 1.- There were people of that I recognized from the trip.

Fourth Witness

Q. Give your number, Rank, name, & occupation?

A. H101648 Pte Purdie K.C. nursing orderly at 16 Cdn Gen Hosp.

Q. I understand that you were on a trip with Cpl Gravel?

A. Yes.

Q. Tell the court ~~about~~ in detail, as to what happened ~~when the wh stopped~~ at Halts on that trip?

A. We went on a trip to Amiens and Vimy Ridge. We went into the Cathedral at Amiens. On coming out of the Cathedral, I was first out, ~~—~~ I went next door and bought some souvenirs. I then went over to the truck to see whether we were going to have dinner or not and Cpl Gravel was the only one there. I asked him if he was going into the church or not, and he replied that somebody had to look after the truck, and asked me if I'd mind ~~[illegible]~~ staying around until he came out.

~~[illegible]~~

6th Witness for the Defence as to Charac Ser

(J. F. Hazzard) E. D. Colonel.

Officer Commanding

16 Canadian General Hospital.-

Cpl Gravel has been "Dis Ser" N.C.O. since I took command of this Hospital he has not given me any disciplinary trouble in that time & is an excellent N.C.O. who I ~~he was~~ has given all cooperation to the unit.

Closing address by defence

Mr President & Members of the court:

Cpl. Gravel has had a clean record until this misfortune. I think that we have proven to everyone's satisfaction that this novel way of immobilizing a veh was just as good if not better than merely removing the rotor or high tension cable. It is a well known fact that people interested in stealing vehs carry those two types of equipment with them. At the time of visiting Lille Oct 19 there was no military car park and ~~pr~~ Cpl. Gravel felt that in his own mind that his veh was perfectly safe where he had parked it.

Closing address by prosecutor

The accused after having heard the witnesses t story on what what going on this veh. He had always carry out good orders. But if he was a very good soldier, a specialist should always have different ways to be at all time completely sure that no one can used his veh under his control. I mean to say if their trouble of on this veh but their should have been an other way to immobilize his car. Especially to day everyone knows how to remediate such situation. If he had another way of immobilising his veh he probably would to day be on duty with the same veh.

Summary of Evidence in the case of D.57681 A/Cpl Gravel, M., 14 Cdn. Aux. Serv. Sec., attached to 16 Cdn. General Hospital, C.A.O., charged with leaving vehicle No. CL/4251350 unattended and failing to immobilize same in accordance with C.A.R.O. 3825 (A.A. Sec. 40).

The accused demands that the evidence be taken under oath.

FIRST WITNESS

Supervisor Johnston, J.W., 14 Cdn. Aux. Serv. Sec., attached 16 Cdn. General Hospital, sworn, states:

"At St. Omer, France, the Auxiliary Services vehicle, a Ford 3-ton Truck, No. CL/4251350 was on the strength of 14 Cdn. Aux. Serv. Sec. attached to 16 Cdn. General Hospital for auxiliary service duties. On or about 9 Oct 44 Col. J.F. Hazzard approached me for the loan of this vehicle for the purpose of educational tours for hospital personnel and I acceded to the request. I did not accompany any of the trips which were made under the direction of Capt. A.U. Russell as Educational Officer but several trips were made and Cpl. M. Gravel, my Auxiliary Service driver, was the driver in each instance. He was a qualified driver i/c and had been driving for me about eight or nine months. He was a careful driver and kept the truck in good condition. The fifth trip of the series was made on 19 Oct 44 and Cpl. Gravel, when he returned around 22.00 hrs. that day reported to me that the truck was lost."

Cross-examined by accused

Q On other trips made with my own officer did I ever leave the truck alone?
A No. We always arranged between us to have someone stay around.

Q On other trips was immobilization of the truck required?
A No. We had formed the habit of one of us always staying with it.

.....J.W. Johnston.....

SECOND WITNESS

H/Capt. A.U. Russell, Cdn. Chaplain Service, att. 16 Cdn. General Hospital, sworn, states:

"At St. Omer, France, I left 16 Cdn. General Hospital with a party of 21 sisters and Asst/Matron Leith at approximately 12.50 hrs. 19 Oct 44 on an Educational tour to Vimy Ridge and the city of Lille. I went with the party myself and with Cpl. M. Gravel as driver. The vehicle used was the Auxiliary Services truck, a 60 cwt. We arrived in Lille, parking on the Rue de Malinel outside the Hotel de Moulin d'Or at 16.15 hrs. I notified all concerned to return by 16.45 hrs. I spoke to the driver saying, "If you leave the truck be sure you do something to it." I then went down the street to make some purchases. I stopped at the corner of Rue St. Genois, bought some fruit and returned in about 10 or 15 minutes time. The truck was still in place and I passed on around the corner to where there was a toilet. Returning in a few minutes I noticed the truck had disappeared. Two men from the Unit, Ptes. Sinclair and Owen had been near the truck when I first passed. When I returned they came out of a cafe and asked "Where's the truck?". I replied that I thought Cpl. Gravel had taken it somewhere. Presently the sisters began to gather and about 8 or 9 had arrived when I saw Cpl. Gravel coming up the street and he at once said "Where's my truck?". We now realized that the truck had been stolen and, after telling the sisters to remain where they were, Cpl. Gravel and I proceeded to look for a provost. We went to the Grand Place where I informed the British Provost of the loss of the truck. I then brought the sisters to the Grand Place and left them with the provost. I went to the Town Major's office and was directed from there to the Garrison Commander. Here the full particulars of the incident were taken and transportation for the return of the party to St. Omer was provided. The next day Col. J.F. Hazzard, Supervisor J.W.

See Page Two

SECOND WITNESS (Cont'd)

Johnston and myself with the driver, Cpl. Gravel, journeyed to Lille and made sure that the proper authorities had been informed of the loss of the vehicle. That is all."

Cross-examined by accused.

Q What answer did I give when Capt. Russell asked about doing something to the car?
A There was no answer. There was much confusion and conversation generally among the sisters at the time.

Q Did we not leave the truck together after the sisters had all left?
A No, we did not leave together, but we did meet outside a Chemist shop on Rue de Malinel. My early return to the truck was partly due to my uneasiness at the truck being left.

Q On that trip were we only supposed to go to Vimy Ridge and return?
A No, it was advertised on typewritten notices as Vimy and Lille, although I considered that a lot for one afternoon. Rather than disappoint the sisters we went through the trip as advertised.

Alfred H. Russell
Capt

THIRD WITNESS

L.100541. Pte. Sinclair, I.M., 16 Cdn. General Hospital, RCAMC, sworn, states:

"Sir, on 19 Oct 44, I accompanied the mail run to Lille in the morning and spent the day shopping and sightseeing. In the late afternoon at approximately 16.30 hrs., I met W/S Burnes near the station and she informed me that she, in company with a group of nursing sisters, were on a tour and were expecting to return shortly to St. Omer. Intending to get a ride home if possible I asked where the vehicle was. Following her directions I found the vehicle which was the Auxiliary Services lorry and as there was no-one belonging to the party about I went to a cafe on the same side of the street as the vehicle was parked. Upon emerging from the cafe approximately 7 minutes later, that would be about 17.00 hrs., I again looked for the vehicle and found it gone. Pte. Owen, D.L., was with me throughout the day. That is all."

Cross-examined by accused.

Q The first time you saw the truck did you see Capt. Russell?
A No, I did not.

Q After you saw the truck did you then go the cafe?
A Yes, immediately.

Q When you came out, was there anyone about?
A No-one belonging to the party.

I M Sinclair

The accused was cautioned as follows:-

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The caution was repeated in French as follows:-

Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

See Page Three

A I think I will not make any statement now.

The accused here begs to recall H/Capt. A.U. Russell and to call four additional witnesses.

SECOND WITNESS (Recalled)

H/Capt. A.U. Russell, Cdn. Chaplain Service, attached 16 Cdn. General Hospital, sworn, states:

Cross-examined by accused.

Q Do you recall that I ever had trouble starting my truck?
A Yes. I recall passing a remark after the truck was stolen to the effect "How could they ever have started it?" I was referring to trouble with the switch which I had noticed before.

.....Alfred U. Russell.....
H/Capt

FIRST WITNESS called by the Defense

K.89507, Sgt. Scott, R.G., 16 Cdn. General Hospital, RCAMC, sworn, states:

"I was on an educational trip to Amiens and Vimy conducted by Capt. Peto and Cpl. M. Gravel was the driver. That would be about a fortnight before the truck was lost. On that occasion there was someone in or close to the truck at all times to the best of my knowledge and belief. That is all."

.....R. G. Scott.....

The accused declined to cross-examine this witness.

SECOND WITNESS called by the Defense

H.101648, Pte. Purdie, R.C., 16 Cdn. General Hospital, RCAMC, sworn, states:

"Sir, I was on a trip to Amiens also taking in Vimy Ridge early in October and while at Amiens at the Cathedral we all went into the church and I think I was first out of the place and I went and bought some souvenir cards outside and went over to the Truck waiting for the others to see if they were going to eat or not. Cpl. Gravel, the driver, asked me if I would keep an eye on the truck while he looked at the Cathedral as he said the truck must not be left unguarded. When the others returned we all had our haversack lunches right at the truck. Pte. Taylor and I helped to serve out the lunches. Cpl. Gravel had returned. That is all."

R.C. Purdie.....

The accused declines to cross-examine this witness.

THIRD WITNESS called by the Defense.

B.66744 Pte. Bell, M.E., 16 Cdn. General Hospital, RCAMC, sworn, states:

"Sir, I was on an educational tour to Ypres, Armentieres and Vimy Ridge about a week before the truck was lost. We stopped at

See Page Four

THIRD WITNESS (Cont'd)

Armentieres for lunch and I guarded the truck for half an hour there and was relieved by the cdriver, Cpl. M. Gravel."

Cross-examined by accused.

Q Was the truck attended at all times during that trip?
A Yes, it was guarded at all times.

Pte. M.E. Bell

FOURTH WITNESS for the Defense

Lt. (N/S) Burnes, M.A., 16 Cdn. General Hospital, RCAMC, sworn, states:

"Along with about twenty-one other sisters I went on an educational trip to Vimy and Lille on 19 Oct 44. We left immediately after lunch and went directly by Bethune to Vimy Ridge, stopping first at the trenches and then at the Memorial. The driver, Cpl. M. Gravel, helped the other sisters out of the vehicle and remained with it. I recall offering the Cpl. some coffee from my thermos and also remember some R.C.A.F. boys speaking to him about a lift to Lille, while we were halted there. It was not possible to grant this as we had a full load. On arrival at Lille three other sisters and I went for coffee near the railway station and afterwards, just around the corner, we met Pte. Sinclair and another man from our unit and told them where the vehicle was parked."

Cross-examined by accused.

Q Did I leave the truck at all while at Vimy?
A No.

Muriel Burnes
Lieut

I certify that the foregoing Summary of Evidence, consisting of Eleven pages, was taken down by me in writing in the presence and hearing of the accused and that R.P.4 (c), (d), (e) and (f) have been complied with.

H.A. Robertson

(H.A. Robertson) Major, RCAMC,
16 Cdn. General Hospital

In the Field
25 Nov 44

STATEMENT BY ACCUSED

I hereby respectfully request that an officer be assigned by the Convening Officer to represent me at my trial.

M. M. Gravel
Maxine Gravel
D.57681 Pte.(A/Cpl)

29 Nov 44

UUU-132

Gnv. Gravel, O. F.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-14530 Gnr Ovide Felician GRAVEL, RCA, 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 12(	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn b.)

~~To undergo imprisonment for~~ to be dealt with as hereinafter stated (1)

Time in confinement awaiting present trial—a total of 13 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on AF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of two years.

(Sgd) F.E. Pearlman — Judge-Advocate, if any. — 26 Aug 44 — Date awarded. — (Sgd) W G A Lambe Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding ____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the sentence be promulgated as follows:~~ ~~I do not confirm the finding of guilty on the charge~~ ~~I do not confirm the sentence~~ ~~I do not confirm the finding of guilty on the charge and I do not confirm the sentence~~ (1. AA 57A. Delete if not used.)

(Sgd) G Francoeur

Date 30 Aug 44 — Commanding 2 CBRG — Brig — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-14530 Gnr Gravel O.F. X-4 List 12 Bn 2 CBRG.	31 Aug 44	A.A. Hood Lt-Col OC 12 Bn 2 CBR Group.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CMHQ-132

CPMS (Ottawa) 40-P.M.S./1898 (4038)

FIELD GENERAL COURT-MARTIAL

4388

~~Convened~~ by Order of Brig G FRANCOEUR Comd 2 CBRG dated 24 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
D-14530	Gnr	Ovide Felician	GRAVEL

RCA, 12 CBR Bn

CERT. FIRST TRUE COPY
(Sgd) MAJOR O.I.C.
Con Sec GHQ 2 Echn 21 A Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 26 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 1/35

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Comments do NOT include all relevant hints RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 48, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1000 hours trial commences.

E 2 P A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor produces a Medical Certificate that accused is not fit to undergo trial by court-martial and applies for special reasons that accused be dealt with summarily.~~

E 2 P (1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to be tried by me as President or by any of the Members of the Court?~~ Do you object to be tried by officers of less than 5 yrs service?

The Interpreter is sworn.(1) Do you object to K-70650 Sgt DAVIE J.E. shorthand writer? Ans No The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 58(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.G.A. LAMBE	CAC	9 CBR Bn
Member	Capt	K.E. Johnston	RCA	12 CBR Bn
Member	Lieut	W.F. DAIE	CLC	11 CBR Bn
Judge-Advocate	Capt	F.E. PEARLMAN	ADJA	HQ 2 CBRG
Prosecutor	Lieut	K W SUMBULL	RCA	12 CBR Bn
Defending Offr	Lieut	J C COTE (R de Rois)	CLC	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DF p 3.)

A8. The accused D-14530 Gnr GRAVEL O.F. before arraignment make(s) (no) (a) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourns~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG W.D. 162

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*E*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No sir.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (a) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defence (Offr) submits that the evidence for the Prosecution does not disclose a prima facie case against the accused on the charge(s)(2) The Court [illegible] charge(s) and considers this submission [illegible] and the President announces that the Court finds that the submission [illegible] charge(s), and allows the submission [illegible] charge(s), and allows the submission [illegible] the trial will proceed on the charge(s) on which the accused is (are) found Not Guilty on [illegible].(3)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I wish to make a statement on oath.(5) Do you intend to call witnesses on your behalf ? Ans. No Sir.....(6)
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(D). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces that the finding, of Not Guilty, is (are) to the accused that the finding(s) on the.....charge(s) is (are) subject to confirmation, will be promulgated later.(1)
(*1. AA 54(7) (6), RP 45, 120(A). 2. RP 34(2), RP 45, 120(A). Alternative announcement is not appropriate when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A..... and Ex B..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No Sir.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything hers or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its appeals, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 162, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under a sentence of imprisonment or detention see AA 44(18), 68(2), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see insins on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

W B A Lamb Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
D-14530	Gnr		Ovide Felician	GRAVEL	RCA 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 24 Aug 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable that the trial for reference to a superior qualified offr~~.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form a~~ Court, (b) ~~a Fd Offr as President, for the reasons I have attached hereto~~.
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W.O.A. LAMB	CAC 9 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 11 CBR Bn	11 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E E PEARLMAN,	ADJA HQ 2 CBRD

On Active Service in the Fd

in FRANCE (*Country.*)

G Francoeur (*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

(G. Francoeur)

Date 24 Aug 44

Commanding 2 CDN BASE RPT GP.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (*See overleaf for oaths and notes for use on trial.*)

988.

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D-14530 Gnr Gravel, O.F. and in my opinion he is fit to undergo trial by Court-Martial.

Station - Field
Date - 26 August 44.

"D.Noble" Capt
Medical Officer
(Unit) 12 CBRB

CHARGE SHEET

D-14530 Gunner GRAVEL, Ovide, Felician, 12 CBRBn, No 2 Canadian Base Reinforcement Group, a soldier of the Canadian Active Army, is charged with WHEN ON ACTIVE SERVICE,

First Charge
AA Sec
12(1)(a)

DESERTING HIS MAJESTY's SERVICE

in that he

In the field, on the 12 August 44, having been warned to proceed for service in the field of operations, with intent to avoid so proceeding absented himself without leave from 1730 hours, 12 August 44, until 2130 hours, 12 August 44.

(Absent 4 hours)

In the Field, FRANCE

..23..... August 44

"A.O.Hood" Lt-Col
(A.O. HOOD)
Commanding
12 Cdn Base Rft Bn, 2 CBRG.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

" G Francoeur"
(G. Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
24 Aug 44

FIRST WITNESS - For the Prosecution. Duly sworn.
Capt P M BROWN, RCA, 12 CBR Bn

Q.1 Capt Brown, you are commanding 56 Coy, 12 CBR Bn?

A.1 Yes

Q.2 As such you were the CO of the accused?

A.2 Correct

Q.3 Will you tell the Court what took place between you and the accused with reference to the draft which proceeded at 1730 hrs 12 August 44?

A.3 On the 12 Aug 44 I was required to make up a draft to go to the field. It was necessary for me to put Gnr Gravel on this draft as the draft called for x Driver MechanicsAFV in a greater number than we could supply. Gravel holding this qualification was named for the draft. On Gn Gravel being informed that he was on the draft he requested to be paraded to me and at approx 1430 hrs 12 Aug 44 he was paraded and requested that he be taken off the draft.

He requested to be taken off the draft as he did not wish to go to a unit equipped with tanks. I informed him that it was necessary for him to be on this draft as there were no other personnel in the Coy sufficiently qualified to take his place.

He asked me what type of equipment the unit he was going to was equipped with and I explained it to him to the best of my knowledge. He stated that he did not wish to drive tanks, he had seen a number of them burned in the field and that travelled right up with the infantry. I informed him that his personal wishes could not be granted that he would have to go forward with this draft and he then stated that he would not go.

I called BSM Shepherd and BSM King as witnesses and officially warned him that he was warned for draft and that the draft would proceed at approx 1700 hrs 12 Aug 44 and if he was absent from the parade he would be subject to a charge of desertion. I then told the SM to march him away.

Q.4 Was there any other conversation between you and the accused before you told the SM to march him away?

A. 4 Nothing in relation to the accused.

Q. 5 This accused is a French Canadian is he not?

A. 5 Yes, I asked the accused if he understood my English and he stated, "Yes, fairly well."

Q.6 Did you have any difficulty making yourself understood as to what kind of equipment the unit carried?

A.6 No Sir.

Q.7 Did he have any trouble making himself understood?

A.7 No he was a little exited but all he emphasized was that he did not want to drive a tank.

At the parade at 1730 hrs 12 Aug I was present when the role was called. Gravel's name was called twice and he did not answer his name. The draft proceeded without him.

Q.8 This Coy that you comd is a straight reinforcement coy?

A.8 Yes sir, and subject to reallocation all X4 are subject to be posted to the field of which Gravel was on X4 list.

Q.9 How long had he been with your Coy?

A.9 At least two weeks, I am not sure of the day.

Cross-examined by Defending Officer

Q.10 Can you tell me why Gnr Gravel was returned to your unit?

A.10 I cannot say anything for certain. Gravel to me was just a straight reinforcement available for posting to the field.

Q.11 Was he not posted to a definite battery?

A.11 Gravel, since he has come to my coy, has been field or medium reinforcement.

Q.12 Was he not supposed to go to a certain medium bty?

A.12 There are nobody detailed for any regiment or any battery.

Q.13 Do you know how long Gravel has been in France?

A.13 No.

Q.14 Another thing - when you had the conversation with Gravel about refusing to go, he did not state that he would not go?

A.14 Normally it is not the practise to give an official warning but it was done in this instance because of his refusal.

Q.15 Did he ask you whether he was paid as a driver mechanic of wheeled vehicles?

A.15 He said,"I am receiving trades pay as a Dvr Mech Wheeled." I told him that it did not matter, that hewas a qualified Dvr Mech AFV having been trades tested as such.

Q.16 Did he say that while you were discussing tanks and you say that he has asked you information about the gun and different equipment that you have in Artillery. Have you such a thing as a 95 mm?

A.16 Yes.

Q.17 Did he say that the tanks were travelling in front of the infantry or up to the infantry?

A.17 He has questioned me before - he either said that the tanks were up with the infantry or in front of the infantry. He said one or the other I am not sure.

Q.18 He mentioned that he had seen a hundred tanks burned?

A.18 He said that he had seen at least 100 tanks burned and would not have any part of it.

Defending officer - That is all I wish to ask.

Prosecutor does not wish to re-examine.

The Witness withdraws.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B).

SECOND WITNESS - For the Prosecution
D 6096 BSM SHEPPARD J W,RCA, 12 CBR Bn. Duly sworn.

Q.19 Do you know the accused?

A.19 Yes Sir.

Q.20 What is his name?

A.20 Gnr Gravel.

Q.21 The accused is charged with deserting in the field on the 12th of Aug 1944. Can you give any evidence on that charge?

A.21 On the 12th Aug, 1944 at approx 1430 hrs Capt Brown called me over to witness of warning for draft of Gnr Gravel. I witnesses that warning.

Q 22. Where did this take place?

A.22 At the Coy Orderly Rm.

Q.23 And Capt Brown warned him in your presence, would you give an outline of that warning?

A.23 I do not remember the exact words but it was to the effect that I hereby warn you for draft and notified the date he was going off and informed him of the approx time.

Q.24 What time did the warning take place?

A.24 1430 hrs.

Q.25 Did Gnr Gravel say anything after Capt Brown had warned him?

A.25 He said he did not wish to go.

Q.26 He made that clear?

A.26 He made that clear sir.

Q.27 Was there any other conversation?

A.27 No sir, I do not remember any other conversation.

Q.28 After this warning did the draft leave?

A.28 The draft was paraded at approx 1700 hrs and at 1730 hrs on 12 Aug 44 I called the role. I called Gnr Gravels number, rank and name twice and he did not answer.

At approx 2130 hrs 12 Aug 44 it was drawn to my attendion that Gnr Gravel was in the Coy lines.

Q.29 The draft left at the time it was called for?

A.29 Yes sir.

Q.30 How long had Gnr Gravel been in the 56 Coy?

A.30 About a week or ten days sir.

Cross-examined by Defending Officer.

Q.31 Do yOu know why Gnr Gravel was returned to 2 CBRG?

A.31 No.

Q.32 There is no record of his previous service.

A.32 Not as far as I know.

Q.33 Did you hear him say that he refused to go in this particular draft?

A.33 Yes sir he actually refused.

Prosecutor does not wish to re-examine the witness.

Withness withdraws.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

That is the case for the Prosecution.

The accused, D-14530 Gnr Ovide Felician GRAVEL, RCA, 12 CBR Bn having been duly sworn states:

I was sent back. I was in the 13th Fd and I was in the 22nd Bty and I was sent back as unsatisfactory for my services which the Sgt told me. Well I was in action since D day and I had quite a little argument with my Sgt and he told me that he would send me back in the first chance he had. We pulled out for a rest and he sent me back. I lost all my friends. I felt pretty sore about it. I wanted to go with my friend as he was on draft and they sent me back to 2 CBRG. From there I spoke to BSM Sheppard and I asked to be transferred to a French regt Medium as I did not seem to get along with any other regiment or English instructors. He told me he would try everything he could and he came and told me I was transferred to a Medium. He took me with my kit to the Medium lines. A couple of days after then got me on the tank unit. Then I asked to be paraded to Capt Brown and I told him that I had applied to go to the Medium and I was in the Medium and I wanted to go to the French Regiment. I said I did not want to go to a tank regiment as I did not know enough about it. I would not be any good and that is so.

Capt Brown told me I was yellow as I did not want to go into a tank. I told him if he saw 100 burning tanks he would be yellow too. He called me for warning for draft and told me that I would be an absentee or deserter if I did not go. I told him I still will not go, I will be in the camp in the other lines, it is no use I will not go on that draft. When they called for the draft I was on the other side of the lines I did not want to be there as I was kind of nervous. At the time RSM Sheppard put me under arrest I happened to be not very far from our office talking to the boys and he came for me and put me under arrest.

That is part of the story.

Questioned by Defending Officer.

Q.34 You are a driver mechanic wheeled?

A.34 Yes sir.

Q.35 And AFV, it is marked in your book?

A.35 Yes sir, the last course I had.

Q.36 When did you have this course?

A.36 Last November.

Q.37 How many hours driving experience did you have?

A.37 3 hrs.

Q.38 What else did you do during this course?

A.38 One week filing, two weeks lecture, one week in the field during which we broke the track and greasing and doing all kinds of light maintenance and our Sgt instructor showed how to drive and put in 2nd gear.

Q.39 When did they register your qualifications in the book? After three hours driving?

A.39 Yes sir.

Q.40 Then you came back to the RU.

A.40 No 1 CARU.

Q.41 What kind of work were you employed in? Were you driving tanks ?

A.41 No, I never drove a tank I just did fatigues and cleaned up around

Q.42 Just before D day you were drafted to go on to the 13th Fd Bty?
A42 Approx one week before D day.

From there they sent me to the 15th Fd and sent me out right away I did not even have a chance to drive the tank. I told the Major that I did not know anything about it and then they sent me back to 2 CBRG. They sent me there on a draft and I wanted to go with my friend.

Q.43 You came to France on D day?

A.43 D plus 2. One of the Officers came along and asked me if I knew anything about tanks. He took me and explained to me what to do and said for me to do my best. He was not satisfied and did not want to keep me.

Q.44 What happened when you came to a corner?

A.44 I had to stop and back up. The Sgt said I should be able to turn the corner without stopping and backing up as the other drivers did.

Q.45 How long have you been in the Army?

A.45 4 years and 6 weeks and I have always been a motor mechanic.

Cross-examined by Prosecutor

Q.46 Gravel you have been in the Army 4 years and 5 weeks - you are a volunteer?

A.46 Yes sir.

Q.47 You know that in the Army you are supposed to do what you are told and for 4 years and for approx 5 weeks you did what you were told. You have not had any trouble in the Army, you have obeyed your orders?

A.47 Yes sir.

Q.48 And you have just stood up and told the Court that you would not go and in a defiant way you told Capt Brown?

A.48 Yes sir, I will have to explain why.

Q.49 You know that in the Army your personal wants and desires do not count?

A.49 I thought I could do a little bit about it. I volunteered as a motor mechanic. I figured to fight by doing my own work and doing something I am sure about. I want to fight by doing my trade. That is one way to fight is it not sir?

Q.50 You refused in a defiant manner?

A.50 Because I was not sure of myself I did not want to take the responsibility and cause the loss of some other fellows lives. I do not care about myself I am nothing but the other fellows lives are precious lives. I did not want to go and make a mess of the whole thing.

Q.51 What made you think you would cause the loss of life?

A.51 Because I could not handle a tank properly.

Q.52 You were sent on a draft from England. Did you raise any objection there?

A.52 No sir.

Q.53 You did not object the first time?

A.53 No sir, I wanted to go with my friend.

Q.54 You landed on D day and you have seen a lot of dead men lying around and equipment lying around?

A.54 Yes sir.

Q.55 You have had a few close shaves yourself?

A.55 Yes sir but not to scare me.

Q.56 You did not raise any objection the first time?

A.56 No sir, I asked for it I wanted to go with my friend to help. They were looking for men for the draft and I wanted to go.

Q.57 You have told the Court that the reasons you did not want to go were:

(1) That you wanted to go to a Medium Regiment and that RSM Sheppard had promised you you could go there.

(2) The reason that you have told the Court in answer to a question asked by me is that you are not qualified as a driver of a tank and so might endanger the lives of your partners.

I submit that you have a third reason.

A.57 I just want to point out that I have a heart. When I am pushed around one place I dont wish to go back I like to give satisfaction. I never go back where I am kicked out. I never did on "civy" street.

Q.58 What regiment were you going back to on this draft?

A.58 It was a tank regiment as I figured out. I told Capt Brown that I would do anything except driving a tank.

Q.59 You said that Capt Brown told you that you were yellow and that you replied in words to this effect, that you would be yellow if you too saw 100 tanks burn?

A.59 I told him that because I am not yellow.

Q.60 Have you seen 100 tanks burn?

A.60 I have seen many.

Q.61 Did these burning tanks have any reason for your not going up there?

A.61 No sir, I had seen them burned before I got up there.

Q.62 You had never seen a tank burn yourself before going up there?

A.62 No sir.

Q.63 For the various reasons you have given you said you would not go?

A.63 Yes sir. I never mentioned anything about going sir, I said to a tank unit.

Q.64 What do you call a tank unit? Not a self-propelled unit?

A.64 It is a unit with a gun that operates as artillery.

Q.65 What unit were you going to?

A.65 He told me it mounted 95 mm gun - it is a tank unit

Defending Officer - All Gravel ever did was drive a truck he has never even been qualified as a gunner.

No re-examination.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

First Witness for the Prosecution - Capt P M BROWN, RCA, 12 CBR bn recalled

Questioned by the President

Q.66 Will you tell up what unit it was that this draft was proceeding to?

A.66 1 Cdn Centaur Bty RCA.

Q.67 Did you inform Gnr Gravel?

A.67 Yes sir.

Q.68 You told him he was going to 1 Cdn Centaur Bty?

A.68 Yes sir.

Q.69 Did the accused ask you what a Centaur Bty was?

A69 I explained to him that it was a 95 mm gun mounted on a Centaur tank. He said it was tanks and I said it was still artillery.

Questioned by Defending Officer.

Q.70 Did Gravel say he would drive anything but a tank?

A.70 He said he would go any place in the artillery except driving a tank.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

The Witness withdraws.

PROSECUTING OFFICER ADDRESSES THE COURT

SUMMING UP

The accused is charged here with Desertion under Section 12(1)(a) of the Army Act and the Prosecution has brought two witnesses who state that he deliberately refused to go and the accused in his evidence in his own behalf has admitted to me and has offered three reasons none of which I submit are valid in that in the Army you can not refuse.

I have nothing more to say.

DEFENDING OFFICER ADDRESSES THE COURT

SUMMING UP

Gravel has been in the Army 4 years and has always heard he was very satisfactory.

He came to France on D day. He came with a walking party. I would like to explain that he did not take a tank in England and land here with a tank. He came walking and 2 days after he was given a tank and he cannot drive it properly as he had only 3 hrs experience.

He has been in action for 7 weeks with this particular regiment, 13 Fd, and never deserted them and never did anything wrong except that he could not drive the tank properly. His officer sent him back to 2 CBRG as inefficient and unsatisfactory. I immagine that there must have been some casualties in this regiment and I dont see why they would send him out unless he was no good. I think if he had been efficient they would have kept him.

He is not very happy in a tank because he has had no experience and he did not wish to risk the life of the crew. If a driver does not act quick enough he is risking the like of the crew and Gravel did not want that.

His qualifications are in the pay book as a gunner. I think that these qualifications in a soldier's pay book are not always what they should be for various reasons that we all know, or at least I know. I have seen qualifications registered in books when a man has only a couple of hours training to go some place or to fill in a demand and sometimes we let our judgment pass a few of these things. I may add that Gravel has been suffering from one of these mistakes.

He did mention that he was willing to go anywhere except in a tank for these reasons; because he could not drive a tank and even though it was marked in his pay book he did not feel competant of doing his job as such.

I ask the Court to consider his case and not to blame him as a deserter as he is not a deserter if he makes a mistake. It is not desertion. If he was asked to do something, to go anywhere he would go except in a tank unit for reasons which are very good. If a man does not know how to use a weapon how can he fire that weapon. If he is not happy in a unit because of his nationality how can he do his duty properly.

I ask the Court to consider this charge as being invalid or at least erroneous.

JUDGE-ADVOCATE ADDRESSES THE COURT

SUMMING UP

I wish to point out that it is part of my duty as Judge-Advocate to sum up the evidence and advise the Court on the law.

The Court is, however, the sole judge of the facts and anything I say or may have previously said indicating my personal views as to the facts should be entirely disregarded. The Court and the Court alone is the judge of the facts.

I do not think it necessary for me to review the evidence - there does not appear to be any difficulty in that respect.

As to the law the accused is charged with Desertion. It is a special type of Desertion. Desertion can be divided into two kinds:

(a) What is known as the general type of Desertion where an accused goes absent without leave and forms an intention not to return to the Army again, and

(b) Where he goes absent without leave after having been warned for some special duty or draft and forms an intention to avoid that particular duty. Whether or not he intended to return to the Army eventually is of no importance, the criterion being did he intend to avoid the draft for which he was warned.

The onus is on the Prosecution, it is not for the accused to prove himself innocent, it is for the Prosecution to prove he is guilty. The Prosecution, therefore, must prove to the satisfaction of the Court;

(a) That the accused was AWL during the period charged,

(b) That he was duly and properly warned for the draft and that he understood the warning,

(c) That he was absent without leave with the intention of avoiding that draft, and,

(d) That the draft for which he was warned did in fact proceed.

It is also my duty to point out to the Court that the accused is entitled to the benefit of any reasonable doubt. I say a reasonable doubt, that is some doubt which is based on the facts before the Court and not some doubt which is purely immaginary. If the Court has a reasonable doubt after hearing and weighing the evidence then the accused is entitled to the benefit of that doubt.

On a charge of Desertion the Court may come to any one of the following decisions:

(a) Guilty as charged - that is guilty of Desertion,

(b) Not guilty of Desertion but guilty of absence without leave,

(c) Not guilty of any offence.

That is all I wish to say unless the Court or the Prosecutor or Defending Officer require explanation on any question that I may have overlooked.

The accused and also his Defending Officer declined to make a statement or address the Court in mitigation or punishment.

Judge-Advocate advised the Defending Officer that this was his last opportunity to speak on behalf of the accused.

Defending Officer replied that he did not wish to make a further address.

Exhibit A WSAL

EE P.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-14530	Gnr	GRAVEL O.F.	12 C.B.R.Bn.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~[illegible]~~ [illegible]

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~[illegible]~~ [illegible]

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~ [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 13 days in Air Force / military custody, making a total of 13 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his MBM 1 Part 1 ~~[illegible]~~ 25 years 11 months ~~[illegible]~~ [illegible]

6. The date of his commission specified in his MBM 1 Part 1 ~~[illegible]~~ attestation ~~[illegible]~~ [illegible] 19 July 40

7. The service which the accused is allowed to reckon towards discharge is 4 years 1 mon

8. The accused is entitled to reckon 4 yrs 1 month service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military CVSM [illegible] Clasp.

10. ~~[illegible]~~ [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit Regiment Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this .....day of August 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked L. B. Skinner officer having custody of Regt Records. L. B. Skinner Capt & Adjt. signed by the president, and annexed to the proceedings.

Extra D.

MFM 6 (AFB 122) 40/P&S/126 (34288)

No D14530 Name Gravel O.F. Sqn, Battery, or Company Corps RCA Date of enlistment 19-7-40 GC Badges one Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc 11 Jul 42 Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY OF MFM 6 EXTRACTED FROM MFM 4 d/17 Aug 44 ENTRIES NIL

S T Saunders
(S.T. Saunder) Capt.
Officer i/c X-List Section Records.

(PTO)

SUMMARY OF EVIDENCE

Summary of evidence in the case of:

D-14530 Gnr GRAVEL, O.F. R.C.A.

a soldier of the Canadina Army Overseas.

The Commanding officer directs that the evidence be taken on oath.

First Witness - Capt E.M. BROWN, OC 56 Coy, 12 CBR Bn, having been duly sworn, states:-

for the Prosecution

I am Capt E.M. BROWN, OC 56 Coy, 12 Bn 2 CBG to which Coy the accused is posted. I selected D-14530 Gnr GRAVEL, O.F. to proceed on draft to the field. The accused, on being warned for this draft, asked to be paraded to me and at approximately 1430 hrs 12 Aug 44, was paraded when he stated that he did not wish to proceed to the above mentioned unit. I explained to him that he could not be taken off said draft as there were no qualified men within this Coy to replace him in a trade which he was filling, namely driver mechanic AFV. He then stated that he would not go. Upon him making this statement, I called D-6068 SSM SHEPPARD? F.W. and G-3002 SSM KING JG, to be witness as to an official warning which I gave Gnr GRAVEL in their presence. The warning consisted of the following:-

"Gnr GRAVEL, you are officially warned for draft. You will be present when the draft leaves this afternoon at approximately 1700 hrs. If you are absent from the parade which proceeds on draft, you will be subject to a charge of desertion.

I then asked the accused if he could understand my English He replied - "Yes, fairly well." The accused asked me what type of gun the above bty was equipped with and I gave him the necessary information. He stated that he did not wish to go into a unit with tanks that he had been in action and saw hundreds of them burnt up, and that they operated in front of the infantry. I then told the Sgt-Major to march him away. I was present at a muster parade held at 1730 hrs for the personnel of the above mentioned draft prior to mounting vehicles and proceeding to their destination. Gnr GRAVEL's name was called twice. He did not answer his name and was not present.

Cross examined by the accused:-

Q.1 Sir, did I say anything about tanks going in front of the infantry?

A.1 Yes, you stated that these guns operated in front of the infantry.

Q.2 Did I say I would go in any artillery unit and drive anything but a tank?

A.2 Yes, and I explained the type of unit and that as you were a driver mechanic AFV, I had no alternative but to place you on this draft.

Q.3 Did you not ask me if I drew trades pay as a driver mechanic AFV and I replied - "No, my trades pay is for driver mechanic wheeled"

A.3 Yes, and I stated it did not matter; you are a qualified driver mechanic AFV and you will have to go.

SIGNED E.M. Brown
(E.M. Brown) Capt - OC 56 Coy
12 CBR Bn

Second Witness L-6098 BSM SHEPPARD, J.W. having been duly
for the sworn states:-

Prosecution

On Saturday, 12 Aug 44, in the 56 Coy lines, 12 CBR Bn. I witnessed Capt BROWN'S warning for draft to Gnr GRAVEL, C.F. Gnr GRAVEL refused to go to this particular Unit after being duly warned. I personally called the roll of draft personnel at 1730 hrs 12 Aug 44. Gnr GRAVEL's name was called twice by name, rank, and number and he was not present at this parade. When he was warned for draft by Capt BROWN, he was also told the hour at which time the draft must parade. Gnr GRAVEL's presence in 56 lines was brought to my attention at 2130 hrs, 12 Aug 44 so I placed him under close arrest and had him paraded to the Bn Guard Room under escort.

Cross-examined by the accused:-

Q.1 Did you hear Capt BROWN ask me if I understood his English?

A.1 Yes, I heard Capt BROWN make a statement to that effect.

Q.2. Did you hear Capt BROWN tell me the hour when the draft was to be mustered?

A.2 Yes.

F W Sheppardd
(F.W. Sheppard) BSM
56 Coy, 12 CBR Bn

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give ~~[illegible]~~ evidence and reserve his defence

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e) & (f) have been complied with.

In the Field - FRANCE

.....Aug 44

L B Skinner Capt.
(L B SKINNER)
Officer detailed to take
the Summary.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-14530 Gnr Ovide Felician GRAVEL, RCA, 12 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(	Not guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

E&D As present sentence to be

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which nil days were spent in hospital.(1) (Including on date)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of two years.

(Sgd) E.E. Pearlman, Judge-Advocate, if any. 26 Aug 44, Date awarded. (Sgd) E G A Lambe Major, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-58, 120, MML pp 758-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be ~~till exhibited to infamy~~ or ~~dismission forthwith and further ordered~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) E Brancker Wlt

Date 30 Aug 44 Commanding 2 CBRB Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 575, 577.)

Accused. Date. Signature of Offr.

D-14530 Gnr Gravel O.F. 31 Aug 44 A.A. Hood Lt-Col
X-4 List OC 12 (R) CBR Group.
HQ 2 CBRG.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

444-132

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig G FRANCOEUR Comd 2 CBRG dated 24 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-14530	Gnr	Ovide Felician	GRAVEL	RCA 12 CBR Bn

CERTIFIED TRUE COPY

(SGD) [illegible] MAJOR

CAN SEC CMHQ 2 ECH 21 AGS

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 26 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general breviations for conducting the trial see AA 53, RP 36, 43-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary 4; Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial, instead of being dealt with summarily by the CO.(2)~~

E&D

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 562(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ as Interpreter? Ans No

The Interpreter is sworn.(1) Do you object to K-70650 Sgt DAVIS J.W. as Shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.G.A. LAMBE	CAC	9 CBR Bn
Member	Capt	W.H. Johnston	RCA	10 CBR Bn
Member	Lieut	W.E. DATE	CIC	11 CBR Bn
Judge-Advocate	Capt	E.E. PEARLMAN	ADJA	HQ 2 CBRG
Prosecutor	Lieut	K H RUSSELL	RCA	12 CBR Bn
Defending Offr	Lieut	J C COTE (R de Maiu)	CIC	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused D-14530 Gnr GRAVEL OF before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned separately on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32. RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourns~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form No 19

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ICBAG J 1 p. 152

444-132

FIELD GENERAL COURT-MARTIAL

CPA96 (To Duplicate of AFA97 40/P & R/1658) (AGO) 4/38B

Convened by Order of Brig G PRATT COUR Comd 2 CBRD dated 24 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-14530	Gnr	Ovide Felician	GRAVEL	RCA 12 CBRBn

CERTIFIED TRUE COPY
(E P KEE) MAJOR DJA
Can Sec CMD 2 FCH 21 A Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) FRANCE on (*date(s)*) 26 Aug 44

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(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the OC.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the~~ an interpreter ~~in Arabic~~ ? Ans No

The Interpreter is sworn.(1) Do you object to K-70650 Sgt DAVIE J.W. as shorthand writer ? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(6). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.G.A. LAMB	CAC	9 CBR Bn
Member	Capt	K.E. Johnston	RCA	12 CBR Bn
Member	Lieut	R.E. DAIR	CIC	11 CBR Bn
Judge-Advocate	Capt	E.E. PEARIMAN	ADJA	HQ 2 CBRD
Prosecutor	Lieut	K.H. SUMBULL	RCA	12 CBR Bn
Defending Offr	Lieut	J.C. COTE (R de Mais)	CIC	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused D-14530 Gnr GRAVEL OF before arraignment make(s) (no) (a) plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRB J 1 P. 152

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans.....[5]

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 25(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-14650 Gnr Clyde Pelletier GRAVEL, RCA, 12 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 403 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Alt see RP 44 fn b.)

E.P.

At present undergoing Lr (Awarding on (date)) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B255 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which nil days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B255 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for a period of two years.

(Sgd) E.P. Pearlman
Judge-Advocate, if any.

26 Aug 44
Date awarded.

(Sgd) W G A Lambe Major
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd)
Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 8, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~I direct that the accused be committed to prison or detention barracks until further order.~~ (3) Sd

(3. AA 57A. Delete if not used.)

Date 30 Aug 44 (Sgd) G Francoeur
Commanding 2 CBRG Brig
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-14650 Gnr Gravel C.F. X-4 List 12 Bn 2 CBRG.	31 Aug 44	A.A. Hood Lt-Col OC 12 Bn 2 CBR Group.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir. (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I wish to make a statement on oath. Do you intend to call witnesses on your behalf? Ans. No Sir. Are they witnesses as to character only? Ans.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or The President announces that the accused is found Not Guilty on all charges, and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. MFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No Sir.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 309, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

W.G. Lambe Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-14530	Gnr		Ovide Felician GRAVEL	RCA	12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 24 Aug 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	W.G.A. LAMBE	CAC	9 CBR Bn
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	to be detailed by OC 11 CBR Bn	11 CBR Bn
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	to be detailed by OC 11 CBR Bn	11 CBR Bn
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt	E E PEARLMAN,	ADJA HQ 2 CBRG
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.) G Francoeur (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G. Francoeur)

Date 24 Aug 44 Commanding 2 CDN BASE RFT GP.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA66 (In lieu of AFA3) 4/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

W/G Lambe
Major

CHARGE SHEET

D-14530 Gunner GRAVEL, Ovide, Felician, 12 CBRBn, No 2 Canadian Base Reinforcement Group, a soldier of the Canadian Active Army, is charged with WHEN ON ACTIVE SERVICE,

DESERTING HIS MAJESTY's SERVICE

in that he

First Charge
AA Sec
12(1)(a)

In the field, on the 12 August 44, having been warned to proceed for service in the field of operations, with intent to avoid so proceeding absented himself without leave from 1730 hours, 12 August 44, until 2130 hours, 12 August 44.

(Absent 4 hours)

In the Field, FRANCE

23 August 44

"A.O.Hood" Lt-Col
(A.O. HOOD)
Commanding
12 Cdn Base Rft Bn, 2 CBRG.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

" G Francoeur"
(G. Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
24 Aug 44

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D-14530 Gnr Gravel, C.F. and in my opinion he is fit to undergo trial by Court-Martial.

Station - Field

Date - 26 August 44.

"D.Noble" Capt
Medical Officer
(Unit) 12 CBRB

FIRST WITNESS - For the Prosecution. Duly sworn.
Capt P M BROWN, RCA, 12 CBR Bn

Q.1 Capt Brown, you are commanding 56 Coy, 12 CBR Bn?

A.1 Yes

Q.2 As such you were the CO of the accused?

A.2 Correct

Q.3 Will you tell the Court what took place between you and the accused with reference to the draft which proceeded at 1730 hrs 12 August 44?

A.3 On the 12 Aug 44 I was required to make up a draft to go to the field. It was necessary for me to put Gnr Gravel on this draft as the draft called for a Driver MechanicsAPV in a greater number than we could supply. Gravel holding this qualification was named for the draft. On Gn Gravel being informed that he was on the draft he requested to be paraded to me and at approx 1430 hrs 12 Aug 44 he was paraded and requested that he be taken off the draft.

He requested to be taken off the draft as he did not wish to go to a unit equipped with tanks. I informed him that it was necessary for him to be on this draft as there were no other personnel in the Coy sufficiently qualified to take his place.

He asked me what type of equipment the unit he was going to was equipped with and I explained it to him to the best of my knowledge. He stated that he did not wish to drive tanks, he had seen a number of them burned in the field and that travelled right up with the infantry. I informed him that his personal wishes could not be granted that he would have to go forward with this draft and he then stated that he would not go.

I called BSM Shepherd and BSM King as witnesses and officially warned him that he was warned for draft and that the draft would proceed at approx 1700 hrs 12 Aug 44 and if he was absent from the parade he would be subject to a charge of desertion. I then told the SM to march him away.

Q.4 Was there any other conversation between you and the accused before you told the SM to march him away?

A. 4 Nothing in relation to the accused.

Q. 5 This accused is a French Canadian is he not?

A. 5 Yes, I asked the accused if he understood my English and he stated, "Yes, fairly well."

Q.6 Did you have any difficulty making yourself understood as to what kind of equipment the unit carried?

A.6 No Sir.

Q.7 Did he have any trouble making himself understood?

A.7 No he was a little exited but all he emphasized was that he did not want to drive a tank.

At the parade at 1730 hrs 12 Aug I was present when the role was called. Gravel's name was called twice and he did not answer his name. The draft proceeded without him.

Q.8 This Coy that you comd is a straight reinforcement Coy?

A.8 Yes sir, and subject to reallocation all X4 are subject to be posted to the field of which Gravel was on X4 list.

Q.9 How long had he been with your Coy?

A.9 At least two weeks, I am not sure of the day.

Cross-examined by Defending Officer

Q.10 Can you tell me why Gnr Gravel was returned to your unit?

A.10 I cannot say anything for certain. Gravel to me was just a straight reinforcement available for posting to the field.

Q.11 Was he not posted to a definite battery?

A.11 Gravel, since he has come to my coy, has been field or medium reinforcement.

Q.12 Was he not supposed to go to a certain medium bty?

A.12 There are nobody detailed for any regiment or any battery.

Q.13 Do you know how long Gravel has been in France?

A.13 No.

Q.14 Another thing - when you had the conversation with Gravel about refusing to go, he did not state that he would not go?

A.14 Normally it is not the practise to give an official warning but it was done in this instance because of his refusal.

Q.15 Did he ask you whether he was paid as a driver mechanic of wheeled vehicles?

A.15 He said,"I am receiving trades pay as a Dvr Mech Wheeled." I told him that it did not matter, that hewas a qualified Dvr Mech AFV having been trades tested as such.

Q.16 Did he say that while you were discussing tanks and you say that he has asked you information about the guns and different equipment that you have in Artillery. Have you such a thing as a 95 mm?

A.16 Yes.

Q.17 Did he say that the tanks were travelling in front of the infantry or up to the infantry?

A.17 He has questioned me before - he either said that the tanks were up with the infantry or in front of the infantry. He said one or the other I am not sure.

Q.18 He mentioned that he had seen a hundred tanks burned?

A.18 He said that he had seen at least 100 tanks burned and would not have any part of it.

Defending officer - That is all I wish to ask.

Prosecutor does not wish to re-examine.

The Witness withdraws.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B).

SECOND WITNESS - For the Prosecution
L-6098 RSM SHEPPARD J W,RCA, 12 CBR Bn. Duly sworn.

Q.19 Do you know the accused?

A.19 Yes Sir.

Q.20 What is his name?

A.20 Gnr Gravel.

Q.21 The accused is charged with deserting in the field on the 12th of Aug 1944. Can you give any evidence on that charge?

A.21 On the 12th Aug, 1944 at approx 1430 hrs Capt Brown called me over to witness of warning for draft of Gnr Gravel. I witnesses that warning.

Q.22. Where did this take place?

A.22 At the Coy Orderly Rm.

Q.23 And Capt Brown warned him in your presence, would you give an outline of that warning?

A.23 I do not remember the exact words but it was to the effect that I hereby warn you for draft and notified the date he was going off and informed him of the approx time.

Q.24 What time did the warning take place?

A.24 1430 hrs.

Q.25 Did Gnr Gravel say anything after Capt Brown had warned him?

A.25 He said he did not wish to go.

Q.26 He made that clear?

A.26 He made that clear sir.

Q.27 Was there any other conversation?

A.27 No sir, I do not remember any other conversation.

Q.28 After this warning did the draft leave?

A.28 The draft was paraded at approx 1700 hrs and at 1730 hrs on 12 Aug 44 I called the role. I called Gnr Gravels number, rank and name twice and he did not answer.

At approx 2130 hrs 12 Aug 44 it was drawn to my attendion that Gnr Gravel was in the Coy lines.

Q.29 The draft left at the time it was called for?

A.29 Yes sir.

Q.30 How long had Gnr Gravel been in the 56 Coy?

A.30 About a week or ten days sir.

Cross-examined by Defending Officer.

Q.31 Do yOu know why Gnr Gravel was returned to 2 CBRG?

A.31 No.

Q.32 There is no record of his previous service.

A.32 Not as far as I know.

Q.33 Did you hear him say that he refused to go in this particular draft?

A.33 Yes sir he actually refused.

Prosecutor does not wish to re-examine the witness.

Witness withdraws.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

That is the case for the Prosecution.

The accused, D-14530 Gnr Ovide Felician GRAVEL, RCA, 12 CBR Bn having been duly sworn states:

I was sent back. I was in the 13th Fd and I was in the 22nd Bty and I was sent back as unsatisfactory for my services which the Sgt told me. Well I was in action since D day and I had quite a little argument with my Sgt and he told me that he would send me back in the first chance he had. We pulled out for a rest and he sent me back. I lost all my friends. I felt pretty sore about it. I wanted to go with my friend as he was on draft and they sent me back to 2 CBRG. From there I spoke to BSM Sheppard and I asked to be transferred to a French regt Medium as I did not seem to get along with any other regiment or English instructors. He told me he would try everything he could and he came and told me I was transferred to a Medium. He took me with my kit to the Medium lines. A couple of days after then got me on the tank unit. Then I asked to be paraded to Capt Brown and I told him that I had applied to go to the Medium and I was in the Medium and I wanted to go to the French Regiment. I said I did not want to go to a tank regiment as I did not know enough about it. I would not be any good and that is so.

Capt Brown told me I was yellow as I did not want to go into a tank. I told him if he saw 100 burning tanks he would be yellow too. He called me for warning for draft and told me that I would be an absentee or desertar if I did not go. I told him I still will not go, I will be in the camp in the other lines, it is no use I will not go on that draft. When they called for the draft I was on the other side of the lines I did not want to be there as I was kind of nervous. At the time BSM Sheppard put me under arrest I happened to be not very far from our office talking to the boys and he came for me and put me under arrest.

That is part of the story.

Questioned by Defending Officer.

Q.34 You are a driver mechanic wheeled?

A.34 Yes sir.

Q.35 And AFV, it is marked in your book?

A.35 Yes sir, the last course I had.

Q.36 When did you have this course?

A.36 Last November.

Q.37 How many hours driving experience did you have?

A.37 3 hrs.

Q.38 What else did you do during this course?

A.38 One week filing, two weeks lecture, one week in the field during which we broke the track and greasing and doing all kinds of light maintenance and our Sgt instructor showed how to drive and put in 2nd gear.

Q.39 When did they register your qualifications in the book? After three hours driving?

A.39 Yes sir.

Q.40 Then you came back to the RU.

A.40 No 1 CARU.

Q.41 What kind of work were you employed in? Were you driving tanks?

A.41 No, I never drove a tank I just did fatigues and cleaned up around.

Q.42 Just before D day you were drafted to go on to the 13th Fd Bty?
A.42 Approx one week before D day.

from there they sent me to the 15th Fd and sent me out right away did not even have a chance to drive the tank. I told the Major that I did not know anything about it and then they sent me back to 2 CBRG. They sent me there on a draft and I wanted to go with my friend.

Q.43 You came to France on D day?

A.43 D plus 2. One of the Officers came along and asked me if I knew anything about tanks. He took me and explained to me what to do and said for me to do my best. He was not satisfied and did not want to keep me.

Q.44 What happened when you came to a corner?

A.44 I had to stop and back up. The Sgt said I should be able to turn the corner without stopping and backing up as the other drivers did.

Q.45 How long have you been in the Army?

A.45 4 years and 6 weeks and I have always been a motor mechanic.

Cross-examined by Prosecutor

Q.46 Gravel you have been in the Army 4 years and 5 weeks - you are a volunteer?

A.46 Yes sir.

Q.47 You know that in the Army you are supposed to do what you are told and for 4 years and for approx 5 weeks you did what you were told. You have not had any trouble in the Army, you have obeyed your orders?

A.47 Yes sir.

Q.48 And you have just stood up and told the Court that you would not go and in a defiant way you told Capt Brown?

A.48 Yes sir, I will have to explain why.

Q.49 You know that in the Army your personal wants and desires do not count?

A.49 I thought I could do a little bit about it. I volunteered as a motor mechanic. I figured to fight by doing my own work and doing something I am sure about.I want to fight by doing my trade. That is one way to fight is it not sir?

Q.50 You refused in a defiant manner?

A.50 Because I was not sure of myself I did not want to take the responsibility and cause the loss of some other fellows lives. I do not care about myself I am nothing but the other fellows lives are precious lives. I did not want to go and make a mess of the whole thing.

Q.51 What made you think you would cause the loss of life?

A.51 Because I could not handle a tank properly.

Q.52 You were sent on a draft from England. Did you raise any objection there?

A.52 No sir.

Q.53 You did not object the first time?

A.53 No sir, I wanted to go with my friend.

Q.54 You landed on D day and you have seen a lot of dead men lying around and equipment lying around?

A.54 Yes sir.

Q.55. You have had a few close shaves yourself?

A.55 Yes sir but not to scare me.

Q.56 You did not raise any objection the first time?

A.56 No sir, I asked for it I wanted to go with my friend to help. They were looking for men for the draft and I wanted to go.

Q.57 You have told the Court that the reasons you did not want to go were:

(1) That you wanted to go to a Medium Regiment and that RSM Sheppard had promised you you could go there.

(2) The reason that you have told the Court in answer to a question asked by me is that you are not qualified as a driver of a tank and so might endanger the lives of your partners.

I submit that you have a third reason.

A.57 I just want to point out that I have a heart. When I am pushed around one place I dont wish to go back I like to give satisfaction. I never go back where I am kicked out. I never did on "Givy" street.

Q.58 What regiment were you going back to on this draft?

A.58 It was a tank regiment as I figured out. I told Capt Brown that I would do anything except driving a tank.

Q.59 You said that Capt Brown told you that you were yellow and that you replied in words to this effect, that you would be yellow if you too saw 100 tanks burn?

A.59 I told him that because I am not yellow.

Q.60 Have you seen 100 tanks burn?

A.60 I have seen many.

Q.61 Did these burning tanks have any reason for your not going up there?

A.61 No sir, I had seen them burned before I got up there.

Q.62 You had never seen a tank burn yourself before going up there?

A.62 No sir.

Q.63 For the various reasons you have given you said you would not go?

A.63 Yes sir. I never mentioned anything about going sir, I said to a tank unit.

Q.64 What do you call a tank unit? Not a self-propelled unit?

A.64 It is a unit with a gun that operates as artillery.

Q.65 What unit were you going to?

A.65 He told me it mounted 95 mm gun - it is a tank unit

Defending Officer - All Gravel ever did was drive a truck he has never even been qualified as a gunner.

No re-examination.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

First witness for the Prosecution - Capt P M BROWN, RCA, 12 CHR bn recalled

Questioned by the President

Q.66 Will you told up what unit it was that this draft was proceeding to?

A.66 1 Cdn Centaur Bty RCA.

Q.67 Did you inform Gnr Gravel?

A.67 Yes sir.

Q.68 You told him he was going to 1 Cdn Centaur Bty?

A.68 Yes sir.

Q.69 Did the accused ask you what a Centaur Bty was?

A69 I explained to him that it was a 95 mm gun mounted on a Centaur tank. He said it was tanks and I said it was still artillery.

Questioned by Defending Officer.

Q.70 Did Gravel say he would drive anything but a tank?

A.70 He said he would go any place in the artillery except driving a tank.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

The Witness withdraws.

PROSECUTING OFFICER ADDRESSES THE COURT

SUMMING UP

The accused is charged here with Desertion under Section 12(1)(a) of the Army Act and the Prosecution has brought two witnesses who state that he deliberately refused to go and the accused in his evidence in his own behalf has admitted to me and has offered three reasons none of which I submit are valid in that in the Army you can not refuse.

I have nothing more to say.

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DEFENDING OFFICER ADDRESSES THE COURT
SUMMING UP

Gravel has been in the Army 4 years and has always heard he was very satisfactory.

He came to France on D day. He came with a walking party. I would like to explain that he did not take a tank in England and land here with a tank. He came walking and 2 days after he was given a tank and he cannot drive it properly as he had only 3 hrs experience.

He has been in action for 7 weeks with this particular regiment, 13 Fd, and never deserted them and never did anything wrong except that he could not drive the tank properly. His officer sent him back to 2 CBRG as inefficient and unsatisfactory. I immagine that there must have been some casualties in this regiment and I dont see why they would send him out unless he was no good. I think if he had been efficient they would have kept him.

He is not very happy in a tank because he has has no experience and he did not wish to risk the life of the crew. If a driver does not act quick enough he is risking the like of the crew and Gravel did not want that.

His qualifications are in the pay book as a gunner. I think that these qualifications in a soldier's pay book are not always what they should be for various reasons that we all know, or at least I know. I have seen qualifications registered in books when a man has only a couple of hours training to go some place or to fill in a demand and sometimes we let our judgment pass a few of these things. I may add that Gravel has been suffering from one of these mistakes.

He did mention that he was willing to go anywhere except in a tank for these reasons; because he could not drive a tank and even though it was marked in his pay book he did not feel competant of doing his job as such.

I ask the Court to consider his case and not to blame him as a deserter as he is not a deserter if he makes a mistake. It is not desertion. If he was asked to do something, to go anywhere he would go except in a tank unit for reasons which are very good. If a man does not know how to use a weapon how can he fire that weapon. If he is not happy in a unit because of his nationality how can he do his duty properly.

I ask the Court to consider this charge as being invalid or at least erroneous.

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285.

JUDGE-ADVOCATE ADDRESSES THE COURT

SUMMING UP

I wish to point out that it is part of my duty as Judge-Advocate to sum up the evidence and advise the Court on the law.

The Court is, however, the sole judge of the facts and anything I say or may have previously said indicating my personal views as to the facts should be entirely disregarded. The Court and the Court alone is the judge of the facts.

I do not think it necessary for me to review the evidence - there does not appear to be any difficulty in that respect.

As to the law the accused is charged with Desertion. It is a special type of Desertion. Desertion can be divided into two kinds:

(a) What is known as the general type of Desertion where an accused goes absent without leave and forms an intention not to return to the Army again, and

(b) Where he goes absent without leave after having been warned for some special duty or draft and forms an intention to avoid that particular duty. Whether or not he intended to return to the Army eventually is of no importance, the criterion being did he intend to avoid the draft for which he was warned.

The onus is on the Prosecution, it is not for the accused to prove himself innocent, it is for the Prosecution to prove he is guilty. The Prosecution, therefore, must prove to the satisfaction of the Court:

(a) That the accused was AWL during the period charged,

(b) That he was duly and properly warned for the draft and that he understood the warning,

(c) That he was absent without leave with the intention of avoiding that draft, and,

(d) That the draft for which he was warned did in fact proceed.

It is also my duty to point out to the Court that the accused is entitled to the benefit of any reasonable doubt. I say a reasonable doubt, that is some doubt which is based on the facts before the Court and not some doubt which is purely immaginary. If the Court has a reasonable doubt after hearing and weighing the evidence then the accused is entitled to the benefit of that doubt.

On a charge of Desertion the Court may come to any one of the following decisions:

(a) Guilty as charged - that is guilty of Desertion,

(b) Not guilty of Desertion but guilty of absence without leave,

(c) Not guilty of any offence.

That is all I wish to say unless the Court or the Prosecutor or Defending Officer require explanation on any question that I may have overlooked.

The accused and also his Defending Officer declined to make a statement or address the Court in mitigation or punishment.

Judge-Advocate advised the Defending Officer that this was his last opportunity to speak on behalf of the accused.

Defending Officer replied that he did not wish to make a further address.

Exhibit A W SAL.

E.C.P

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-14530	Gnr	GRAVEL O.F.	12 C.S.R.Bn.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ [illegible]

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 are set out in the Schedule annexed to this statement.~~ [illegible]

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for xxxxxxxx beginning on the day of~~ [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 13 days in Air Force military custody, making a total of 13 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ MBW 1 Part 1 ~~attestation paper is~~ 25 years 11 months

6. The date of his commission specified in his ~~record of service is~~ MBW 1 Part 1 ~~attestation paper~~ attestation 19 July 40

7. The service which the accused is allowed to reckon towards discharge is 4 years 1 mon

8. The accused is entitled to reckon 4 yrs/1 month service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward. CVSM & Clasp.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer has held the regimental rank of~~ Air Force [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.
In the rank of ..... years.
In the rank of ..... years.
In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Name ..... of ..... Unit
Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of August 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked (L B Skinner)Capt & Adjt. signed by the president, and annexed to the proceedings. L. B. Skinner
Officer having custody of Regt Records.

Exhibit B

MFM 6 (AFB 122) 40/P&S/136 (3438)

No D14530 Name Gravel O.F. Sqn, Battery, or Company Corps RCA Date of enlistment 19-7-40 GC Badges one Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc 11 Jul 42 Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF MFM 6 EXTRACTED FROM MFM 4 d/17 Aug 44 ENTRIES NIL					

B T Saunders
(B.T. Saunder) Capt.
Officer i/c X-List Section Records.

(PTO)

SUMMARY OF EVIDENCE

Summary of evidence in the case of:

D-14830 Gnr GRAVET, G.F. R.C.A.

a soldier of the Canadian Army Overseas.

The Commanding officer directs that the evidence be taken on oath.

First Witness - Capt S.W. Brown, OC 86 Coy, 12 CIR Bn, having been duly sworn, states:-
for the Prosecution

I am Capt S.W. Brown, OC 86 Coy, 12 CIR Bn to which Coy the accused is posted. I selected D-14830 Gnr GRAVET, G.F. to proceed on draft to the field. The accused, on being warned for this draft, asked to be paraded to me and at approximately 1430 hrs 12 Aug 44, was paraded when he stated that he did not wish to proceed to the above mentioned unit. I explained to him that he could not be taken off said draft as there were no qualified men within this Coy to replace him in a trade which he was fitted, namely driver mechanic AFV. He then stated that he would not go. Upon his making this statement, I called D-3002 Sgt Mullaney, R.C. and D-3002 Sgt Mullaney witnessed us to an official warning which was given Gnr GRAVET in their presence. The warning consisted of the following:-

"Gnr GRAVET, you are officially warned for draft. You will be present when the draft leaves this afternoon at approximately 1700 hrs. If you are absent from the parade which proceeds on draft, you will be subject to a charge of desertion.

I then asked the accused if he could understand my English He replied - "Yes, fairly well." The accused asked me what type of gun the above Coy was equipped with and I gave him the necessary information. He stated that he did not wish to go into a unit with tanks that he had been in action and saw hundreds of them burnt up, and that they operated in front of the infantry. I then told the Sgt-Major to take him away. I was present at a muster parade held at 1730 hrs for the personnel of the above mentioned draft prior to mounting vehicles and proceeding to their destination. Gnr GRAVET's name was called twice. He did not answer his name and was not present.

Cross examined by the accused:-

Q.1 Sir, did I say anything about tanks going in front of the ir antry?

A.1 Yes, you stated that these guns operated in front of the infantry.

Q.2 Did I say I would go in any artillery unit and drive anything but a tank"

A.2 Yes, and I explained the type of unit and that as you were a driver mechanic AFV, I had no alternative but to place you on this draft.

Q.3 Did you not ask me if I drew trades pay as a driver mechanic AFV and I replied - "no, my trades pay is for driver mechanic wheeled"

A.3 Yes, and I stated it did not matter you are a qualified driver mechanic AFV and you will have to go.

signed S.W. Brown
(S.W. Brown) Capt - OC 86 Coy
12 CIR Bn

Second Witness 1-6096 SGT SHEPPARD, J.W. having been duly sworn states:-

Prosecution

On Saturday, 12 Aug 44, in the 86 Coy lines, 12 CBR Bn, I witnessed Capt BROWN'S warning for draft to Gnr GRAVET, D.V. Gnr GRAVET refused to go to this particular Unit after being duly warned. I personally called the roll of draft personnel at 1730 hrs 12 Aug 44. Gnr GRAVET's name was called twice by name, rank, and number and he was not present at this parade. When he was warned for draft by Capt BROWN, he was also told the hour at which time the draft must parade. Gnr GRAVET's presence in 86 lines was brought to my attention at 2130 hrs, 12 Aug 44 so I placed him under close arrest and had him paraded to the Bn Guard Room under escort.

Cross-examined by the accused:-

Q.1 Did you hear Capt BROWN ask me if I understood his English?

A.1 Yes, I heard Capt BROWN make a statement to that effect.

Q.2. Did you hear Capt BROWN tell me the hour when the draft was to be mustered?

A.2 Yes.

F J Sheppard
(F.J. Sheppard) Sgt
86 Co., 12 CBR Bn

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you may say or any evidence you give, will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give evidence and reserve his defence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e) & (f) have been complied with.

In the Field - FRANCE

.....Aug 44

T B Skinner Capt.
(T B SKINNER)
Officer detailed to take the Summary.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-14530 Gnr Ovide Felician GRAVEL, RCA, 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA (12)	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~To present~~ ~~To present~~ ~~To present~~

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3, *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. (1)
(1. *Under B5 such parts only of the Summary of Evidence are read to disclose the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans I wish to make a statement on oath
Do you intend to call witnesses on your behalf ?
Ans Yes. Are they witnesses as to character only ? No.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 3. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to peruse or say anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Convening Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

D-14530 Gunner GRAVEL, Ovide, Felicien,
12 CERBn, No 2 Canadian Base Reinforcement
Group, a soldier of the Canadian Active
Army, is charged with, WHEN ON ACTIVE SERVICE,

FIRST CHARGE
AA SEC.
12(1)(a)

DESERTING HIS MAJESTY'S SERVICE

in that he

In the field, on the 12th August 44, having been warned to proceed for service in the field of operations, with intent to avoid so proceeding absented himself without leave from 1730 hours, 12th August 44, until 2130 hours, 12 August 44.

(Absent 4 hours)

In the Field, FRANCE
..23.....August 44

.....Lt-Col.
(A. O. HOOD)
Commanding,
12 Cdn Base Rft Bn, 2 C.B.R.Gp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
24 Aug 44

W G A Lambe Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-14530	Gnr		Ovide Felician	GRAVEL	RCA, 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 AUG 44 endorsed by me, (~~or by an offr of my col/or corps~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that the said offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required or compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a [illegible] as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	W G A LAMBE, (Must be named. RP 106.)	CAC,	9 CBR Bn (Unit.)

MEMBERS.

Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut (Rank.)	to be detailed by OC 11 CBR Bn (Named or detailed. RP 106.)	11 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	to be detailed by OC 11 CBR Bn (Named or detailed, if any. RP 106.)	11 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E E PEARLMAN, (Must be named, if any. RP 106.)	ADJA, HQ 2 CBRG (Unit.)

On Active Service in the Fd

in FRANCE (Country.)

Date 24 AUG 44

G Francoeur Brigadier (Rank.)
(Signed personally. RP 105 fn 2.)
(G Francoeur)
Commanding 2 CDN BASE RPT GP
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

8EO

MEDICAL OFFICER'S CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D 14530.
(No.)

Inr. (Rank) Gravel. O.F. (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field

Date. 26th August 44.

D. Noble Capt (Sgd)
Medical Officer
(unit) 12 CERB

FIRST WITNESS - For the Prosecution. Duly sworn.
Capt P M BROWN, RCA, 12 CHR Bn

Q.1 Capt Brown, you are commanding 56 Coy, 12 CHR Bn?

A.1 Yes.

Q.2 As such you were the CO of the accused?

A.2 Correct.

Q.3 Will you tell the Court what took place between you and the accused with reference to the draft which proceeded at1730 hrs 12 Aug 44?

A.3 On the 12th Aug 44 I was required to make up a draft to go to the field. It was necessary for me to put Gnr Gravel on this draft as the draft called for Driver Mechanics AFV in a greater number than we could supply. Gravel holding this qualification was named for the draft. On Gnr Gravel being informed that he was on the draft he requested to be paraded to me and at approx 1430 hrs 12 Aug 44 he was paraded and requested that he be taken off the draft.

He requested to be taken off the draft as he did not wish to go to a unit equipped with tanks. I informed him that it was necessary for him to be on this draft as there were no other personnel in the Coy sufficiently qualified to take his place.

He asked me what type of equipment the unit he was going to was equipped with and I explained it to him to the best of my knowledge. He stated that he did not wish to drive tanks, he had seen a number of them burned in the field and that travelled right up with the infantry. I informed him that his personal wishes could not be granted that he would have to go forward with this draft and he then stated that he would not go.

I called BSM Shepherd and BSM King as witnesses and officially warned him that he was warned for draft and that the draft would proceed at approx 1700 hrs 12 Aug 44 and if he was absent from the parade he would be subject to a charge of desertion. I then told the SM to march him away.

Q.4 Was there any other conversation between you and the accused before you told the SM to march him away?

A.4 Nothing in relation to the accused.

Q.5 This accused is a French Canadian is he not?

A.5 Yes, I asked the accused if he understood my English and he stated, "Yes, fairly well."

Q.6 Did you have any difficulty making yourself understood as to what kind of equipment the unit carried?

A.6 No Sir.

Q.7 Did he have any trouble making himself understood?

A.7 No he was a little excited but all he emphasized was that he did not want to drive a tank.

At the parade at 1730 hrs 12 Aug I was present when the role was called. Gravel's name was called twice and he did not answer his name. The draft proceeded without him.

Q.8 This Coy that you comd is a straight reinforcement coy?

A.8 Yes sir, and subject to reallocation all X4 are subject to being posted to the field of which Gravel was on X4 list.

Q.9 How long had he been with your Coy?

A.9 At least two weeks, I am not sure to the day.

(PTO)

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Cross-examined by Defending Officer

Q.10 Can you tell me why Gnr Gravel was returned to your unit?

A.10 I can not say anything for certain. Gravel to me was just a straight reinforcement available for posting to the field.

Q.11 Was he not posted to a definite battery?

A.11 Gravel, since he has come to my coy, has been field or medium reinforcement.

Q.12 Was he not supposed to go to a certain medium bty?

A.12 There are nobody detailed for any regiment or any battery.

Q.13 Do you know how long Gravel has been in France?

A.13 No.

Q.14 Another thing - when you had the conversation with Gravel about refusing to go, he did not state that he would not go?

A.14 Normally it is not the practise to give an official warning but it was done in this instance because of his refusal.

Q.15 Did he ask you whether he was paid as a driver mechanic of wheeled vehicles?

A.15 He said, "I am receiving trades pay as a Dvr Mech Wheeled." I told him that it did not matter, that he was a qualified Dvr Mech AFV having been trades tested as such.

Q.16 Did he say that while you were discussing tanks and you say that he has asked you information about the gun and different equipment that you have in Artillery. Have you such a thing as a 95 mm?

A.16 Yes.

Q.17 Did he say that the tanks were travelling in front of the infantry or up to the infantry?

A.17 He has questioned me before - he either said that the tanks were up with the infantry or in front of the infantry. He said one or the other I am not sure.

Q.18 He mentioned that he had seen a hundred tanks burned?

A.18 He said that he had seen at least 100 tanks burned and would not have any part of it.

Defending Officer - That is all I wish to ask.

Prosecutor does not wish to re-examine.

The Witness withdraws.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B).

SWORN WITNESS - For the Prosecution
L-60985 RSM SHEPPARD J W, RCA, 12 CIR Bn. Duly sworn.

Q.19 Do you know the accused?

A.19 Yes Sir.

Q.20 What is his name?

A.20 Gnr Gravel.

Q.21 The accused is charged with deserting in the field on the 12th of Aug 1944. Can you give any evidence on that charge?

A.21 On the 12th Aug, 1944 at approx 1430 hrs Capt Brown called me over to witness a warning for draft of Gnr Gravel. I witnessed that warning.

Q.22 Where did this take place?

A.22 At the Coy Orderly Rm.

Q.23 And Capt Brown warned him in your presence, would you give an outline of that warning?

A.23 I do not remember the exact words but it was to the effect that I hereby warn you for draft and notified the date he was going off and informed him of the approx time.

Q.24 What time did this warning take place?

A.24 1430 hrs.

Q.25 Did Gnr Gravel say anything after Capt Brown had warned him?

A.25 He said he did not wish to go.

Q.26 He made that clear?

A.26 He made that clear sir.

Q.27 Was there any other conversation?

A.27 No sir, I do not remember any other conversation.

Q.28 After this warning did the draft leave?

A.28 The draft was paraded at approx 1700 hrs and at 1730 hrs on the 12 Aug 44 I called the rols. I called Gnr Gravels number, rank and name twice and he did not answer.

At approx 2130 hrs 12 Aug 44 it was drawn to my attention that Gravel was in the Coy lines.

Q.29 The draft left at the time it was called for?

A.29 Yes sir.

Q.30 How long had Gnr Gravel been in the 56 Coy?

A.30 About a week or ten days sir.

Cross-examined by Defending Officer

Q.31 Do you know why Gnr Gravel was returned to 2 CBRD?

A.31 No.

Q.32 There is no record of his previous service.

A.32 Not as far as I know.

Q.33 Did you hear him say that he refused to go in this particular draft?

A.33 Yes sir he actually refused.

Prosecutor does not wish to re-examine the witness.

Witness withdraws.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(3).

That is the case for the Prosecution.

The accused, D-14530 Gnr Ovide Felician GRAVEL, RCA, 12 CSR Bn having been duly sworn states:

I was sent back. I was in the 13th Fd and I was in the 22nd Bty and I was sent back as unsatisfactory for my services which the Sgt told me. Well I was in action since D day and I had quite a little argument with my Sgt and he told me that he would send me back in the first chance he had. We pulled out for a rest and he sent me back. I lost all my friends. I felt pretty sore about it. I wanted to go with my friend as he was on draft and they sent me back to 2 CBRG. From there I spoke to RSM Sheppard and I asked to be transferred to a French regt Medium as I did not seem to get along with any other regiment or English instructors. He told me he would try everything he could and he came and told me I was transferred to a Medium. He took me with my kit to the Medium lines. A couple of days after then got me on the tank unit. Then I asked to be paraded to Capt Brown and I told him that I had applied to go to the Medium and I was in the Medium and I wanted to go to the French regiment. I said I did not want to go to a tank regiment as I did not know enough about it, I would not be any good and that is so.

Capt Brown told me I was yellow as I did not want to go into a tank. I told him if he saw 100 burning tanks he would be yellow too. He called me for warning for draft and told me that I would be an absentee or deserter if I did not go. I told him I still will not go, I will be in the camp in the other lines, it is no use I will not go on that draft. When they called for the draft I was on the other side of the lines I did not want to be there as I was kind of nervous. At the time RSM Sheppard put me under arrest I happened to be not very far from our office talking to the boys and he came for me and put me under arrest.

That is part of the story.

Questioned by Defending Officer.

Q.34 You are a driver mechanic wheeled?

A.34 Yes sir.

Q.35 And AFV, it is marked in your book?

A.35 Yes sir, the last course I had.

Q.36 When did you have this course?

A.36 Last November.

Q.37 How many hours driving experience did you have?

A.37 3 hrs.

Q.38 What else did you do during this course?

A.38 One week filing, two weeks lecture, one week in the field during which we broke the track and greasing and doing all kinds of light maintenance and our Sgt instructor showed how to drive and put in 2nd gear.

Q.39 When did they register your qualifications in the book? After three hours driving?

A.39 Yes sir.

Q.40 Then you came back to the RU.

A.40 No 1 CARU.

Q.41 What kind of work were you employed in? Were you driving tanks?

A.41 No, I never drove a tank I just did fatigues and cleaned up around.

Q.42 Just before D day you were drafted to go on to the 13th Fd Bty?

A.42 Approx one week before D day.

(PTO)

From there they sent me to the 15th Fd and sent me/right away out I did not even have a chance to drive the tank. I told the Major that I did not know anything about it and then they sent me back to 2 CBRD. They sent me there on a draft and I wanted to go with my friend.

Q.43 You came to France on D day?

A.43 D plus 2. One of the officers came along and asked me if I knew anything about tanks. He took me and explained to me what to do and said for me to do my best. He was not satisfied and did not want to keep me.

Q.44 What happened when you came to a corner?

A.44 I had to stop and back up. The Sgt said I should be able to turn the corner without stopping and backing up as the other drivers did.

Q.45 How long have you been in the Army?

A.45 4 years and 6 weeks and I have always been a motor mechanic.

Cross-examined by Prosecutor

Q.46 Gravel you have been in the Army for 4 years and 5 weeks - you are a volunteer?

A.46 Yes sir.

Q.47 You know that in the Army you are supposed to do what you are told and for 4 years and for approx 5 weeks you did what you were told. You have not had any trouble in the Army, you have obeyed your orders?

A.47 Yes sir.

Q.48 And you have just stood up and told the Court that you would not go and in a defiant way you told Capt Brown?

A.48 Yes sir, I will have to explain why.

Q.49 You know that in the Army your personal wants and desires do not count?

A.49 I thought I could do a little bit about it. I volunteered as a motor mechanic. I figured to fight by doing my own work and doing something I am sure about. I want to fight by doing my trade. That is one way to fight is it not sir?

Q.50 You refused in a defiant manner?

A.50 Because I was not sure of myself I did not want to take the responsibility and cause the loss of some other fellows lives. I do not care about my self I am nothing but the other fellow lives are precious lives. I did not want to go and make a mess of the whole thing.

Q.51 What made you think you would cause the loss of life?

A.51 Because I could not handle a tank properly.

Q.52 You were sent on a draft from England. Did you raise any objection there?

A.52 No sir.

Q.53 You did not object the first time?

A.53 No sir, I wanted to go with my friend.

Q.54 You landed on D day and you have seen a lot of dead men lying around and equipment lying around?

A.54 Yes sir.

Q.55 You have had a few close shaves yourself?

A.55 Yes sir but not to scare me.

Q.56 You did not raise any objections the first time?

A.56 No sir, I asked for it I wanted to go with my friend to help. They were looking for men for the draft and I wanted to go.

Q.57 You have told the Court that the reasons you did not want to go were:

(1) That you wanted to go to a Medium Regiment and that BSM Sheppard had promised you you could go there.

(2) The reason that you have told the Court in answer to a question asked by me is that you are not qualified as a driver of a tank and so might endanger the lives of your partners.

I submit that you have a third reason.

A.57 I just want to point out that I have a heart. When I am pushed around one place I dont wish to go back I like to give satisfaction. I never go back where I am kicked out. I never did on "elvy" street.

Q.58 What regiment were you going back to on this draft?

A.58 It was a tank regiment as I figured out. I told Capt Brown that I would do anything except driving a tank.

Q.59 You said that Capt Brown told you that you were yellow and that you replied in words to this effect, that you would be yellow if you too saw 100 tanks burn?

A.59 I told him that because I am not yellow.

Q.60 Have you seen 100 tanks burn?

A.60 I have seen many.

Q.61 Did these burning tanks have any reason for your not going up there?

A.61 No sir. I had seen them burned before I got up there.

Q.62 You had never seen a tank burn yourself before going up there?

A.62 No sir.

Q.63 For the various reasons you have given you said you would not go?

A.63 Yes sir. I never mentioned anything about going sir, I said to a tank unit.

Q.64 What do you call a tank unit? Not a self-propelled unit?

A.64 It is a unit with a gun that operates as artillery.

Q.65 What unit were you going to?

A.65 He told me it mounted 95 mm gun - it is a tank unit

Defending Officer - All Gravel ever did was drive a truck he has never even been qualified as a gunner.

No re-examination.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B)

(FTO)

First Witness for the Prosecution - Capt P M BROWN, RCA, 12 CBR Bn recalled

Questioned by the President

Q.66 Will you tell us what unit it was that this draft was proceeding to?

A.66 1 Cdn Centaur Bty RCA.

Q.67 Did you inform Gnr Gravel?

A.67 Yes sir.

Q.68 You told him he was going to 1 Cdn Centaur Bty?

A.68 Yes sir.

Q.69 Did the accused ask you what a Centaur Bty was?

A.69 I explained to him that it was a 95 mm gun mounted on a Centaur tank. He said it was tanks and I said it was still artillery.

Questioned by Defending Officer

Q.70 Did Gravel say he would drive anything but a tank?

A.70 He said he would go anyplace in the artillery except driving a tank.

In the opinion of the Court and the JA it is not necessary to comply with RP 83(B).

The witness withdraws.

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D6

PROSECUTING OFFICER ADDRESSES THE COURT
SUMMING UP

The accused is charged here with Desertion under Section 12(1)(a) of the Army Act and the Prosecution has brought two witnesses who state that he deliberately refused to go and the accused in his evidence in his ~~own behalf has admitted~~, to me and has offered three reasons none of which I submit are valid in that in the Army you can not refuse.

I have nothing more to say.

EEP DG p.2

DEFENDING OFFICER ADDRESSES THE COURT
SUMMING UP

Gravel has been in the Army 4 years and has always heard he was very satisfactory.

He came to France on D day. He came with a walking party. I would like to explain that he did not take a tank in England and land here with a tank. He came walking and 2 days after he was given a tank and he cannot drive it properly as he had only 3 hrs experience.

He has been in action for 7 weeks with this particular regiment, 13th Fd, and never deserted them and never did anything wrong except that he could not drive the tank properly. His officer sent him back to 2 CBRG as inefficient and unsatisfactory. I imagine that there must have been some casualties in this regiment and I dont see why they would send him out unless he was no good. I think if he had been efficient they would have kept him.

He is not very happy in a tank because he has had no experience and he did not wish to risk the life of the crew. If a driver does not act quick enough he is risking the life of the crew and Gravel did not want that.

His qualifications are in the pay book as a gunner. I think that these qualifications in a soldier's pay book are not always what they should be for various reasons that we all know, or at least I know. I have seen qualifications registered in books when a man has only a couple of hours training to go some place or to fill in a demand and sometimes we let our judgment pass a few of these things. I may add that Gravel has been suffering from one of these mistakes.

He did mention that he was willing to go anywhere except in a tank for these reasons; because he could not drive a tank and even though it was marked in his pay book he did not feel competent of doing his job as such.

I ask the Court to consider his case and not to blame him as a deserter as he is not a deserter if he makes a mistake. It is not desertion. If he was asked to do something, to go anywhere, he would go except in a tank unit for reasons which are very good. If a man does not know how to use a weapon how can he fire that weapon. If he is not happy in a unit because of his nationality how can he do his duty properly.

I ask the Court to consider this charge as being invalid or at least erroneous.

EEP

JUDGE-ADVOCATE ADDRESSES THE COURT
SUMMING UP

I wish to point out that it is part of my duty as Judge-Advocate to sum up the evidence and advise the Court on the law.

The Court is, however, the sole judge of the facts and anything I say now or may have previously said indicating my personal views as to the facts should be entirely disregarded. The Court and the Court alone is the sole judge of the facts.

I do not think it necessary for me to review the evidence - there does not appear to be any difficulty in that respect.

As to the Law the accused is charged with Desertion. It is a special type of Desertion. Desertion can be divided into two kinds:

(a) What is known as the general type of Desertion where an accused goes absent without leave and forms an intention not to return to the Army again, and

(b) Where he goes absent without leave after having been warned for some special duty or draft and forms an intention to avoid that particular duty. Whether or not he intended to return to the Army eventually is of no importance, the criterion being did he intend to avoid the draft for which he was warned.

The onus is on the Prosecution, it is not for the accused to prove himself innocent, it is for the Prosecution to prove he is guilty. The Prosecution, therefore, must prove to the satisfaction of the Court:

(a) That the accused was AWL during the period charged,

(b) That he was duly and properly warned for the draft and that he understood the warning,

(c) That he was absent without leave with the intention of avoiding that draft, and,

(d) That the draft for which he was warned did in fact proceed.

It is also my duty to point out to the Court that the accused is entitled to the benefit of any reasonable doubt. I say a reasonable doubt, that is some doubt which is based on the facts before the Court and not some doubt which is purely imaginary. If the Court has a reasonable doubt after hearing and weighing the evidence then the accused is entitled to the benefit of that doubt.

On a charge of Desertion the Court may come to any one of the following decisions:

(a) Guilty as charged - that is guilty of Desertion,

(b) Not guilty of Desertion but guilty of absence without leave,

(c) Not guilty of any offence.

That is all I wish to say unless the Court or the Prosecutor or Defending Officer require explanation on any question that I may have overlooked.

The accused and also his Defending Officer declined to make a statement or address the Court in mitigation of punishment.

Judge-Advocate advised the Defending Officer that this was his last opportunity to speak on behalf of the accused.

Defending Officer replied that he did not wish to make a further address.

Exhibit A 6/9/42. CEB

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
D-14530	Gnr	GRAVEL O.F.	12 C.B.R.Gn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times
For		times		times

[illegible] [illegible] [illegible] [

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-14530 Rank Gnr Name GRAVEL O.F. of 12 C.B.R.Bn. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of August 44

L.B. Skinner
(L.B. SKINNER) Capt & Adjt
Officer having custody of Regt Records

~~In the rank of~~ ~~In the rank of~~ ~~In the rank of~~ ~~(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)~~

~~The accused has served as a non-commissioned officer continuously, without reduction to the present date.~~

~~Date of Promotion.~~

~~Yrs.~~ ~~Yrs.~~ ~~Yrs.~~ ~~Yrs.~~

LBS

Exhibit B.

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. D14530 Name Gravel OF Sqn., Battery, or Company Corps RCA Date of enlistment 19-7-40 G.C. Badges one Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. 11 July 42 Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
CERTIFIED TRUE COPY OF MFM 6 EXTRACTED FROM MFM 4					4/17 Aug 44 ENTRIES NIL				

B. T. Saunders
(B.T. SAUNDERS) Capt
Officer i/c X-Lis Section
Records

(P.T.O.)

SUMMARY OF EVIDENCE

Summary of evidence in the case of:

D-14530 Gnr GRAVEL, O.P., RCA.

a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution:- Capt E.M. BROWN, OC 56 Coy, 12CBR Bn, having been duly sworn, states:-

I am Capt EM BROWN, OC 56 Coy, 12 Bn, 2 CBR Gp, to which Coy the accused is posted. I selected D-14530 Gnr GRAVEL, OP, to proceed on draft to the field. The accused, on being warned for this draft, asked to be paraded to me and at approximately 1430 hrs 12 Aug 44, was paraded when he stated that he did not wish to proceed to the above mentioned unit. I explained to him that he could not be taken off said draft as there were no qualified men within this Coy to replace him in a trade which he was filling, namely driver mechanic AFV. He then stated that he would not go. Upon him making this statement, I called L-6098 BSM SHEPPARD, FW, and G-3002 BSM KING, JU, to be witnesses to an official warning which I gave Gnr GRAVEL intheir presence. The warning consisted of the following:-

"Gnr GRAVEL, you are officially warned for draft. You will be present when the draft leaves this afternoon at approximately 1700 hrs. If you are absent from the parade which proceeds on draft, you will be subject to a charge of desertion.

I then asked the accused if he could understand my English. He replied - "Yes, fairly well." The accused asked me what type of a gun the above bty was equipped with and I gave him the necessary information. He stated that he did not wish to go into a unit with tanks that he had been in action and saw hundreds of them burnt up, and that they operated in front of the infantry. I then told the Sgt-Major to march him away. I was present at a muster parade held at 1730 hrs for the personnel of the above mentioned draft prior to mounting vehicles and proceeding to their destination. Gnr GRAVEL'S name was called twice. He did not answer his name and was not present.

Cross-examined by the accused:-

Q.1 Sir, did I say anything about tanks going in front of the infantry?

A.1 Yes, you stated that these guns operated in front of the infantry.

Q.2 Did I say I would go in any artillery unit and drive anything but a tank?

A.2 Yes, and I explained the type of unit and that as you were a driver mechanic AFV, I had no alternative but to place you on this draft.

Q.3 Did you not ask me if I drew trades pay as a driver mechanic AFV and I replied - "No, my trades pay is for driver mechanic wheeled?"

A.3 Yes, and I stated it did not matter; you are a qualified driver mechanic AFV and you will have to go.

(RM Brown) Capt - OC 56 Coy,
12 CBR Bn.

Second Witness for the Prosecution:- L-6098 BSM SHEPPARD, J.W., having been duly sworn states:-

On Saturday, 12 Aug 44, in the 56 Coy lines, 12 CBR Bn, I witnessed Capt BROWN'S warning for draft to Gnr GRAVEL, OF. Gnr GRAVEL refused to go to this particular Unit after being duly warned. I personally called the roll of draft personnel at 1730 hrs 12 Aug 44. Gnr GRAVEL's name was called twice by name, rank, and number and he was not present at this parade. When he was warned for draft by Capt BROWN, he was also told the hour at which time the draft must parade. Gnr GRAVEL's presence in 56 Coy lines was brought to my attention at 2130 hrs, 12 Aug 44 so I placed him under close arrest and had him paraded to the Bn Guard Room under escort.

Cross-examined by the accused:-

Q.1 Did you hear Capt BROWN ask me if i understood his English?

A.1 Yes, I heard Capt BROWN make a statement to that effect.

Q.2 Did you hear Capt BROWN tell me the hour when the draft was to be mustered?

A.2 Yes.

J.W. Sheppard.
(JW Sheppard) BSM
56 Coy, 12 CBR Bn.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give evidence and reserve his defence.

The accused does not call any witnesses for the defence.

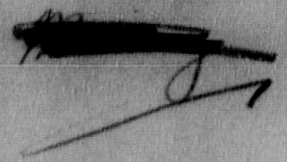
I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C) (D) (E) & (F) have been complied with.

In the Field- FRANCE
.....Aug 44

.....Capt
(L. B. SKINNER)
Officer detailed to take the Summary.

333-117

TPR GRAVELLE E.D.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-102659 Tpr Earl Oscar GRAVELLE, 2 CACRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 40	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One Hundred and Twenty (120) days

8 Feb 44 (Sgd) W.H.S. Thomson Lt Col President (RP 45, 52.)

(Sgd) ~~Judge Advocate, if any.~~ Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed.

I ~~direct that the accused be not committed to prison or detention barracks until further order~~.(1) 9/2/44

(1. AA 57A. Delete if not used.)

(Sgd) J.H. Rutherford Brig

Date 9 Feb 44 Commanding 2 Gp CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-102659, Tpr. E.O. GRAVELLE	10 Feb 44 (D.O. #37)	(W.S. Thomson), Capt., for O.C., 2 C.A.C.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

333-117

CFA96 (In lieu of AFA3) 40/P.A.C. 1608 (2964)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig T.J. Rutherford Comd "E" Gp, CRU dated 8 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-102659	Tpr	Earl Oscar	GRAVELLE	2 CACRU

PROCEEDINGS REVIEWED
17 Feb 44
J.H. Waugh Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
England.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) on (date(s)) 8 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A85, for oaths and instrs on how to record address, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

The Court is satisfied that it is properly convened and constituted(2), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~was~~ brought before the Court. At 11 / 0 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~was~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to Accused: Do you object to an interpreter? Ans:~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans:~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col.	D.L. Redman, V.D.	2 C.A.C.R.U.
Member	Capt	F.C. Small	7 C.I.R.U.
Member	Lieut	J.M. Kennedy	4 C.I.R.U.
~~Judge-Advocate~~			
Prosecutor	Lieut.	M.B. Kent	2 C.A.C.R.U.
Defending Offr	Capt.	T. Johnston	2 C.A.C.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused before arraignment makes(s) (has) ~~has~~ no plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressee made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~has~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and marking an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E ~~on~~ p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy [copies] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No Sir only by my Defending Officer. Noted Marked
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(*1. When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 543-546, Overseas RO 309, 1323, MML p 46, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 544. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY
ENGLAND

CHARGE SHEET

In the case of

B-102659, Trooper Earl Oscar GRAVELLE, of No. 2 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:--

FIRST CHARGE
Sec. 15(1) Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 8 Canadian General Hospital, Farnborough, absented himself without leave from 1900 hours, 22 Dec 43, and remained so absent until apprehended by Canadian Provost Corps, in London, at about 2330 hours, 3 Feb 44.

SECOND CHARGE
Sec. 40 Army Act

WHILE ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at London, on 3 Feb 44, was in possession of a document purporting to be a genuine pass, well knowing that it was not genuine.

(F.H. Perry), Colonel,
Officer Commanding,
No. 2 C.A.C.R.U.

Warburg Barracks,
Aldershot, Hants,
7 Feb 44.

To be tried by Field General Court Martial.

In the Field
8 FEB 44

(T. J. RUTHERFORD) Brig
Comd
"Z" Gp, CRU

FIELD GENERAL COURT-MARTIAL

(CFA96 (In lieu of AFA5) 40/FAS/1697 (2958))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-102659	Tpr		Earl Oscar	GRAVELLE	2 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Feb 44 endorsed by me, [or by an officer of my staff for me], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [and that it is not practicable to delay the trial of such offence(s) until the accused can be tried by a General Court-Martial.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I hereby appoint the said Offr to be the Court's Judge-Advocate for the said trial.] [I hereby appoint the said Offr to be a Member of the Court for the said trial.]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt.-col	D. L. Redman, VD		HQ, CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC, 7 CIRU		7 CIRU
Lt	to be detailed by OC, 4 CIRU		4 CIRU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England.
(Country)

Date 8 Feb 44

(Signed [initials] RP 105 (c) 2.) (Rank.)
(T. J. RUTHERFORD) Brig
Commanding "E" Group, CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) Para 557.

I certify that I have this morning examined B 102659 (No.) TPR (Rank)
GRAVELLE E.O. (Name) of NO. 2 C.A.C. R.U. (Unit)

and in my opinion he is fit to undergo trial by Court Martial.

Station FIELD

Date FEBRUARY 8, 1944

Sgd. J. H. Hamlin Jr. (Medical Officer)

7th Feb. 44.

Plea for mitigation in the case of:
B102659 Tpr. Carl Oscar Gravelle, No. 2 C.A.C.T.U.

Sir,

The above named soldier was a member of my regiment from the time it embarked for a theatre of war, until he was evacuated with wounds. As he was a member of my squadron, I frequently came into contact with him, and found him to be a hard-working and conscientious soldier. Up to the time that I was evacuated from the regiment, he had never caused any trouble and was completely willing to do whatever he was ordered. He has been in the army a very short time, most of it on active service and is in my opinion, the type of man who becomes bored with inactivity. He has no entries on his M.F.M.6 whilst in the field with the 4th C.T.U.

In view of the fact that this man did his work well at a time when every man was needed, I make a plea for mitigation in ~~this~~ his ~~man's~~ case.

NOTE E-3

MU

signed.
Johnston Capt.
Defending Officer.

Army Form W4098

E 459744 ARMY

FOR FREE LEAVE TRAVEL ONLY

PASS (to be surrendered on rejoining unit)

Regiment Royal Worcester

No. 5[illegible] Rank Pte

Name Pack S.

has permission to be absent from his/her unit from

Rev. 18 1.44 to 2359 24 7.44

Commanding

REGIMENTAL OR CORPS STAMP

1. From London District	4. Reporting Centre Own Unit	7. Ration Card Issued Yes
2. To London	5. [illegible]	8. For use of C.M.P.
	6. Nearest Hospital	
3. Through London Yes	Royal Guards	9. Authorized to travel over 50 miles at concession fares

*Items not applicable to be deleted and [illegible] by Issuing Officer

P.T.O.

Army Form W4098

E 459744 ARMY

CHARGES PAYABLE BY OFFICER TO ARMY PAY OFFICE (RAILWAYS BRANCH), ALDERSHOT.

MILITARY PERSONNEL
RAILWAY TICKET

ONLY VALID WHEN ATTACHED TO THE LEAVE PASS

(To be detached by ticket collector.)

Date of issue 12 / [illegible] / 194[illegible]
(Month)

THIRD CLASS RETURN HALF

Valid for a journey for one person only

From [illegible] (Station)

To [illegible] (Station)

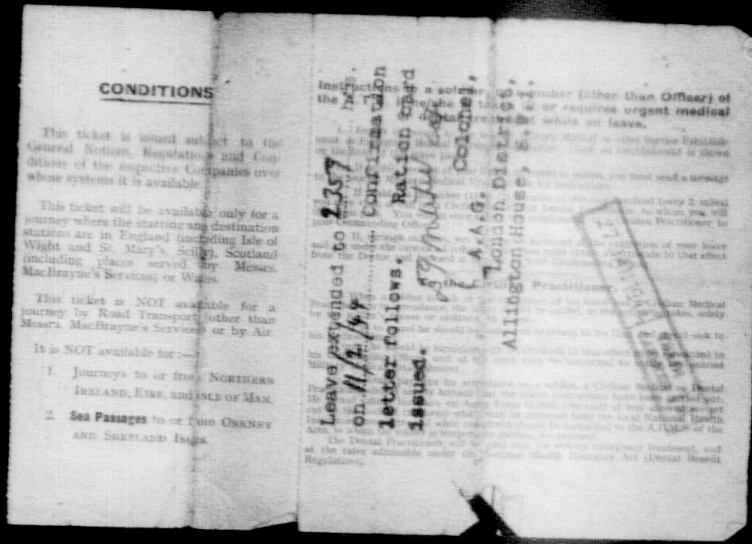
by any recognised route.

NOT TRANSFERABLE.

Any alteration, unless signed by Issuing Officer or signed and stamped by R.T.O. will render this ticket invalid.

Important.—For Conditions see back. R

P.T.O.



CONDITIONS

This ticket is issued subject to the General Notices, Regulations and Conditions of the respective Companies over whose systems it is available.

This ticket will be available only for a journey where the starting and destination stations are in England (including Isle of Wight and St. Mary's, Scilly), Scotland (including places served by Messrs. MacBrayne's Services) or Wales.

This ticket is NOT available for a journey by Road Transport (other than Messrs. MacBrayne's Services) or by Air.

It is NOT available for:—

1. Journeys to or from NORTHERN IRELAND, EIRE, and ISLE OF MAN.
2. **Sea Passages** to or from ORKNEY AND SHETLAND ISLES.

Instructions to a soldier, or member (other than Officer) of the Army, who is taken to or requires urgent medical or dental treatment while on leave.

Leave extended to 2357 on 11/2/44 letter follows. Confirmation issued. Ration card

A.A.G. Colonel, London District, Allington House, S.W.

To the Civilian Practitioner.

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr.42.

I Certify that No. B-102659 Rank TPF Name Gravelle E.O.

Unit 14 Cdn. Tank Regt. #8 Gen Hospital was arrested at 2330 London (Place)

at 2330 (hour) on 3 Feb 44 (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothing~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or the non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
3 Feb 44

L. S. Grayson MM
(L. S. Grayson), D.A.P.M., Capt.,
London Area.

CHARGE

Army Form B 252
(See King's Regulations)

8 Cdn General Hospital Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. B-102659 Rank Tpr

Name Gravelle E.O.

Place London Date of Offence 3 Feb 44

OFFENCE W.O.A.S. was A.W.L. from 7 until apprehended by the Cdn. Provost Corps at about 2330 hrs.3 Feb 44 at Victoria Stn.(2) in possession of & using a documentx purporting it to be a genuine leave pass while knowing it not to be so.

L. S. Grayson CAPT.
L. S. GRAYSON D.A.P.M.
LONDON AREA

Names of Witnesses:—

L/Cpl.Singbeil H.W. Cdn.Provost Corps.

L/Cpl.Thexter R. Cdn.Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30188 WLW21374/1961 2,000,000 10/42 K & H, Ltd. G657/47

Statement of **EVIDENCE** in the case of
B-102659 Tpr.Gravelle E.O.# 8 Gen Hospital

Sir:-
At London at about 2330 hrs.3 Feb 44 I was on duty at Vauxhall Bdge.Rd. accompanied by L/Cpl.Thaxter when I saw the a/M soldier.
I approached him & requested his leave pass. He produced an expired leave pass made out to the British Army. Not being satisfied I asked to see his pay book. At this he turned and ran. I took chase & caught him and placed him under close arrest.He was A.W.L.
I had him conveyed to No.6 Prov headquarters where he was turned over to R.C.O. i/c cells to be detained.

London
3 Feb 44 ..... L/Cpl.
B-59127 Singbeil R.W.

Sir:-
I have read over & corroborate the above statement.

London
3 Feb 44 ..... L/Cpl.
B-44320 Thaxter R

REMARKS

7 Feb 44

I, B-102659, Trooper Gravelle, E.O., desire to have Captain T. Johnston represent me at my trial by Court Martial.

E O Gravelle

B-102659, Tpr. Gravelle, E.O.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

LIST OF EXHIBITS

in the case of

B-102659, Trooper Earl Oscar GRAVELLE

(A) Statement from Provost (on A.F.B. 252)

(B) Pass and Warrant form A.F.W. 4098.

(C) Certificate of Apprehension.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

LIST OF WITNESSES

in the case of

H-102659, Trooper Earl Oscar GRAVELLE.

For the Prosecution:

(1) L-21107, A/S/Sgt. Jones, F.G.	No. 8 C.G.H.
(2) L-17001, R.S.M. (W.O.I) Meadowcroft, T.	No. 8 C.G.H.
(3) H-69127, L/Cpl. Singbeil, H.W.	Cdn Prov Corps C.M.H.Q.
(4) Captain L.S. Grayson	D.A.P.M. London, Area.

For the Defence:

N I L

FORM OF APPLICATION FOR A COURT-MARTIAL

No. 2 C.A.C.R.U. Regiment

Station In the Field Date 7 February 1944

Application for a Field General **Court-Martial**

Sir,

I have the honour to submit two charges against

No. B-102659, Trooper Earl Oscar GRAVELLE

of the Reinf Unit under my command, and request you will obtain the sanction of Higher Authority that a Field General Court-Martial may be assembled for his trial at a place to be designated.

The case was investigated by (a) Colonel J.H. Perry, O.C. No. 2 C.A.C.R.U.

(b) Lieut. M.B. Kent, No. 2 C.A.C.R.U.

~~A Court of Inquiry was held on (b)~~ ~~dated~~

~~at~~ ~~(Station)~~

~~President~~ ~~Name~~

~~Members~~ ~~rank~~

~~and~~

~~corps~~

The accused is now at No. 2 C.A.C.R.U. His general character is (c) bad

I enclose the following documents (d):—

1. one Charge Sheet (in ~~duplicate~~ trip.) (e).
2. Summary of Evidence, original (f) and ~~copy~~ copies
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. ~~Correspondence (g).~~
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer Colonel

(J.H. Perry)
No. 2 C.A.C.R.U.

To:

MEDICAL OFFICER'S CERTIFICATE

I certify that No B-102659, Tpr. GRAVELLE, E.O., No. 2 CACRU Regiment,

is* fit to undergo trial by Court-Martial.

J.D. Hamlin Captain

Signature of the Medical Officer

M.O., No. 2 C.A.C.R.U.

*Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).

(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).

(c) To be filled in by the Commanding Officer.

(d) Any items not applicable to be struck out.

(e) One copy to be sent to the President; one copy to be filed with the application for trial.

(f) Original summary of evidence to be sent to the President.

(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.

(h) 5 and 8 to be sent to the President.

(If the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

M.F.B. 321
40 F & S/400

Exhibit "A"

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

SUMMARY OF EVIDENCE

in the case of

B-102659, Trooper Earl Oscar GRAVELLE, of No. 2 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS: For the Prosecution

L-21107, A/S/Sgt. Jones, F.G., No. 8 Cdn. Gen. Hospital, R.C.A.M.C., having been duly sworn, states:-

"I am A/S/Sgt. Jones, F.G., L-21107, Wardmaster, No. 8 Cdn. Gen. Hospital. I was on duty, 22 Dec 43. Between 1800 and 1900 hours, 22 Dec 43, I discovered that Tpr. Gravelle had not returned to Ward 8, at the expiration of his pass which was valid until 1800 hours. I have not seen Tpr. Gravelle since that time, until here now, although I have made frequent daily checks. I took into possession Tpr. Gravelle's hospital clothing and turned same into the Linen Stores. I turned in to the Pack Stores, all of Tpr. Gravelle's kit which had been left in the ward."

F. Jones

The accused declined to cross examine the witness.

SECOND WITNESS: For the Prosecution

L-17001, R.S.M. (W.O.I) Meadowcroft, T., No. 8 Cdn. Gen. Hospital, R.C.A.M.C., having been duly sworn, states:-

"I am R.S.M. of No. 8 Cdn. Gen. Hospital. On 21 Dec 43, B-102659, Tpr. Gravelle, E.O. was issued a pass from my office, valid from 1600 hrs, 21 Dec 43, to 1800 hours, 22 Dec 43, destination, Cove, Hants, at 2000 hours, 22 Dec 43. I checked ward 8 of the hospital as the pass had not been turned in to my office. Tpr. Gravelle was absent and at no time until yesterday has this soldier put in an appearance at the hospital to my knowledge. Yesterday, I saw Tpr. Gravelle here in custody."

T. Meadowcroft

The accused declined to cross examine the witness.

THIRD WITNESS: For the Prosecution.

H-59127, L/Cpl. Singbeil, H.W., Canadian Provost Corps, C.M.H.Q.,

A statement of this witness's evidence, purporting to be signed by him, has been read to the accused, and is included in the Summary of Evidence. Having regard to the loss of time and expense involved, attendance of this witness cannot readily be procured. Statement and pass referred to appended as exhibit "A" and "B".

FOURTH WITNESS: For the Prosecution.

Captain L.S. Grayson, D.A.P.M., London Area.

A certificate of apprehension, purporting to be signed by him, has been read to the accused, and is included in the Summary of Evidence. Having regard to the loss of time and expense involved, attendance of this witness cannot readily be procured. Certificate appended as exhibit "C".

The accused did not demand the presence of the third and fourth witnesses for purposes of cross-examination.

W. B. Kent, Lieut.
(Officer detailed to take the Summary of Evidence)

QUESTION TO THE ACCUSED:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

Answer by the Accused:-

No, sir.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me, in the presence of the accused, in the Field, on this 7th day of February, 1944, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

M. D. Kent

(M.D. Kent), Lieutenant,
Officer detailed to take
the Summary of Evidence.

Exhibit "A"

MK

SUPPLEMENTARY COPY made up from MFM 2. [signature]

No B102659 Name GRAVELLE, E.O. Sqn, Battery, or Company | Corps C.A.C. No. 7 CDN. ARMD. | Date of enlistment 12 Aug 41 | Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/156 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc [signature] | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	23 Nov 41	Tpr		AA 15(1) WOAS AWL 1 day, 23 hrs 45 minutes.		7 days C.B.	26 Nov 41		FST
Camp Borden	20 Jan 42	Tpr	1	AA 19. WOAS drunkenness.		Admonished	20 Jan 42		FST
Camp Borden	20 Jan 42	Tpr		AA 40. WOAS faked a ten day pass. (2) AA 15(1) WOAS AWL 45 minutes.		120 hrs Detention	20 Jan 42		Forf 7 days pay FR&I 149(1)(b)
Camp Borden	5 May 42	Tpr		AA 15(1) WOAS AWL 0600 hrs 5 May 42 to 1800 hrs 7 Aug 42. Absent 94 days, 12 hrs. (2) A.A. 24(2) Losing by neglect clothing & equip to value of $13.43. In close arrest 27 days, 6 hrs.		60 days Det. Stoppages:- $19.98, cost of apprehension. $13.43, cost of deficiencies in kit.	4 Sep 42	D.C.M.	Forf 60 days pay FR&I 149 (1)(b). Forf 95 days pay FR&I 149(1)(a) (contd)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
									Forf 28 days pay FR&I 149(1)(c)(i) Forf $33.41 FR&I 158(2).
Camp Borden				Granted remission of 10 days on	23 Oct 42				
Camp Borden	20 Feb 43	Tpr		AA 15(1) WOAS AWL 2000 hrs 20 Feb 43 to 1900 hrs 21 Feb 43. Absent 23 hours.		168 hrs Det.	22 Feb 43		Forf 12 days pay FR&I 149(1)(a) Forf 7 days pay FR&I 149(1)(c)
Field	26 Nov 43	Tpr		AA 15(1) WOAS AWL 1000 hrs 26 Nov 43 to 2330 hrs 2 Dec 43. Absent 6 days, 13 hrs, 30 mins.		Forf 12 days pay A.A.Sec 46(2)c.	3 Dec 43		Forf 7 days pay FR&I 149(1)(a) Forf 12 days pay FR&I 149(2)

M.F.B. 358
30M—11-41 (2272)
K.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-102659,	Tpr.	Earl Oscar GRAVELLE	No. 2 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, ~~Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 16(1)	2 times	4 times
For A.A. 19	- times	1 times
For A.A. 40	- times	1 times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 5 days in ~~Air Force~~ military custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 23 yrs, 9 mons, 0 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Aug 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... Air Force~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~

~~dated~~ ~~and to his regiment (or corps), the rank of~~

~~dated~~

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:~~

~~Date of promotion.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number B-102659 Rank Tpr.

Name Earl Oscar GRAVELLE of No. 2 C.A.C.R.U. ~~Regiment~~

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
D.C.M.	Camp Borden, Ontario. 4 Sep 42	(1) A.A. 15(1) A.W.L. (2) A.A. 24(2) Losing by neglect his clothing and equipment.	60 days detention. Placed under stoppages to make good deficiency in kit and cost of apprehension, $33.41.	10 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of February, 1944

Capt. & Adjt.
No. 2 C.A.C.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Exhibit "B"

S. C. M. - C - 14
Spr. Gravelle, E. O.

Certified True Copy of Proceedings IN AS 168
HQ CRU 28 Aug 45 — Lt Brody Capt ADJA — Sheet C — JAG 45 — G C M - C - 17

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a General Court-Martial held at But N.2. HQ CRU Farnborough, Hants on the 17 & 18 day of August 1945 by order of

Maj-General D.C. Spry DSO
Commanding Cdn Reinforcement Units.

dated the 13th day of August 1945

President.

Col W.A. Townsley CBE,MC,ED — 2 CGRU

Members.

Lt.Col. G F.P. Bradbrook — 7 Cdn Repat Depot
Major F.N. Spennard — 4 CITR
Major P.M.A. Simard — 4 CITR
Major A.C. MacWilliams — 2 CGRU

Capt L.J. Brody HQ CRU, Barrister-at-Law, Judge Advocate.

Trial of*

R.102659 Tpr Earl Oscar GRAVELLE
4 Cdn Mil Prison & Detn Bks

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~A waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

~~The Prosecutor produces Medical Certificate showing accused fit for Trial~~

Prosecutor,† Capt S.C. Higgs 4 CITR (Lawyer)

Counsel for defending officer† Major J.H.J. Pelletier 4 Cdn Repat Depot (Lawyer)

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Wt.W3702/1178. 15,000 pds. 3/45. K. & H., Ltd. G.2731.

I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matter the subject of the charges before this Court-Martial.

PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH C.M.F.

RECEIVED 31 Aug 1945 JAG BRANCH B.M.H.Q.

Certified true copy of original proceedings herein. J.A.G. Rep. 1 Army

26 Aug 45 L J Brody Capt

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Do you object to W.3275 Sgt Spence M.E., 3 Det (C) Cdn JAG O/Seas acting as shorthand writer? Answer: No Sir.

W.3275 Sgt Spence M.E. is duly sworn as shorthand writer.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty Sir. *Answer.*

Are you guilty or not guilty of the Second charge against you, which you have heard read? Answer: Not Guilty Sir. *Question.*

Are you guilty or not guilty of the Third Charge against you, which you have heard read? Answer: Not Guilty Sir. *Question.*

Are you guilty or not guilty of the Fourth charge against you, which you have heard read? Answer: Not Guilty Sir. *Question.*

Are you guilty or not guilty of the Fifth charge against you, which you have heard read? Answer: Not Guilty Sir. *Question.*

Are you guilty or not guilty of the Sixth charge against you, which you have heard read? Answer: Not Guilty Sir. *Question.*

Are you guilty or not guilty of the Seventh charge against you, which you have heard read? Answer: Not Guilty Sir. *Question.*

The accused having pleaded Guilty to charge the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

B-2-46 W.A. Howard's Ltd. Pres. Com

CHARGE SHEET

The accused, No. B.103659 Tpr Earl Oscar GRAVELLE, No. 4 Cdn Mil Prison and Detn Bks, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 7 (2)
Army Act

WHEN ON ACTIVE SERVICE, Endeavouring to Persuade Persons in His Majesty's Military Forces to Join in a Mutiny,

in that he

At Headley, England, on 8th May, 1945, while a soldier undergoing sentence in No. 1 Cdn Detention Bks, endeavoured to persuade soldiers undergoing sentence confined in "Living Huts" to break out of confinement and to release from confinement other soldiers undergoing sentence in said Detention Bks.

SECOND CHARGE
(Alternative)
Section 40
Army Act

WHEN ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

in that he

At Headley, England, on 8th May 1945, while a soldier undergoing sentence in No. 1 Cdn Detention Bks, was concerned in a disturbance in said Detention Bks.

THIRD CHARGE
Sec 7 (3)
Army Act

WHEN ON ACTIVE SERVICE, Joining in a Mutiny in His Majesty's Military Forces,

in that he

At Headley, England, on 9th May 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, joined in a mutiny by combining with other soldiers undergoing sentence in said Detention Bks to release soldiers in confinement in said Detention Bks, to damage said Detention Bks, and to set fire to the watch tower in said Detention Bks.

FOURTH CHARGE
(Alternative to 3rd Charge)
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, Committing a civil offence, that is to say, Riotous Damage, Contrary to Section 12 of the Malicious Damage Act, 1861

in that he

At Headley, England, on 9th May 1945, while a soldier undergoing sentence in No. 1 Cdn Detention Bks, and being riotously assembled together with other soldiers undergoing sentence in said Detention Bks, damaged the same Detention Bks.

FIFTH CHARGE
(Alternative to 3rd Charge)
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, Committing a Civil Offence, that is to say, Arson, Contrary to Section 5 of the Malicious Damage Act, 1861,

in that he

At Headley, England, on 9th May 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, together with other soldiers undergoing sentence in said Detention Bks, maliciously set fire to the watch tower, part of the said Detention Bks.

SIXTH CHARGE
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE, using Insubordinate Language to His Superior Officer,

in that he

At Headley, England, on 9th May 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks said to Sgt. Erlandson G.G. a member of the Staff of said Detention Bks "You yellow Provost Bastards" or words to that effect.

B-2

5

"W. A. Townsley" Col
Pas. Gen.
LTR.

SEVENTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

in that he

At Headley, England, on 10th May 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, was (improperly) concerned in a disturbance in said Detention Bks.

L. S. Grayson.

Reading, England,
11 Aug 45

(L. S. Grayson) Lt-Col.
Officer Commanding,
No. 4 Cdn Mil Prison & Dtn Bks.

To be tried by General Court Martial.

D. C. Spry

In the Field
13 Aug 45

(D. C. Spry) Maj-Gen
Comd
Cdn Rft Units.

COPY

7

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

"W A Toronday Col"
Pres of CM
LGD

I certify that I have this morning examined No. B.102659 RANK Pte
NAME GRAVELLE E.O. UNIT 4 CMP & DB and in my opinion he is fit to undergo
trial by Court Martial

Station Field
Date 17 Aug 45

"P.M.Hudson Capt"
4 CMP & DB
(Medical Officer)
(Unit)

9

1800.

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined

NO. B. 102659. RANK Pte. . NAME. GRAVELLE. E. O. . . . . UNIT. . . . 4. CMP&DB. . . . .

and in my opinion he is fit to undergo trial by Court Martial.

Station: Field

Date: 18 Aug 45

P W Hudson Capt
Capt
(Medical Officer)
(P.W. Hudson)

4 CMP & DB
(Unit)

G 11

OPENING ADDRESS BY PROSECUTOR:

May it please the Court. These Charges arise out of a riot in Gdn Detention Bks at Headley Downs on the 8th, 9th and 10th of May this year. Some 15 witnesses will be called by the Prosecution. Here are the main points around which the story of these three days will revolve.

First of all the time - the 8th of May was VE Day (Tuesday), the 9th of May a Wednesday and the 10th a Thursday. The place was the Detention Bks at Headley Downs, although it has changed names there is only one Barracks at Headley Downs and that is the one this Court is concerned with.

The plan of the Detn Bks will be identified by the First witness, a copy of which has been given to the Defending Counsel, and I ask the Courts permission to file it at this point in order to more clearly give an outline of the case.

✓ AND, WITH CONSENT OF DEF OFFR IS ✓ ADMD

PLAN OF DETN BKS IS PRODUCED, ACCEPTED BY THE COURT, AND MARKED EXHIBIT "H".

Now on this plan the Court will observe that in the N.W. corner appear the words "A" Compound. "A" Compound is the centre of the activity which we are concerned with. "A" Compound consists of a parade square rectangular in shape, on the south side of the parade square are three T Shaped buildings designated as living huts. On the west, north and east sides are ten rectangular buildings known as cell blocks. The cell blocks are numbered as shown starting on the left 1, 2, 3, and so on. The living Huts are shown as AH 1, AH 2, and AH 3. "A" Standing for "A" Compound.

The Court will be directly concerned with the cell blocks and living huts, and I have here a sketch of the cell blocks showing 14 cells, and a corridor running down the centre of the cell block. I would ask permission to produce the sketch at this time.

✓ AND, WITH CONSENT OF DEF OFFR IS ✓ ADMD

SKETCH OF CELL BLOCK IS PRODUCED, ACCEPTED BY THE COURT, AND MARKED EXHIBIT "I".

The Court will observe as shown on the sketch that each cell block consists of 16 rooms. The first two, that is the two nearest the entrance to that cell block are un-numbered and the numbers start on the left hand side as one enters the cell block, and number from 1 to 14. The evidence shows that the accused was in Cell 14, of Cell Block 6 on the north side of the parade square. The entrance to Cell Block 6 is just where the letter "E" appears in the word blocks. The window of Cell 14 is the second window from the left and faces the parade square.

The other points which will be referred to in the evidence is that in the N.W. corner of the parade square is Cell block 4, at the top of which there is a watch tower, and this watch tower was set fire to on the 9th May. If the Court will look to the S.W. corner of the parade square there is a small rectangular building marked Sanitary block. Reference will be made to that building too. To the S.E. of the parade square there is a circle that is marked SWS and reference will be made to that point on the plan. One further reference will be made to the East Gate. If the Court will look to the right of the sketch they will find the East Gate marked.

Just before the breakout on the morning of the 8th May there was tension noticed among the SUS and when the news was announced about noon of the allied Victory conside able noise broke out and attempts were made by SUS to demand a lessening of the prison regulations.

The chief demand appears to have been the demand for cigarettes, and prison regulations forbid the smoking at any time of SUS. As the Court well knows none-smoking is part of the punishment, and has been for prisoners sent to Detention. There was considerable shouting across the parade square which went on through the afternoon and evening, but nothing serious happened until 1700 hrs 8th May.

I think I should show the relation of staff to SUS. At that time there were around 1400 SUS, and the staff numbered around 20. After disorder broke out the staff was increased to 40 or 50. As to the use of force - prison regulations lay it down the staff will never use any more force than necessary. To clear the point of physical violence - while there was a great deal of damage done to the

buildings and so on, there is no evidence of any physical clashes between Staff and SUS, and no one was injured on any of these three days. As to the damage done the evidence will be that there were broken pipes, ripped out radiators, bars torn from the windows, latrines and wash basins broken, and there will be evidence of the destruction to the watch tower.

So much for the general picture. After that has been made clear by the first witness the evidence of specific words and acts of this accused on these three hectic days will be placed before the Court, and that evidence will clearly show why he is now hear to answer these seven Charges.

Charges of on the 8th May endeavouring to persuade others in joining in a mutiny. On the 9th of May of himself joining in a mutiny causing riotous damage, committing arson and using insubordinate language. On the 10th May, that is the third day, being improperly concerned in a further disturbance which took place the morning of that day.

It is not necessary that I go into the Charges in detail, and although the story of the witnesses will deal with more than one day, I say that if the Court keeps the events of each of the three days clearly in their mind then at the conclusion of the case all seven Charges can be easily considered and dealt with.

C

L.B.

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

L.B.

The prosecutor makes an opening address [redacted] (See document marked " G " attached)

The prosecutor proceeds to call witnesses.

First witness for prosecution.

Major H.F. GERMEN, Assistant Commandant Cdn Detn Bks, Headley, England.

L.B.

Judge Advocate to accused: Major Germen was not a witness called on the taking of the Summary of Evidence, has the proper notice been given under RP 76? Answer: Yes sir, there is no objection to his evidence.

being duly sworn, is examined by the prosecutor.

Q 1 On the 8th, 9th and 10th of May this year I believe you were on the Staff of Cdn Detn Bks at Headley Down as O.C. "A" Compound. Is that correct?
A 1 Yes sir.

Q 2 I produce Exhibit "H". Do you recognize this plan?
A 2 Yes sir.

Q 3 Is this plan correct as to detail of "A" Compound, as it was the 8, 9, and 10th May this year?
A 3 Yes sir.

Q 4 You have examined this plan before coming to trial?
A 4 Yes sir.

Q 5 Are the particulars of this compound correct showing the living huts and cell blocks?
A 5 Yes sir.

Q 6 Is there a watch tower in "A" Compund?
A 6 There was, yes sir.

Q 7 Where?
A 7 On the roof of cell block 4.

Q 8 What was the height of that watch tower approximately?
A 8 I would say the height from the ground would be approximately 18 to 20 ft. Not any more than 25 ft.

Q 9 Is there a static water supply for this camp?
A 9 Yes sir.

Q 10 For "A" Compund?
A 10 Yes sir.

Q 11 Where is it located? Would you point it out on the plan?
A 11 Witness points to the circle marked SWS on the plan S.E. of parade square.

Q 12 Is there a separate sanitary block for "A" Compound?
A 12 Yes sir.

Q 13 Will you point to that please?
A 13 Witness points to small rectangular building S.W. of "A" compound.

Q 14 What is in that sanitary block?
A 14 A number of ablutions. That is about all, I should say toilet ablutions.

Q 15 On 5th May were there any SUS in Living Huts?
A 15 Yes sir, approximately 52 in each living hut in "A" Compound,

Q 16 Is there a guard on SUS in each of these living huts?
A 16 Two guards normally in each living hut.

Q 17 Are SUS locked in?
A 17 No sir, there is no place to lock them in, there are bars on the windows, and two guards at the door, they are free to move about in the living hut.

Q 18 How many entrances or exits are there in each living hut?
A 18 One exit and one entrance.

Q 19 What is the position that the staff take with regard to the doors?
A 19 They station themselves at the door, one at the exit and one at the entrance.

Q 20 Are there windows in these living huts which look out on the parade square?
A 20 Yes sir.

Q 21 Are these windows barred?
A 21 Yes sir, they were barred.

Q 22 Cell blocks 1 - 10 are they all identical?
A 22 Yes sir, each cell block is the same.

Q 23 How many cells are in each cell block?
A 23 Fourteen sir.

Q 24 How are they numbered?
A 24 Starting with the left hand side of the parade square each cell block is numbered one to ten.

Q 25 Are the cells in each cell block numbered?
A 25 Yes sir.

Q 26 Where is cell 14 in each cell block? Right or left as you go in?
A 26 On the right hand side as you go in.

Q 27 Has each cell a window?
A 27 Yes sir.

Q 28 Where would the window face for cell 14 of cell block 6?
A 28 It would face out on the parade square.

Q 29 Is cell 14 the first cell that one comes to on entering Cell Block 6?
A 29 I believe it is, yes sir, on the right hand side.

Q 30 Is the window of cell 14 the first window that you come to on the right hand side of cell block 6?
A 30 That is right, the window faces on the parade square.

Q 31 As you enter cell block 6 what is the first place you come to on the right hand side?
A 31 The control room, we keep a table in there and the dishes of the SUS.

15

Q 32 Is there a window in that control room?
A 32 I do not think so.

Q 33 How many SUS are there in each cell?
A 33 One sir.

Q 34 Are each of the windows in the cell block barred?
A 34 Yes sir.

Q 35 Is there a lock on the door to each of these cells?
A 35 Yes sir, each door has a double lock.

Q 36 On 8th May who was the Orderly Offr of the Camp?
A 36 I was Orderly Offr for the entire Detn Bks.

Q 37 Did you inspect "A" Compound on 8th May?
A 37 Yes sir, at 11 o'clock A.M.

Q 38 Did your inspection reveal anything out of the ordinary?
A 38 Nothing whatsoever.

Q 39 Was something reported to you during the afternoon of that day?
A 39 I was returning from the Offrs Mess about 1300 hrs. I heard shouting and a lot of noise coming from "A" Compound. That was while I was still out on the road.

Q 40 What did you do as a result?
A 40 I went to "A" Compound and with S/M Illingsworth who was RSM at the time and s/M Rae who was S/M in charge of the Compound I made an inspection again to see what the noise was. I went around each living hut, and each cell block. The SUS were in the living huts and cell blocks at that time and were making a considerable amount of noise, banging their mess tins, or any other articles they could get their hands on at the time. I asked several of the staff what started the row and they said the news sheet which gave out that VE Day had been declared.

Q 41 Did you do anything yourself that afternoon with respect to any of the SUS in "A" Compound?
A 41 Yes sir, there was quite a feeling of unrest, and I ordered each one to go back to bed.

Q 42 Did they go to bed?
A 42 Yes sir.

Q 43 At what time?
A 43 2100 hrs, normally it is 1930 hrs, but they did not go to bed on the orders of the staff and I went around and ordered each one personally to go to bed.

Q 44 What time was that?
A 44 2100 hrs.

Q 45 On 9th May, Wednesday, did you go to "A" Compound?
A 45 Yes sir.

Q 46 About what time?
A 46 I was there all the time.

Q 47 What did you see on 9th May 45 at "A" Compound?
A 47 On 9th May at about 0800 hrs after the SUS had had their breakfast they came out of the living huts, and all of them were creating quite a noise, and some managed to break out of their cells in the cell block and go out on the parade square. Quite a number had weapons, bars in their hands, planks, and various things like that, and they started milling about the parade square.

Q 48 Where did the bars come from?
A 48 From the living hut windows.

Q 49 How large is the bar?
A 49 About 2" in diameter.

Q 50 How long would they be?
A 50 About 6 ft long.

Q 51 What was the staff doing at this time?
A 51 The staff and the offrs were all attempting to persuade the SUS to return to their huts and not get involved in any trouble. Those that were out would not go back so an attempt was made to keep them on the parade square so there would be no damage done.

Q 52 Was physical force applied in any case?
A 52 No sir.

Q 53 Would it have done any good?
A 53 No sir, it would have done more harm than good.

Q 54 What approximately was the number of SUS in "A" Compound on these days?
A 54 "A" Compound then included one or two huts now known as "B" Compound, they numbered about 4385.

Q 55 What was the total staff at "A" Compound?
A 55 In the morning the normal staff would be 25 to 28. On the night of 8th May it was doubled making a staff of 50 to 60.

Q 56 These SUS you saw on the parade square on the morning of the 9th. How many did you see altogether?
A 56 On the parade square itself there were approximately 275 SUS.

Q 57 Did they stay on the parade square all morning?
A 57 No sir, about 9 o'clock while the staff and Offrs were there trying to keep them from doing any damage quite a number of SUS broke from the parade square not running but just walking up towards the Orderly room of "C" Compound. There was a considerable amount of noise and brandishing of bars, as they walked to "C" Compound.

Q 58 What did they do there?
A 58 An attempt was made to hold them back by Col Grayson, the other Offr, I did not get a chance to speak to them myself. They got to "C" Compound, on the other side of the Camp and broke through the East Gate after smashing a considerable number of windows, and about 60 of them escaped, a few of them stole a truck which was there and took it away. Some of them got as far as the gate, stopped and came back. The SUS in "C" Compound did not take part in this, although the ones from "A" Compound tried to get those in "C" to go with them, they were unsuccessful.

Q 59 Did this body of SUS do any damage before they left the East gate?
A 59 Yes sir, they smashed all the windows in "C" Compound Mess hall.

Q 60 Will you indicate where on the diagram?
A 60 Witness points to building immediately north of road leading to East Gate and west of East Gate, designated Cook house and Dining Rooms.

Q 61 About what time did this escape take place?
A 61 About 0900 hrs 9th May.

Q 62 Did everybody in the group go out the gate?
A 62 No sir, there was quite a number, but not everybody in the group, some returned.

Q 63 What did those who did not go out do?
A 63 We herded them back to "A" Compound.

Q 64 You told us before about the watch tower — how does one get up to it?
A 64 At the time there was a ladder going up the side of the cell block, and you could climb up to the tower.

Q 65 On 9th May 45 was that watch tower damaged in any way?
A 65 Yes sir, at approximately 1900 hrs the evening of 9th May an attempt was made by SUS to set fire to it. I was a distance of about 250 yds from this tower and saw a number of SUS milling about the base of it. But as there was SUS milling about all around I paid no attention until I saw smoke coming from beneath the tower. I went over to this part of the compound and saw a fire had been started by using the straw from the palliasses which had been thrown up on the tower. We called out our own fire dept and lay out the hose from the SWS to the tower. We had great difficulty in doing this for as soon as we would couple the hose the SUS would uncouple it, and when we finally got it together they came with razor blades and cut it. They hindered as much as possible, but we finally got the fire out, but the tower had to be taken down as the support had been weakened by the fire.

Q 66 On 10th May, Thursday, did anything take place in "A" Compound out of the ordinary?
A 66 I believe the 10th May was the day Maj-Gen Spry spoke to the soldiers in "A" Compound and informed them they would be moving to another location as the premises they had been living in had been damaged too much to continue living there.

Q 67 After the General spoke what did the SUS do then?
A 67 Most of them returned to their huts and cells. About 15 mins before the General spoke I made an inspection of the Sanitary Block and it was quite intact at that time, after the General spoke as a result of what was reported to me I went to the Sanitary Block and inspected it again, and all the toilet ablutions had been smashed.

Q 68 Did you see the accused the 8th May?
A 68 No sir.

Q 69 Do you recognize the accused?
A 69 Yes sir (indicates accused).

Q 70 Did you see him the 9th of May?
A 70 Yes sir.

Q 71 About what time, and where?
A 71 1915 hrs when we were attempting to lay the hose he was attempting to cut it.

Q 72 Did you see him on the 10th May?
A 72 I do not recall seeing him the 10th.

Q 73 Was there anybody injured at any time during these three days?
A 73 Not to my knowledge.

Q 74 Do you know how many SUS escaped from "A" Compound?
A 74 A count was made on the 11th and at that time 47 had escaped. I said 60 previously but some of these came back the same day.

Q 75 Where had those SUS been before they escaped?
A 75 They had been in "A" compound before they escaped.

Q 76 Will you tell the Court the nature of the damage which was done to "A" Compound?
A 76 All the bars were taken off all the windows for one thing. Most of the toilet blutions and ablution wash bowls in all the cell blocks were smashed. All the windows in "A" Compound were broken. All the toilet bowls in the Sanitary block "A" Compound had been smashed. The windows of the dining room in "C" Compound were broken, and I might say there was quite a bit of damage to palliasses and mess tins and general barrack damages.

Q 77 After the disorder started were any instructions issued to the staff?
A 77 Yes sir, instructions were issued from the Commandant "A" Compound and myself that the staff were to keep the SUS from doing as little damage as possible and to keep them in "A" Compound so as not to excite the rest.

Cross-examined by Defending Officer:

Q 78 You stated that on 8th May after lunch you made an inspection of the living huts and that you found them noisy and there was a lot of noise and shouting. Will you tell the Court what steps were taken to stop this noise?

A 78 I went around myself and gave instructions. I spoke to all of the SUS in each cell block and discussed the VE Day with them, and told them that there was no point in trying to damage anything. Some of them were bending and breaking Mess tins, and I told them to cut down, which they did. I went around later with the Commandant and he told them the same thing.

Q 79 Were there any lessening of the rules when the news of the Victory in Europe was known to the SUS?

A 79 No sir.

Q 80 How is the hair cut of a SUS while undergoing sentence?

A 80 Their hair is cut in the normal way. Their hair is not shaved closed to their head. They wear two red circles on their trousers, and a red circle on their tunic.

Q 81 Besides telling the SUS there was no point in trying to break out, were there any other steps taken to prevent this breakout on 8 May?

A 81 No sir, we just carried on normally. Everything went quite well after I had spoken to them.

Q 82 Actually nothing was shown to the SUS that if they attempted to break out that it would be serious for them?

A 82 Nothing was mentioned about breaking out at all to the SUS.

Q 83 On the 9th May were there any steps taken by the staff to stop the SUS from smoking?

A 83 No sir.

Q 84 On 9th May when you were trying to get the hose ready for the fire, where were you exactly on the parade square?

A 84 I was all across it going from one corner to the other as we laid the hose.

Q 85 Were you surrounded by SUS while getting the hose ready?

A 85 Yes sir.

Q 86 Did it take very much time to get the fire equipment organized?

A 86 Not to get it organized, but considerable time to get the hose laid.

Q 87 You were more or less rushing around from one thing to another?

A 87 I was not rushing. I had just come out of hospital and could not rush, but I was walking back and forth by the hose.

Q 88 How many SUS were there around?

A 88 Quite a number, I would say about 200.

Q 89 How could you say you happened to notice the accused trying to cut the hose with a razor blade?

A 89 It happened so often. I would start to walk from the tower and notice the accused trying to cut the hose, then about ten feet further on the same thing would happen again, and that went along practically the whole way across the compound.

Q 90 But actually you did not see him doing any damage to the hose?

A 90 Yes sir, there was quite a bit of water spouting out of the hose.

Q 91 Was he the only one hindering your work?

A 91 He was the most consistent one there with the razor blade.

Q 92 Were there some others with razor blades?

A 92 Not that came to my attention.

Q 93 But there could have been others?

A 93 Yes sir.

Q 94 So you cannot be sure if the damage done to the hose was done by the accused or by the others?
A 94 No sir.

Re-examined by the Prosecutor:

Q 95 Did any SUS escape on the 8th May?
A 95 Yes sir, ten.

Q 96 The figure you gave us before of 47, included that ten?
A 96 Yes sir.

Questioned by the Court:

Q 97 The first room in the cell block - is there a window or not?
A 97 There may have been. The first room is not a cell. The second room is a cell, that is the first cell on the right hand side. The first room has not a window, but that is not a cell.

Q 98 Why are some in living huts and some in cell blocks? What is the difference?
A 98 It depends on their behaviour, their length of sentence and so on where they are put.

Q 99 Were there SUS in "B" and "C" Compounds?
A 99 Yes sir.

Q 100 This trouble was entirely in "A" Compound?
A 100 No sir, part of "B" Compound was involved.

Q 101 "C" Compound did not take part?
A 101 No sir.

Q 102 In these cell blocks there are 14 actual cells, but on entering the block there are two rooms one on each side?
A 102 Yes sir.

Q 103 What kind of door and what locking facilities have they got on entering the passageway to the cells themselves?
A 103 They have an iron grill door going into the cell block proper, and each cell has a door with a double lock. First of all there is an ordinary woodendoor, then the grill door which is locked.

Q 104 The only cell blocks are in "A" Compound?
A 104 Yes sir.

Q 105 Then judging by this plan, from the set up of the Camp these prisoners are segregated - what is the basis for this seperation?
A 105 The length of sentence, the number of times they have been in before, and their behaviour and so on.

Questioned by Judge Advocate:

Q 106 How long was the watch tower on fire?
A 106 When they first started the fire the palliasses and straw was burning, it would take about 15 mins for the watch tower to catch, then it burned for about half an hour.

Q 107 To what extent was the watch tower damaged by the fire?
A 107 The support of the tower was weakened so it had to be taken down.

Q 108 The watch tower as I understand it was built on the roof of cell block 4?
A 108 Yes sir.

Q 109 What material is the roof of the cell block?
A 109 I am not sure, concrete I believe.

Q 110 It was not wooden?
A 110 No sir.

Q 111 So the roof would not catch on fire?
A 111 No sir.

Q 112 The tower was made of wood?
A 112 Yes sir.

Q 113 What was the height of the watch tower from the roof of the cell block?
A 113 About 15 ft.

Q 114 To get to the roof of the cell block there was a ladder leading up from the ground?
A 114 Yes sir, up the side of the cell block.

Q 115 There was no other way of getting to the watch tower except by this ladder?
A 115 Oh yes, it is very low, and you can pull yourself up on to the roof.

Q 116 How far is the roof from the ground?
A 116 7 to 8 ft.

Q 117 Was the ladder fixed or was it movable?
A 117 Fixed sir.

Q 118 You mentioned lines of hose were laid to put out the fire?
A 118 There was one single line laid.

A 119 How long was that line of hose?
A 119 220 yds I suppose.

Q 120 How long was it after the hose was laid and in operation before the fire was put out?
A 120 Just a matter of a few minutes.

Q 121 Were you able to put out the fire by the use of the hose?
A 121 Yes sir.

Q 122 It was not a case of the fire burning itself out?
A 122 No sir.

Q 123 To what extent was the putting out of the fire delayed by the interference of the SOS?
A 123 About half an hour.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (3)

The witness withdrawn.

Second Witness for Prosecution: K.53520 CSM THORELD C.G. No. 4 Cdn Mil Prison and Detn Hkrs. being duly sworn, is examined by the Prosecutor.

Q 124 Will you give the Court your rank, name, number and Unit?
A 124 I am K.53520 CSM Thorold C.G. of 4 Cdn Mil Prison & Detn Hkrs.

Q 125 I understand you were on the staff of Detn Hkrs at Headley on 5th May?
A 125 Yes sir.

Q 126 What were your duties?
A 126 I took over duties as Staff i/c of "A" Compound at 1630 hrs.

Q 127 What did you do when you took over these duties?
A 127 I detailed staff under my charge to take charge of the sections in that Compound.

Q 128 Did you yourself do anything when you took over?
A 128 At 1700 hrs I began a tour of inspection.

Q 129 Did you carry out the inspection yourself?
A 129 Yes sir, at 1700 hrs I began in hut 3 to take count, having completed my count I proceeded to living hut 2 and while in living hut 2 I heard the sound of running feet. I immediately left hut 2 and investigated and found it to be the SUS in hut 3. I attempted to stop these men, but was unsuccessful so I immediately rang the general alarm, whereupon all the staff off duty reported to "A" Compound immediately.

Q 130 Do you know the accused?
A 130 Yes sir.

Q 131 Where have you seen him before?
A 131 I have seen him in Detn Wks.

Q 132 Did you see the accused immediately following the time you sounded the alarm?
A 132 No sir, I saw him later during the course of the evening.

Q 133 What time?
A 133 Approximately 1900 hrs.

Q 134 Where was he at that time?
A 134 He was in his cell.

Q 135 Do you know the number of his cell?
A 135 Cell block 6, cell 14.

Q 136 Did you see him in his cell?
A 136 Yes sir, he was standing up in front of his window.

Q 137 Where were you?
A 137 At that time I was making the rounds of the cell blocks.

Q 138 How many staff are there for each of these cell blocks?
A 138 There were two staff for 5 cell blocks, four staff on the 10 cell blocks all told.

Q 139 These men that you say you heard on the path outside when you were in living hut 3 what did they do?
A 139 They broke out of their hut and were running along in front of living hut 2 and beckoning and calling to other SUS to follow.

Q 140 Where did they go?
A 140 They ran directly across the compound to the fence.

Q 141 At which point on the fence?
A 141 The witness points to spot in the fence closes to the building called Sanitary block.

Q 142 Then what happened?
A 142 All the staff that had reported for duty when the alarm has been sounded were detailed to get as many of these men as possible and return them to their sections.

Q 143 Was there any shouting from any of the SUS that you heard yourself after you took over your duties?
A 143 When I took over duty there was considerable noise, shouting, beating of mess tins etc.

Q 144 Did you hear the accused do any of this shouting?
A 144 Yes sir, just shortly after 1900 hrs.

Q 145 Are you able to give the Court any of the words the accused used?
A 145 I can give you the words if I may be permitted to consult some notes I made about a week later. (Permission is granted) "Come on Living Huts, what is the matter with you? Lets get this thing started." A lot of his conversation was directed to SUS Kelly in living hut 1.

Q 146 Did you hear him name SUS Kelly?
A 146 Yes sir, on several occasions.

Q 147 Living hut 1 is on the opposite side of the parade square to the accused's cell?
A 147 Yes sir.

Q 148 At what time again did you hear the accused make this noise?
A 148 I heard him numerous times after 1900 hrs.

Cross-examined by the Defending Officer:

Q 149 Where were you standing when you heard these shouts coming from cell block 6?
A 149 I was at that time making the rounds of the cell blocks.

Q 150 Was there a lot of shouting and confusion coming from the cells and the parade square?
A 150 There was no confusion on the parade square, but there was considerable noise inside the quarters.

Q 151 You say you heard the accused shouting. Did you actually see him?
A 151 I saw him sitting on the window and standing up in front of the window.

Q 152 Was there any other shouting done in cell block 6?
A 152 There was considerable noise, but from outside the cell block it could be distinctly seen and heard who was making the noise.

Q 153 Do you recall any other conversation or words that may have been shouted by other SUS in cell block 6?
A 153 No sir.

Q 154 Actually it was about a week later that you decided to write down what you thought you remembered about the events of the 6th May?
A 154 That is correct sir.

Q 155 Are you sure that the words that you said before the Court, alleging that they were said on 6th May, were actually the words coming out from the accused?
A 155 Yes sir.

Q 156 But can you be sure it was the accused who said those words when you cannot remember other words that were said by others?
A 156 The accused was quite an outstanding person on the night of the 6th due to the amount of noise he was making and the actions he was going through.

Q 157 You took over duty around 1630 hrs, and you made the rounds of living huts, and then went on to cell blocks. That would not take you a very long time. How could you already realize the accused was one of an outstanding character?
A 157 When the living huts were breaking out the accused was at his window encouraging the others to take part.

Q 158 Where were you?
A 158 At the top of the parade square, going around the parade square.

Q 159 The top is the part that is closest to the living huts?
A 159 Yes sir.

Q 160 What is the width of the parade square to the best of your knowledge?
A 160 Possibly about 40 yds.

Q 162 If you were a distance of 40 yds away you could not be sure from that distance if the shouting and noise was done only by one?
A 161 No sir, there was more than one shouting, but I know the accused's voice and could see him at his window.

Q 162 How big is a window in a cell block?
A 162 2½ by 2 ft.

Q 163 You still maintain that you remember exactly what the accused said,

he was shouting, but on the other hand you do not remember what the others were shouting about?
A 163 That is correct.

Re-examined by the Prosecutor:

Q 164 Which was the accused's cell?
A 164 He was in cell 14 cell block 6.

Questioned by the Court:

Q 165 Could you see the accused from where you were standing near the living huts?
A 165 Standing at the top of the parade square you can command a view of the whole compound.

Q 166 How many men were in Cell block 6 at that time?
A 166 14 sir.

Q 167 The place was full?
A 167 I believe so, yes sir.

Q 168 You could see the accused by his window in his cell 14?
A 168 Yes sir.

Q 169 The rest of the men were creating a lot of noise and confusion too?
A 169 Yes sir, but not to the extent the accused was sir.

Questioned by the Judge Advocate:

Q 170 You have told the Court you recognized the voice of the accused?
A 170 Yes sir.

Q 171 Were you familiar with his voice on the night of 6th May?
A 171 Yes sir.

Q 172 What opportunity had you had of becoming familiar with his voice?
A 172 Being staff i/c of the compound I knew the men by sight, and a lot of them by their voice.

Q 173 Were the SUS who were confined in the living huts able to hear what the accused was saying?
A 173 Quite distinctly sir.

Q 174 How do you know?
A 174 I was at one time in the living hut when the accused called to Kelly in the same hut.

Q 175 Did you hear the accused call to Kelly before the SUS had broken out of the living huts, or was it after the break out started?
A 175 It was after the SUS had broken out of the living huts, and had been apprehended and returned to their quarters. Kelly was one who was returned to his section.

Q 175 So that all the shouting and encouragement from the accused which you heard take place was after the break out had already been made by some of the SUS from the living huts. Is that correct?
A 175 Yes sir.

Questioned by the Defending Officer through the Court:

Q 176 About what time did the break out happen?
A 176 Approximately 1830 hrs.

Q 177 In cell block 6 were the blackouts down?
A 177 They were practically all torn off the windows.

Q 178 Do you remember any special windows that had the blackouts torn off?

A 178 I believe all the blackouts on the parade square side of the cell were off.

Q 179 But you are not sure?
A 179 I am not positive sir.

Q 180 Do you remember if the blackout on cell 14 was missing?
A 180 I believe it was sir.

Q 181 But you are not sure?
A 181 I am sure, yes sir.

Q 182 So far you do not seem to remember anything for sure that happened, it is just what you think happened?
A 182 How do you mean that sir?

Q 183 You are not actually sure that the blackouts for instance were all missing. You are not actually sure if the voice that you heard was actually the voice of the accused?
A 183 I am positive sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with KR 83 (3)

The witness withdrews.

Third Witness for Prosecution: D.82755 S/Sgt ASTON J. 5 Cdn Detn Bks being duly sworn, is examined by the prosecutor.

Q 184 Will you tell the Court your number, rank, name and unit?
A 184 D.82755 S/Sgt Aston J. 5 Cdn Detn Bks Alton.

Q 185 I understand you were on the staff of the provost at Headley Down Detn Bks on 8th May 45?
A 185 Yes sir.

Q 186 What were your duties then?
A 186 I was i/c of Cell blocks 1 to 10 of "A" Compound.

Q 187 I produce Exhibit "I" - does that represent a true picture of cell block 6?
A 187 It is, except between cell 3 and 4 there is an ablution room, otherwise it is correct.

Q 188 As you enter the cell block there are two rooms, one on the left and one on the right which are not cells - have they windows?
A 188 Yes sir.

Q 189 Has each cell a window?
A 189 Yes sir, also the ablutions room has three.

Q 190 Cell 14 would be the second window from the left as you face it on the parade square?
A 190 Yes sir.

Q 191 Do you know who was in this cell block on8 May?
A 191 Yes sir.

Q 192 Do you know the accused?
A 192 Yes sir (indicates accused)

Q 193 Where have you seen him before?
A 193 He has been under my care for quite some time, as i/c Cell blocks I know the accused well.

Q 194 Was he in one of the cells under your jurisidiction on 8th May?
A 194 Yes sir, in cell block 6 cell 14.

Q 195 What time did you go on duty in "A" Compound on 8th May?
A 195 1630 hrs.

Q 196 What did you see when you came on duty?
A 196 When I first came on duty everything was under control, but at approximately 1700 hrs I saw a party of SUS come out of living hut 3 and head across in front of living hut 2 where they were joined by more SUS from living hut 2. They proceeded towards living hut 1 and more SUS joined them from living hut 1. They then went down past cell block 1 and some went on to the parade square.

Q 197 About how many were there?
A 197 Approximately 30.

Q 198 About what time did that take place?
A 198 Approximately 1705 hrs.

Q 199 Where were you at the time?
A 199 By the boiler room cell block 10, it was at that time I heard the accused.

Q 200 Where was he when you first heard him?
A 200 Up in the window of his cell.

Q 201 About how far from his cell would you be when you first heard him?
A 201 About 50 yds across the corner of the parade square.

Q 202 How do you know it was the accused?
A 202 I recognised his voice?

Q 203 Where was he?
A 203 Looking back to cell block 6 after recognising his voice I saw him sitting at the window of cell 14 cell block 6.

Q 204 What was he doing sitting at the window?
A 204 Yelling at the SUS on the parade square to get the keys from me to release them from cell block 6.

Q 205 Which SUS was he yelling at?
A 205 I do not think he was yelling at any particular one, he was just yelling to get the keys and get them out.

Q 206 After he called those last words what happened next?
A 206 Approximately 10 - 15 SUS headed in my direction.

Q 207 At the time you first heard the accused call were you in his sight?
A 207 Yes sir.

Q 208 Were you on the parade square?
A 208 Standing on the edge of the parade square at the boiler room Cell block 10.

Q 209 When these SUS who were on the parade square headed in your direction what did you do?
A 209 I went to the Guard Room and warned the CSM who reported that the SUS were attacking the staff, and I left my keys there.

Q 210 Then what did you do?
A 210 I came back and tried to quieten down the SUS. I failed with the exception of 10. The others all continued to yell and did not take much heed of my warning.

Q 211 Did you continue in charge of cell blocks on 9 May?
A 211 Well I was not in charge of cell blocks - there were three shifts all mingled together. Three of us there took it over between us on the 9th and morning of the 10th.

Q 212 You were still on duty on 9th May?
A 212 Yes sir.

Q 213 Did you see the accused?
A 213 Yes sir.

Q 214 When and where?
A 214 At 1600 hrs on the parade square standing on a cart addressing a body of SUS who were gathered around him on either side of the parade square.

Q 215 About what time was this?
A 215 Approximately 1600 hrs.

Q 216 Was anyone else standing on the cart?
A 216 Not that I noticed sir.

Q 217 Was anyone else talking to the group?
A 217 No one at that time, just the accused sir.

Q 218 Is there a look out tower in this Compound?
A 218 There was, it was destroyed by fire.

Q 219 Was it there on the 8th of May?
A 219 Yes sir.

Q 220 Where was this tower?
A 220 On the roof of cell block 4.

Q 221 Did you hear any of the words used by the accused in speaking to this crowd?
A 221 No sir.

Q 222 About how long did you see him speaking to the crowd?
A 222 I seemed to have come along at the tail end of his conversation, it was only a few minutes and they headed for the N.W. corner of the parade square.

Q 223 How many were there?
A 223 35 to 40 sir.

Q 224 What happened next?
A 224 I went and warned the CSM that they were going to set fire to the tower on top of cell block 4.

Q 225 What did they do?
A 225 When I came back from warning the CSM there were still some SUS gathering up W.D. equipment, palliasses, blankets, bed boards, and all kinds of stuff that would burn.

Q 226 Did you see this accused among them?
A 226 I did sir.

Q 227 What was he doing?
A 227 He was half way up the ladder leading to the look out tower.

Q 228 Is that ladder at the side of cell block 4?
A 228 Yes sir.

Q 229 How many could be on the ladder at once?
A 229 There could be 7 or 8 sir.

Q 230 How many were there on the ladder when you saw the accused?
A230 Just the accused sir.

Q 231 After you saw these things being gathered what happened?
A 231 I was ordered to get out the fire engine and run the hose to cell block 4 and try to put the fire out.

Q 232 Was there a fire?
A 232 Yes sir.

Q 233 Did you have anything to do with putting it out?
A 233 Yes sir.

Q 234 What was that?
A 234 I was the one that used the hose on the fire.

Q 235 How much damage was there?
A 235 So badly it had to be taken down for safety reasons.

Q 236 What time did the fire in the tower take place?
A 236 1830 hrs somewhere in that neighbourhood.

Q 237 Did anything else happen immediately following the fire?
A 237 Yes sir.

Q 238 Did you see the accused?
A 238 No sir, not after the fire. I went around to check on the living huts and I could account for everybody except the accused. He was just one jump ahead of me at all times.

Q 239 Were there any orders issued by the staff to these SUS during this disturbance?
A 239 Yes sir.

Q 240 What were these orders?
A 240 To behave themselves and not mix in with the riotous squads - some obeyed and some didn't.

Q 241 Were there orders given to the riotous squads?
A 241 Yes sir.

Q 242 What did they do as a result of these orders?
A 242 Just ignored the warnings and carried on as usual sir.

Q 243 The SUS that were taking part in the fire - did they have any arms?
A 243 There were no arms at all sir, some carried small clubs, others small pieces of iron pipe.

Q 244 Where would they get the iron pipes?
A 244 I do not know sir.

Q 245 Did all the SUS in "A" Compound break out and take part in this disturbance?
A 245 Cell blocks 1, 2, and 3 were let out. What time they were let out I couldn't say.

Q 246 Was it the afternoon or evening of the 9th?
A 246 I do not know to be sure, the orders were issued by the Assistant Commandant to let them out to save breakages of cells.

Q 247 During this disturbance did you see the accused very often?
A 247 No sir.

Q 250 When you did see him what was his relation with regard to the other SUS who were around?
A 250 He seemed to be acting as spokesman for the whole mob sir.

Cross-examined by the Defending Officer:

Q 251 You said you were in cellblock 10?
A 251 Outside of cell block 10.

Q 252 And then you heard some shouting from cell block 6?
A 252 Right sir.

Q 253 Somebody was shouting get the keys from you?
A 253 Yes sir.

Q 254 Did you see the accused?
A 254 I recognised his voice, and looking in that direction I saw him at the window.

Q 255 Did that happen at exactly the same time?
A 255 When he shouted I immediately looked at the window because I recognised his voice?

Q 256 Supposing another SUS with a similar voice was shouting, or imitating the voice of the accused, you could not have known the difference?
A 256 Yes sir.

Q 257 How?
A 257 The accused has a voice that is easily recognized.

Q 258 But suppose somebody else imitated his voice, you could know the difference?
A 258 If there had been nobody else at the window I would say no sir, but I did not see any other at the window at that time.

Q 259 They did not have to stand at the window?
A 259 A voice would not carry that far unless the person had his mouth towards the bars of the window, because his voice would be echoed in the cell block itself.

Q 260 What was he saying?
A 260 Get the keys off Aston.

Q 261 You said you heard him shout that, and then turned around?
A 261 Yes sir.

Q 262 How many times did you hear him say that?
A 262 Once, which was sufficient for me.

Q 263 Was there a lot of noise going on around the cell blocks?
A 263 Yes sir.

Q 264 A lot of shouting done by other SUS?
A 264 Not at that particular time there wasn't.

Q 265 But there was a lot of noise?
A 265 A considerable amount of noise, not a lot, but more so than generally is around the compound.

Q 266 The afternoon of 9th May you said you saw the accused standing on a cart addressing a group of SUS?
A 266 Right sir.

Q 267 Did you hear any particular words of the conversation?
A 267 No sir.

Q 268 Was he speaking very loudly or were you too far away?
A 268 No sir, I was not too far away, he was not shouting, he was speaking, his voice was raised a bit I imagine, because I could hear the voice although not understand what the words were.

Q 269 How did the SUS appear to react to this speech?
A 269 The majority seemed to be agreeance with what he was saying.

Q 270 Was there a lot of laughing?
A 270 There was not a great deal of laughing, there were some that were laughing.

Q 271 And after the group proceeded towards the tower - where were you standing when you saw the accused climb up the ladder?
A 271 Standing at cell block 9 sir.

Q 272 When you saw the accused there was the tower on fire?
A 272 No sir.

Q 273 Did you see him there after the fire?
A 273 Not after the fire had started, but I saw him there when the material was being gathered.

Q 274 You did not see him actually setting the tower on fire?
A 274 No sir.

Q 275 You just saw him on the ladder?
A 275 Yes sir.

Q 276 Was there movement on the top of cell block 4?
A 276 Yes sir, 3 or 4 other SUS were on top of the cell blockat the time.

Q 277 Besides that you did not see very much of the accused during these two days?
A 277 No sir.

Q 278 What makes you think that he was one of the main leaders if you only saw him on two occasions?
A 278 By what happened on 8th May.

A 279 And on the 9th May?
A 279 Yes sir, and on the 9th May.

Q 280 But you did not actually see or hear him very much?
A 280 Yes sir, I saw him, but paid no particular attention.

Q 281 He did not look very dangerous to you?
A 281 Not at that particular time, no sir.

Re-examined by the Prosecutor:

Q 282 Did you have the keys for the cell blocks at the time the accused shouted "Get the keys off Aston"?
A 282 Yes sir.

Q 283 Do you normally have these keys?
A 283 Yes sir.

Q 284 Would the accused know that?
A 284 He knew it, I had just been in the cell block 15 mins before that sir.

Questioned by the Court:

Q 285 How can you know that the accused knew you had the keys?
A 285 He always knew, I went in to the cells sir.

Q 286 But how would the accused know you had thekeys at that time?
A 286 I was i/c of the cell blocks and he knew the i/c carried the keys, and I had been in the cell block just 15 mins before. He must have known I had them.

Q 287 How long have you been in charge of the cell block the accused was in?
A 287 A year sir.

Q 288 How long had the accused been there?
A 288 I do not know without checking the records.

Q 289 Apparently this trouble started in living hut 3, spread to huts 2 and 1 and then we have your evidence the accused was shouting from his window in cell block 6. That is on the 8th May?
A 289 Yes sir.

Q 290 Did you open his cell on the 9th May to let him out?
A 290 No sir, I did not.

Q 291 When you saw the accused talking to this body of men on the 9th May on the parade square, how far away from him were you?
A 291 Approximately 50 yds sir.

Q 292 How many men were in cell block 6?
A 292 14 sir, I do not exactly remember if there were some vacant cells, but I am pretty positive it was full sir.

Q 293 You said that on the 9th May the accused was on the parade square, and you went over to warn somebody they were going to burn the tower?
A 293 Yes sir.

Q 294 How did you know they were going to burn the tower?
A 294 I was told not to repeat anything that I did not hear. One of several shouted and told me sir.

Q 295 How long have you known the accused?
A 295 Ever since he was in Headley Down Detn Hqs.

Q 296 Can you say if it was a month?
A 296 No sir, because I never had any particular record of when an SUS came in.

Q 297 Has he been there 6 months?
A 297 No sir, I would not say six months.

Questioned by the Judge Advocate:

Q 298 To the best of your recollection approximately how long had the accused been a SUS in Cell Block 6 up to the 8th May?
A 298 I would say 5 or 6 weeks sir.

Q 299 During that time did you get to know his voice?
A 299 Yes sir.

Q 300 Is there any possibility that you may have mistaken somebody else's voice for that of the accused on 8th May?
A 300 No sir.

Q 301 On the night of May 8th, at the time you say you heard the accused shouting to SUS on the parade square, approximately how many SUS were gathered on the parade square?
A 301 25 to 30 sir.

Q 302 Where had they come from?
A 302 From the living huts sir.

Q 303 On the 9th May, the following day, you have told the court you saw the accused on the ladder leading up to the watch tower?
A 303 Yes sir.

Q 304 Was he going up or coming down?
A 304 He was stopped, and talking to some SUS at the bottom.

Q 305 Did you see him going up or coming down?
A 305 He was motionless on the ladder.

Q 306 Was he carrying anything?
A 306 No sir.

Q 307 At the time you saw him on the ladder were there some SUS already on the roof of cell block 4?
A 307 Yes sir.

Q 308 Did you see what they were doing?
A 308 Fooling around at the bottom of the tower with bedding and things like that.

Q 309 What do you mean 'fooling'?
A 309 Placing things at the bottom of the tower.

Q 310 Did you see the fire break out?
A 310 No sir.

Q 311 How long after you saw the accused standing on the ladder did you see the fire break out?
A 311 5 or 10 minutes sir.

Q 312 Can you tell the Court what part of the tower was burned?
A 312 The N.E. corner, there were blankets and palliasses piled around the bottom of the tower that were also on fire.

Q 313 Was there any chance of the fire spreading from the watch tower to any other building?
A 313 Not to another building, but it could have caught outside on to the dried ferns, and spruce and pine just outside the fence.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdraws.

Fourth Witness for Prosecution: L.94665 Sgt HELLOR T. No. 4 Cdn Mil Prison and Detn Bks, being duly sworn, is examined by the Prosecutor:

Q 314 Will you give the Court your number, rank, name and Unit?
A 314 I am L.94665 Sgt Heller T, of No. 4 Cdn Mil Prison and Detn Bks.

Q 315 I understand you were on the staff of Detn Bks Headley Down on 8th May?
A 315 Yes sir.

Q 316 What were your duties on the 8th May?
A 316 I was detailed to go down along the corner of the parade square and assist the other staff with cell blocks 6,7,8 and 9.

Q 317 About what time was it you went down?
A 317 I first went down at approximately 1730 hrs.

Q 318 Where did you go?
A 318 To cell block 7. I entered there and saw that things had more or less got beyond our control, so I went up to cell block 6.

Q 319 Did you go inside cell block 6?
A 319 I did sir.

Q 320 Did you see or hear anything?
A 320 Things were more or less very quiet with the exception of the accused, and he was doing a lot of shouting. He was up by his window and I saw him tear his blackout off and he continued on shouting.

Q 321 Would you recognize SUS Gravelle?
A 321 Yes sir (indicates accused).

Q 322 Did you hear any particular words used by the accused?
A 322 Yes sir, he was shouting over to living hut 3 and was yelling "Come on Number 3, what are you waiting for, lets get this thing started". He was also calling for SUS Kelly.

Q 323 When he was calling where was he at that time?
A 323 He was in cell block 6, cell 14.

Q 324 Where was he with relation to his window?
A 324 His window overlooked the parade square.

Q 325 Was he near the window?
A 325 Yes sir, right up at his window, in fact sitting on his window.

Q 326 Would you explain 'sitting on his window"?
A 326 In a cell block the windows open down from the top and you can take and remove the windows so you can quite easily climb up and sit on the window and look out through the bars.

Q 327 Approximately what time was it you heard the accused call to living hut 3?

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A 327 Anywhere from 1830 hrs on to 2300 hrs. He was calling until he made himself very hoarse and unless you were very close you could not hear him towards the end. As I was there all the time I could hear him until his voice almost failed him.

Q 328 Could he be heard distinctly at first?
A 328 Yes sir.

Q 329 By whom?
A 329 Anyone within the area of "A" Compound. He could be heard quite distinctly by all members in the cell blocks or living huts.

Cross-examined by the Defending Officer:

Q 330 On 8th May do you recall if the blackouts in cell block 6 were in good order?
A 330 Yes sir they were.

Q 331 You went from cell block 7 to cell block 6?
A 331 I did sir.

Q 332 Where were you actually in cell block 6 when you heard the accused shouting?
A 332 I went right up and down the corridor of cell block 6, then came out and stood at the corner so I was closer to the accused then, than I am right now. I even spoke at times to him.

Q 333 So when you heard the shouting you were standing outside the cell on the left of the cell facing the parade square?
A 333 Yes sir.

Q 334 Was there any other shouting going on then?
A 334 Not in cell block 6 sir.

Q 335 There was in other cells?
A 335 You would hear the occasional shout from other cell blocks, and from the living huts sir.

Q 336 Did you actually see the accused shouting come on living huts, give us some help, or words to that effect?
A 336 I did sir.

Q 337 Did you remain in cell block 6 all through that time from 1730 until 2300 hrs?
A 337 Yes sir.

Q 338 Except the time you spent outside?
A 338 In and around cell block 6.

Q 339 In cell block 6 was there any other shouting done during the course of the evening, or was it only done by the accused?
A 339 There was other shouting done sir.

Q 340 How many SUS were in cell block 6?
A 340 14 sir.

Q 341 The cell block was full?
A 341 Yes sir.
The Prosecutor declines to re-examine.
Questioned by Court:
Q 342 Did the accused carry on a conversation with personnel or SUS in living huts or cell blocks?
A 342 He could not carry on a direct conversation with them, he could just keep on calling to them, and no doubt a good few recognised his voice, but he could not carry on a direct conversation.

Q 343 Was anyone else joining in shouting?
A 343 No sir, I could not say they were.

Q 344 Were there any men in the vicinity of living huts 2,3 and 1 at the time the

accused was supposed to have been yelling out of his window?
A 344 No sir, not outside, but they were all up around their windows in the living huts.

Q 345 What time was this?
A 345 Anywhere from 1830 hrs right up until it was dark and I could not see the living huts sir.

Questioned by Judge Advocate:

Q 346 Do you know anything about some SUS confined in the living huts on 8th May breaking out that day?
A 346 Yes sir.

Q 347 Of your own personal knowledge?
A 347 No sir, I did not see them.

Q 348 Do you know whether or not any soldiers under sentence confined in the living huts broke out from their living huts after you heard the accused shouting to them?
A 348 Not on the 8th May, no sir.

Q 349 I understood you said the accused was shouting to Kelly?
A 349 Yes sir.

Q 350 What did you hear him say to Kelly?
A 350 I do not know even if he could see Kelly.

Q 351 How do you know it was he, he was shouting to?
A 351 He kept calling that name sir. He said come on Kelly, why dont you get this bunch started.

Q 352 Did you hear the accused say anything other than that, did he keep repeating himself?
A 352 I just dont reeall anything else of what he said because he kept calling to living hut 3, and at various times he would call and use the name Kelly.

Q 353 What again did you hear him call to living hut 3?
A 353 "Number 3 come on, what are you waiting for, lets get this thing started, what are you sitting inside for, why dont you come on out".

Questioned by the Prosecutor through the Court:

Q 354 Were you on duty in "A" Compound before 1700 hrs the 8th May?
A 354 Yes sir, I had put in from 0030 to 0800 hrs 8th May.

Q 355 Were you on again from 0800 to 1700 hrs?
A 355 No sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdraws.

Fifth Witness for Prosecution: A.340001, S/Sgt SEMPLE F.J. No. 3 Cdn Mil Prison & Detn Bks, being duly sworn is examined by the Prosecutor:

Q 356 Will you tell the court your number, rank, name and Unit?
A 356 A.340001 S/Sgt Semple F.J. of No. 3 Cdn Mil Prison and Detn Bks.

Q 357 Were you on the provost staff at Headley Down Detn Bks 8th May?
A 357 Yes sir.

Q 358 What were your duties on 8th May?
A 358 I was in charge of cell blocks 1 to 10 "A" Compound.

Q 359 Were you in charge of these blocks on 9 May?
A 359 Yes sir.

Q 360 Did you see or hear anything unusual on the 9th May?
A 360 Yes sir, I did.

Q 361 Do you know the accused?
A 361 Yes sir.

Q 362 Where have you seen him before?
A 362 Cell block 6, cell 14.

Q 363 Did you see him on 8th May this year?
A 363 Yes sir.

Q 364 Where were you when you saw him?
A 364 I saw him at the window of his cell. He was shouting out towards the living huts. He had what appeared to be a mess tin in his hand, and he was hammering it on the outside of the cell block.

Q 365 What time was this?
A 365 From 1300 hrs on sir.

Q 366 Where were you at the time he was doing this?
A 366 I was down around the cell block. I went down to find out what the noise was.

Q 367 Was the accused shouting at all?
A 367 Yes sir, he was shouting across the parade square.

Q 368 What did you hear?
A 368 Just calling and shouting up to the living huts to the effect come out boys.

Q 369 Do you recall any of his exact words?
A 369 No sir, I was too far from him at the time.

Q 370 Did you see him the evening of the 8th?
A 370 Yes sir.

Q 371 What was he doing at that time?
A 371 He was in his cell, but there was nothing more than shouting from his cell window.

Q 372 Did you hear any of the words he used at that time?
A 372 All I heard he was shouting my name, and said Hello S/Sgt Semple.

Q 373 Where were you at the time he called your name?
A 373 Outside number 6 cell block.

Q 374 Did you see him again that night?
A 374 No sir, I came off duty at 1700 hrs. There was nothing more than shouting in the cell blocks. We paraded all that night, and it was after I had been dismissed from duty we were called back in again.

Q 375 When you were called back in again did you see the accused at all?
A 375 No sir, I was outside the fence, and I went up along the outside of "A" compound fence.

Q 376 On 9th May did you see the accused?
A 376 Yes sir.

Q 377 What was the first time on the 9th May?
A 377 At 0800 hrs.

Q 378 What was he doing?
A 378 Still in his cell at that time, at the window.

Q 379 Was he shouting?
A 379 Not at that time sir.

Q 380 Did you see anyone on the parade square at the time?
A 380 At that time there was a lot of noise from the living huts, and I saw the men leave the living huts carrying iron bars from the windows. They rushed down the square and threw the bars into the cells, one through the window of the accused's cell.

Q 381 Did you see this bar thrown through the window of the accused's cell?
A 381 Yes sir.

Q 382 What time?
A 382 Approximately 0900 hrs.

Q 383 What did the SUS coming from the living huts do then?
A 383 Went all around to the cell blocks from 1 to 10 and I saw them with these bars, and they were shouting we will get you out.

Q 384 Did you hear the accused do any shouting at that time?
A 384 No sir, there was noise in most of the cells, they were smashing up boards, and throwing them out the windows. I went up to cell block 6 and tried to quieten them down in that block, but I had to leave as I got a call from 5 Cell block.

Q 385 Did you see the accused after that?
A 385 Yes sir, the next time I saw the accused was around 1000 hrs.

Q 386 Where was he at that time?
A 386 On the square, they formed a parade on the parade square.

Q 387 Did you see him later?
A 387 I did not see him from then on as I had to go out of sight.

Q 388 How many were on the parade square at that time?
A 388 Approximately 200 or more.

Q 389 Did you see the accused any more on the 9th?
A 389 Yes sir, I saw him at different times during the afternoon.

Q 390 Were the locks broken in the cell blocks?
A 390 Yes sir, the locks were all broken, both from the outside, and some had forced there way from the inside.

Q 391 Did you see theaccused break out of his cell?
A 391 No sir I did not.

Q 392 Did you see the accused the afternoon of the 9th May?
A392 Yes sir, he was on the parade square at one time, and I saw him on top of the look out tower.

Q 393 When you saw him on the parade square what time was that?
A 393 After dinner, around three o'clock.

Q 394 What was he doing?
A 394 Going around visiting and talking with other SUS. I saw him at different time, and going up the ladder leading to the watch tower.

Q 395 Where were you when you saw the accused going up the watch tower?
A 395 Opposite cell block 5.

Q 396 How far were you standing from the ladder?
A 396 About the length of two cell blocks sir - 50 ft. He was doing no damage at the time I saw him on the look-out tower.

Q 397 Were there other SUS on the top of cell block 4 when you saw him there?
A 397 Yes sir, there were others at different times. I saw two other SUS and I recognized one of them, but I did not know the others.

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Q 398 Did you see the accused go up the ladder of the watch tower?
A 398 Yes sir.

Q 399 Have you had duties with respect to cell block 6 for very long?
A 399 Yes sir. I visited them on my round of duties from morning to noon, and continued on until dismissal at night.

Q 400 How long prior to 8th May had you had duties with respect to these cell blocks?
A 400 About 3 years sir.

Q 401 How long prior to 8th May have you known the accused?
A 401 I have known the accused for some time, since he was admitted.

Q 402 Can you tell us approximately how long before the 8th May he was admitted?
A 402 No sir, I cannot.

Q 403 A matter of weeks or months?
A 403 Months sir.

Q 404 On the afternoon of 9th May did you see the accused talking to other SUS on the parade square?
A 404 Yes sir, I saw him talk to other SUS in a body.

Q 405 Where was he at that time?
A 405 At what time would that be sir?

Q 406 Did you see the accused at any time during the afternoon of 9th May?
A 406 Yes sir, I saw him again around 1600 hrs, he was on the tower, and it looked as if they were carrying something up to the tower.

Q 407 What did the accused do with respect to these things that were handed up?
A 407 He was reaching down for them, I could not see for sure where I was standing what he was reaching down for. It appeared to be straw pallaisses or something.

Q 408 Was there damage done to this watch tower?
A 408 Yes sir, they set fire to the tower.

Q 409 Did you see the fire start?
A 409 No sir.

Q 410 After the fire started what happened, did it continue for long?
A 410 No sir, by the time I got there the fire Dept had it under control. I did not see the accused at that time. The other shift had taken over at 1700 hrs and they were in control of the Compound, we were reinforcements.

Q 411 On 10th May, the following day, did you see the accused?
A 411 Yes sir.

Q 412 Where were you at the time you saw him?
A 412 In "A" Compound down by the cell blocks.

Q 413 What was the accused doing at that time?
A 413 Nothing in particular at that time. Just roaming around talking, nothing more than any of the rest were doing. I did not see him do any damage at this particular time. The men were paraded before the GOC that afternoon.

Q 414 Do you remember when the GOC spoke to the SUS?
A 414 Yes sir.

Q 415 Was it the morning, afternoon, or evening?
A 415 Shortly after dinner on the 9th May.

Q 416 Did the GOC speak to the SUS on the 10th May?
A 416 Yes sir.

Q 417 When was that?
A 417 In the afternoon sir.

Q 418 After the GOC spoke to the SUS on 10th May did you see the accused?
A 418 Yes sir.

Q 419 Where was he then?
A 419 I saw him in the sanitary block.

Q 420 Will you point to the building you refer to?
A 420 Witness indicates building marked Sanitary block S.W. of "A" Compound parade square on Exhibit "B".

Q 421 Was the accused inside that building when you saw him?
A 421 He was there with a number of other SUS, yes sir. It was crowded and I heard someone say "Quiet the non down " and everyone started to walk out. I looked through the window and saw the accused, he was in the latrine.

Q 422 What was he doing in the latrine?
A 422 I did not see him do any damage, but I saw him with a bar or something in his hand.

Q 423 One of the window bars?
A 423 The majority were carrying bars or pieces of pipe.

Q 424 How long were they?
A 424 4 Ft. sir.

Q 425 What were they made of?
A 425 3/4 inch iron.

Q 426 What damage was done?
A 426 The windows were broken, and I went in afterwards and found a lot of damage done, broken toilets and everything, the place was flooded.

Q 427 How long was it after the GOC spoke to the men on the 10th May that you went to the Sanitary block?
A 427 It was after the GOC spoke that I saw these men parade in a body towards this latrine.

Q 428 Right afterwards?
A 428 Yes sir.

Q 429 You say you saw the accused on the 8th, 9th and 10th May, what would you say as to his relation with other SUS on those days?
A 429 I would say he was one of the main ring leaders of the disturbance.

Q 430 What did you see him do?
A 430 He seemed to be the head of the men that were parading around doing damage, throwing things over the fence, shouting for cigarettes and so on. I would say he was a ring leader.

Q 431 Did you hear him give instructions to any other SUS?
A 431 No sir.

Cross-examined by the Defending Officer:

Q 432 Until what time on the 8th May were you on duty?
A 432 I took over duty in the morning of 8th May at approximately 0756 hrs, and I left again for dinner at 1115 hrs.

Q 433 Were you on duty in the afternoon or evening?
A 433 Yes sir, in the afternoon until I was called back again at 1710 hrs.

Q 434 Did you go back on duty during the afternoon at cell block 6?
A 434 No sir, I stayed around the fence, just parading around. I was there around the cell blocks for a few minutes, but until that time there was no damage done.

Q 435 What time was that?

A 435 That would be after supper. I was on the outside, and I turned back into the compound.

Q 436 When you came around cell block 6 did you hear the accused shouting?
A 436 Yes sir, he was shouting from his window. There were others shouting too.

Q 437 There were others at that time?
A 437 Yes sir.

Q 438 Did you see the accused break out of his cell on the 9th May?
A 438 No sir.

Q 439 During the day of the 9th you said the accused from time to time was wandering around talking to other SUS. Did you hear at any time what the accused was saying?
A 439 No sir.

Q 440 On the 9th May around 1700 hrs did you see the accused climbing the ladder to the watch tower?
A 440 Yes sir, I saw him.

Q 441 How many SUS were on the top of cell block 4?
A 441 I saw two or three on top of it. Different times during the day I saw the accused on top of this tower.

Q 442 Did you see the accused carrying any material which was supposed to have been seen on the tower?
A 442 Around 1600 hrs I noticed him with something in his arms, and I saw another SUS shortly after go up the ladder and hand something through the trap door which leads into the tower. The next I saw they were both down on the ground.

Q 443 When the fire was on did you see the accused?
A 443 No sir.

Q 444 When there was some material handed from the ladder through the hole to a SUS on top of the roof, did you see the accused then?
A 444 I saw him on the tower at that time with the material.

Q 445 You cannot swear it was the accused who actually picked up the material from the other SUS?
A 445 It was handed to him from another SUS on the ground.

Q 446 Where were you in relation to cell block 4?
A 446 I was between 4 and 5 cell blocks.

Q 447 You did not see the accused while the fire was on?
A 447 I was over having supper at that time when they came in to say they were setting fire to the tower.

Q 448 You saw him come down from the tower before the fire started?
A 448 Yes sir.

Q 449 While you noticed the accused roaming from one hut to another did you talk to him?
A 449 I spoke to all as a whole, and took a number of men together and spoke to maybe groups of 2 or 3 dozen and tried to give them a bit of advice.

Q 450 Were there SUS roaming around from one hut to another?
A 450 Yes sir.

Q 451 There were others?
A 451 Yes sir.

Q 452 After the GOC's talk on 10 May when you went into the Sanitary block did you see the accused doing any damage?

A 452 I saw the accused. He had a bar of something in his hand, but I could not swear that I saw him do any damage.

Q 453 Actually the damage you saw could have been made by other SUS?
A 453 Yes sir, it could have. He was not the only one who was there at the time.

Q 454 It is possible that some others could have been there just a minute or two before you came along?
A 454 No sir, I heard the smashing and breaking of things inside the latrine, and someone called out to quiet down and they walked to the entrance of the door, but there was nothing I could do at this time.

Q 455 How many were in the sanitary block?
A 455 Quite a number inside and a large number outside, some playing football on the parade square.

Q 456 You state that you heard the accused while he was talking to other SUS on the 9th and 10th May, and also that there were other SUS doing exactly the same thing. How can you say he was the leader?
A 456 I would hardly say he was the leader. From what I saw that day he was a leader. I would not say he was altogether the leader, but he was with those that were milling around and leading the men on.

Q 457 Was that an opinion you formed that day or after?
A 457 I never had any trouble with this man until the day of the riot. I have known him for some time, and he was well behaved.

Q 458 In your opinion he was a leader, and yet you did not feel justified in putting him where he would not cause any further trouble?
A 458 I would not have liked to try it that day.

Q 459 And yet the accused did not seem to you very dangerous?
A 459 No sir, I would not say he was dangerous in any way.

The Prosecutor declines to re-examine.

Questioned by the Court:

Q 460 Did you see the accused addressing any body of men on the parade square?
A 460 No sir, I saw him talking to men, but I would never say he addressed them. I saw him with a lot of men.

Q 461 You spoke of some damage to the cell blocks by means of which the prisoners escaped. The accused was in cell 14 cell block 6, just what damage was done to that cell in order he escaped?
A 461 There was damage done to the interior, there were marks on the wall which could have been done by the end of the bar. Most of the damage was done in the corridors, that is the passage way between the cells, the locks had been forced, and doors had been pried open.

Questioned by the Judge Advocate:

Q 462 Can you tell whether the door of the accused's cell had been pried open from the inside or the outside?
A 462 The lock can only be broken on the outside as the lock does not lock on the inside. All the damage to his cell was done on the outside as if someone with a heavy hammer had knocked off the double locking system.

Q 463 Will you tell the Court what you saw when someone threw the iron bar through the window the accused's cell?
A 463 Yes sir, I saw a large number of men, over 100, with either bars or pieces of wood. I saw them thrown through the windows and many of them were thrown out again by the occupants of the cells. They called those in the cells who did not pull off the blackouts yellow and said if they would not do it themselves, those outside would.

Q 464 Did the SUS in the living huts go into the cell block 6?

A 464 They entered each cell block. I saw Number 6 and when I left 6 I saw them leave 8, they had broken the grill door and were leaving.

Q 465 Was the accused locked in his cell on the morning of 9th May when those other SUS came into his cell block?
A 465 When I saw him he was in his cell at the window.

Q 466 Was his cell locked?
A 466 Yes sir.

Q 467 The next time you saw him was it on the parade square?
A 467 Sometime later I saw him with other SUS marching around the square about 3 or 4 times until they organised a body of men together, and then a large number headed for "C" Compound, others turned back again. Some escaped, I saw them take their denims off in the bushes and run through the bushes. I went out of the main gate and ran down the road, and while there the men were breaking the windows in the Mess of "C" Compound, I heard glass breaking, but I could not see the men who did the damage, I was on the road a distance from the Mess hall.

Q 468 Following the GOC's speech to the men on the morning of the 10th, you say that the SUS formed up a parade, is that correct?
A 468 They did not form one in particular, a large number of them headed towards living hut 1 and cell block 1 and the sanitary block.

Q 469 How many headed towards the sanitary block which you later found damaged?
A 469 40 to 50, maybe more sir.

Q 470 Was the accused with that group?
A 470 He was in the Sanitary block when I went down.

Q 471 Had you seen him going towards the sanitary block?
A 471 No sir, I would not say I had my eyes on him all the time.

Q 472 Can you give the Court how many SUS were in the sanitary block when you arrived there?
A 472 About 20 to 30, others were outside, some coming out, others going in.

Q 473 Were those men carrying anything, that is the men inside the block?
A 473 Some of them had iron bars, I saw them myself and picked them up afterwards. I cannot swear I saw any man in particular using the bar.

Questioned by the Defending Officer through the Court:

Q 474 On the morning of 9th May did you see any SUS breaking the cell lock of the accused's cell?
A 474 No sir, on the morning of the 9th I saw the SUS break the lock of the grill doors, that is the cell door which leads into the cell block.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdraws.

Sixth Witness for Prosecution: C.11721 CSM AMYOTT W.F. No. 3 Cdn Mil Prison & Detn Bks, being duly sworn, is examined by the prosecutor:

Q 475 Will you give the court your number, rank, name and Unit?
A 475 I am C.11721 CSM Amyott W.F. of 3 Cdn Mil Prison & Detn Bks.

Q 476 You were on the staff of Detn Bks at Headley Down on 8th May?
A 476 Yes sir.

Q 477 Did you have any duties with relation to "A" Compound?
A 477 Yes sir.

Q 478 What were they?

A 478 From 0030 hrs until 0745 hrs I was i/c of the compound.

Q 479 Do you know the accused?
A 479 Yes sir.

Q 480 Was he in "A" Compound at that time?
A 480 Yes sir.

Q 481 Where was he?
A 481 Cell block 6, cell 14 sir.

Q 482 Was he locked in that cell the 8th May?
A 482 Yes sir.

Q 483 When was the first time you saw him?
A 483 On the 9th May when he was shouting from the cell bock to the living huts in the morning at approximately 0700 to 0730 hrs. I saw him look out his window and shout up to the huts. I was making my rounds.

Q 484 Where were you when you saw and heard this?
A 484 I would be going along the cell block 4 to 6 ft away from his window, the path is right along the cell block, and in order to go around this compound you have to walk right past his window approximately 4 to 6 ft at the most.

Q 485 While you were walking near his cell block did you hear anything?
A 485 Yes sir.

Q 486 What did you hear?
A 486 He was shouting to the living huts to burn the joint down, and to come down and give him a hand to get out.

Q 487 Where was the accused shouting this from?
A 487 From his cell window looking towards the living huts.

Q 488 While you were making your round did anything out of the way take place?
A 488 Not on that last round of the morning and I was relieved by QSM Thornald who took over and let me go to breakfast between quarter and half past seven.

Q 489 Did you return to "A" compound after breakfast?
A 489 Yes sir.

Q 490 What time?
A 490 Approximately 0800 hrs we got a call at the Sgts Mess. The general alarm was rung but it was out of order and the S/M sent one of the Orderly Room staff to the Mess Hall to tell any Sgt to get over to "A" Compound as there was a breakout.

Q 491 What time would that be?
A 491 About 0800 hrs.

Q 492 What did you see?
A 492 A number of SUS milling around on the square. In the living huts they wear two piece denims and in the cell blocks they wear one piece, and in that way I came to the conclusion the cell blocks had broken out as there were both uniforms mixed together.

Q 493 Were these men carrying anything?
A 493 Yes sir, some of them had clubs, some bars out of the living hut windows.

Q 494 When did you first see the accused that morning after you returned to "A" compound after breakfast?
A 494 I saw the accused at approximately 0830 hrs.

Q 495 Where was he?
A 495 He was around 6 cell block, and around 5, and I saw him on the square milling around.

Q 496 Was he carrying anything at that time?
A 496 Not that I noticed sir, he had nothing when I first saw him.

Q 497 Did you continue to observe him?
A 497 It was obvious. He seemed to be talking to 12 or 15 at a time during the day, and I also saw him at approximately 1500 to 1600 hrs - no it was later than that - closer to 1800 hrs on top of a box or cart addressing a bunch of SUS. That was on the parade square between living huts 1 and 2. After the SUS dispersed and broke up the fire started in the watch tower.

Q 498 Can you identify this SUS Gravelle?
A 498 Yes sir (indicates accused)

Q 499 At the time you say you saw him standing on something, was he talking to other SUS?
A 499 He was addressing a mob.

Q 500 About how many?
A 500 15 to 20.

Q 501 Was there anybody else standing on anything at that time?
A 501 Not that I saw, no sir. During the afternoon of the 9th I saw this SUS taking stuff to the tower, palliasses and bed boards and stuff unto the top of cell block 4. I saw him and SUS Kelly. How Kelly could be observed, he had one leg torn off his pants a little below the knee and I saw these two men up on the tower during the afternoon.

Q 502 This speech that you said he made, was that before or after you saw him with this stuff?
A 502 It would be around three o'clock when I saw him around the tower and it was closer to six o'clock when I saw him making the speech.

Q 503 Following the speech what happened?
A 503 They all broke off and the next thing I knew the fire alarm was rung. It is a gong and someone was banging it. We rushed down to see what it was and the tower was on fire.

Q 504 Did you see the accused near the tower at that time?
A 504 I saw him jump down from the top of cell block four just as I got there.

Q 505 Did you see the tower on fire?
A 505 I did, sir.

Q 506 Did you see the accused later that afternoon?
A 506 Yes sir, at different times from then on until morning. A couple of times with iron bars on his shoulders.

Q 507 Was he talking to other SUS?
A 507 Yes sir, also around the fence shouting to civilians asking for cigarettes. He was generally mixing up with the other SUS.

Q 508 Did you see the accused cause any damage of any kind on the 9th of May other than to the watch tower?
A 508 The only thing I saw him do was push a window in in cell block five and shove two iron bars in. Whether there was anyone in the cell block I do not know. Most of them had broken out except 1, 2 and 3, which were released.

Q 509 Were any orders or instructions given to the accused at any time during 9 May? Did you speak to him?
A 509 No sir, I was never close enough to give an order, but I heard S/M Ross give him an order to get down off the roof and obey him or he would be in trouble. If there was not a lady in the room I would give his answer. It was a very filthy answer he gave.

Cross-examined by the Defending Officer:

Q 510 On the afternoon of 8 May did you see the accused?
A 510 Yes sir.

Q 511 Where?
A 511 In his cell.

Q 512 On the afternoon of 9th May how many SUS were on top of cell block 4?
A 512 There were only two that I saw in the afternoon, the accused and SUS Kelly.

Q 513 What time was that?
A 513 Between two and three o'clock.

Q 514 Did you see the tower when it was set on fire?
A 514 From a distance, yes sir, I saw the smoke.

Q 515 Where were you when you saw the tower on fire?
A 515 I would be within 35 yards of the tower, down opposite cell block one.

Q 516 While the tower was burning did you see the accused?
A 516 Yes sir.

Q 517 Where?
A 517 I saw him jump off the top of the tower.

Q 518 Before or after the fire started?
A 518 After the fire was started.

Q 519 Was there any other SUS on the parade square when this fire was going on?
A 519 On yes sir, everybody was on the parade square, other than those who had escaped, approximately 69.

Q 520 When the tower was on fire you saw some smoke?
A 520 When I heard the gong ring I went down and saw the smoke.

Q 521 How many SUS were on the tower when the fire started?
A 521 Approximately a dozen sir.

Q 522 There were about 400 SUS on the parade square?
A 522 Yes sir, and around the fence.

Q 523 About 12 to 15 SUS on cell block 4?
A 523 Yes sir.

Q 524 And some smoke came out of the tower?
A 524 Yes sir.

Q 525 And the only one you saw climbing down was the accused?
A 525 No sir, in fact they all did when they saw the hose coming. He was helping them, giving them advice. I heard him.

Q 526 Through all that noise?
A 526 Yes sir.

Q 527 I am not asking you what you heard from your staff, but what did you actually hear above all this shouting and noise of the fire. You say you heard the accused give advice to other people?
A 527 Yes sir.

Q 528 You say he was mixed up in other things during the day of the 9th. You saw him running around from hut to hut. Did you actually hear what he was saying?
A 528 No sir, I was not close enough to hear him.

Q 529 Were there others doing the same thing?
A 529 There were approximately 12 running around with little gangs of their own.

Q 530 As S/M in charge of the compound what did you do in the way of ordering the accused to stop?
A 530 S/M Rae was in charge that day. I was only in charge of one shift.

Q 531 But during your shift you did not try to stop him?
A 531 When I went on shift at 0130 hrs they were mostly bedded down, if not in their own billets in someplace else. They did not start that rooming business until after breakfast when they started up again.

Q 532 What time in the morning of the 9th did you see the accused on the parade square?
A 532 I was called back at 8 o'clock from the Sgts Mess and it was shortly after 8 in the morning, between 8 and 9 o'clock sir.

Q 533 Did the accused appear to you to be a dangerous man during these allaged disturbances?
A 533 The accused appeared to me to be one of the leaders leading the gangs and exciting them.

Q 534 But you did not hear him instructing them?
A 534 Yes sir, in leading them.

Q 535 You just said that when he was rooming around you did not hear what he said?
A 535 No sir, but his actions and his attitude gave me the impression he was leading this certain bunch of BUS.

Q 536 That is just your personal impression?
A 536 It is my impression, yes sir.

Q 537 Were there any steps taken to stop the BUS from smoking on the afternoon of 9th May?
A 537 There was not much use in trying to stop them.

Q 538 Were any steps taken to stop outsiders from throwing in cigarettes?
A 538 Yes sir.

Q 539 Did they actually stop throwing cigarettes and matches?
A 539 No sir, we did not have enough staff there to stop them.

Q 540 Were they civilians or soldiers?
A 540 Both sir.

The Prosecutor declines to re-examine.

Questioned by the Court:

Q 541 At what time did you see the accused on the tower?
A 541 Between 2 and 3 o'clock in the afternoon.

Q 542 Did you see him after that?
A 542 He was making his speech around 1800 hrs.

Q 543 At what time did the fire come to your notice?
A 543 Shortly after 1800 hrs.

Q 544 When you saw the accused in the afternoon of the 9th on the parade square standing on some article or cart, did you hear what he was saying?
A 544 No sir, I was not close enough.

Q 545 How far away were you?
A 545 From the end of living hut 3, that is one and three quarter huts, they were between living hut 1 and 2. That was too far to hear anything that was being said, but I could hear his voice in the distance.

Q 546 You also said you saw the accused the afternoon of the 9th going up to the tower?
A 546 Yes sir.

Q 547 Was he carrying anything?
A 547 Yes sir, it looked like a palliase.

Q 548 Did you see him later on, within the next hour?
A 548 Yes sir, around the tower and around the compound.

Q 549 How many more men were assisting him?
A 549 The first time there was one SUS Kelly who was with him. From that distance the reason I could tell who it was, was because the leg of his pants was torn off at the knee.

Q 550 There were just two of them on the tower?
A 550 Yes sir, between 2 and 3.

Q 551 You did not see any chaps on the ground handing stuff up to them?
A 551 Not from where I was. I saw this accused taking it up on the top of the roof and Kelly going up with some wood in his arm. There were several SUS around the bottom of the cell block, whether they were passing up anything or not, I do not know.

Q 552 On the evening of the 8th you saw the accused?
A 552 Yes sir.

Q 553 What was he doing?
A 553 He had his head out the window of his cell shouting at the living huts to come on and get them out, and asking them what they were scared of, and saying "come on down and get us out".

Q 554 How long have you known the accused?
A 554 Off and on sir for a year.

Q 555 Did you know him well?
A 555 Yes sir.

Q 556 Any difficulty about recognising him?
A 556 No sir.

Questioned by the Judge Advocate:

Q 557 You have told the Court that you saw the accused on the 9th May break a window in cell block 5?
A 557 Yes sir.

Q 558 Was he by himself at that time, or were there other SUS around him?
A 558 I would say approximately 4 inthe neighbourhood near him at the time.

Q 559 What were they doing?
A 559 Just walking around the cell blocks.

Q 560 Was anybody doing any damage to cell block 5 other than the accused?
A 560 I really believe that the damage had already been done in cell block 5. I think the locks were broken and they were out by that time.

Q 561 When you saw the accused smash the window in cell block 5 you did not see any other damage being done by anyone else?
A 561 No sir, just the accused outside the cell block. There was hammering going on inside, but it was not safe to go in alone.

Questioned by the Prosecutor through the Court:

Q 562 You mentioned you saw the accused for the first time on 9 May at approximately 0730 hrs is that correct?
A 562 Yes sir, after I was called back.

Q 563 At that time where was he?
A 563 In his cell looking out the window with his head out the window.

Q 564 Did you see the accused on the parade square the morning of the 9th?
A 564 Yes sir.

Q 565 When was the first time?
A 565 It would be approximately shortly after 9 in the morning.

Q 566 At 0900 hrs the 9th May had all the SNS been released?
A 566 Yes sir, the order came down I believe Col Grayson gave the order, to take the keys and release 1,2, and 3 to keep them from breaking them up, which was done.

Questioned by the Judge Advocate:

Q 567 Can you give the Court the exact words you heard the accused use on the morning of the 9th when you heard him shouting?
A 567 "Come on down". That was his first shout when my attention was first drawn to him, then I saw his face and head through the window, then he said "come on down you living huns, what are you afraid of, give us a hand getting out of here".

Q 568 Anything else?
A 568 Not at that time.

Q 569 Did you hear him say anything later on?
A 569 I went on to cell block 10 and when I was coming back I heard someone shout burn the place down, but I cannot be sure it was the accused's voice.

Q 570 You are not sure it was the accused's voice that said burn the place down?
A 570 It sounded very much like his voice, and he was the only one with his face out the window.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (2)

The witness withdrawn.

Seventh Witness for Prosecution: L.103930 Cpl WALL C.J. No. 4 Cdn Mil Prison and Detn Hqs, being duly sworn, is examined by the Prosecutor:

Q 571 Will you give the court your number, rank, name and unit?
A 571 L.103930 Cpl Wall C.J. of No. 4 Cdn Mil Prison and Detn Hqs.

Q 572 Were you on the staff of Detn Hqs Headley Down on 8th May?
A 572 Yes sir.

Q 573 Do you recognise the accused?
A 573 Yes sir,(indicates accused)

Q 574 Where did you see him before?
A 574 At Headley Down was the first time I saw him.

Q 575 Did you see the accused on the 9th May?
A 575 Yes sir.

Q 576 Where was he at that time?
A 576 At 1600 hrs on 9th May "A" Compound parade square where he was speaking to a bunch of riotous SNS.

Q 577 Where were you?
A 577 Standing up next to the living huns.

Q 578 About how far away from the accused at the time?
A 578 About 20 ft.

Q 579 Was he alone at that time?
A 579 He was alone on the court, there were others ones around him.

Q 560 How many were around him?
A 560 Approximately 100 SUS.

Q 561 Was the accused speaking at the time?
A 561 Yes sir, he made a speech.

Q 562 Did you hear his words?
A 562 Yes sir.

Q 563 Will you tell the Court to the best of your recollections what the words were that the accused used?
A 563 "Unfortunately three of our comrades have been taken away into custody, and I think they are in "C" Compound guard room." At that time there was another SUS who spoke up and said "I think they have gone to Reading". The accused then pulled matches from his pocket and said "These can do a lot of damage and that tower over there which is on 4 cell block has been bothering me for a long time. What do you say we go and set it on fire?" The accused then jumped down off his cart and led the other SUS to the tower and went up the tower and with their assistance set the same on fire. I then assisted in putting out the fire.

Cross-examined by the Defending Officer:

Q 564 Where were you on the square when you saw the accused on the wheelcart addressing the SUS?
A 564 I was right at living hut 2 sir.

Q 565 Where was the wheelcart with relation to you?
A 565 It was on the edge of the parade square.

Q 566 Was there a lot of loud talking going on?
A 566 Not at the time [illegible] had his speech, they were paying attention to what he had to say.

Q 567 Were they joking during the speech?
A 567 There was only one joke that I can remember. There is one of the staff called Powers, and one of the SUS asked what they wanted Powers for, and the accused said not Powers, the tower.

Q 568 How long did the accusedaddress the SUS?
A 568 About 5 minutes.

Q 569 How many SUS were on the top of cell block 4 when the tower was on fire?
A 569 They were going up and coming down, how many were up there I do not know.

Q 570 Where were you then?
A 570 On the parade square sir, a little over half way towards the cell block where this was taking place.

Q 571 That would be about 75 yds from the tower?
A 571 Approximately, yes sir.

Q 572 Did you see the accused on the tower when the fire was started?
A 572 Yes sir.

Q 573 [illegible] see him actually set fire to the tower?
A 573 I did not actually see him strike the match, but he was definitely the one, because he was the only one I saw in possession of matches, and he lead the man over, and when others started throwing up the palliasses he was helping them.

Q 574 That afternoon there were a lot of cigarettes and matches thrown over to the SUS by outsiders?
A 574 I was not on duty at that time, but there was a party of people outside the gate, just what took place over there I do not know.

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Q 595 But there was a lot of smoking going on on the parade square?
A 595 Yes sir.

Q 596 So actually there could have been many people with matches?
A 596 There could have been a few I admit, but I think a very few.

Q 597 Why, if you say everybody was smoking?
A 597 If anyone wanted a light he would get it from another chap.

Q 598 You never went around and found out how many had, or did not have matches?
A 598 No sir.

The Prosecutor declines to re-examine.

Questioned by the Court:

Q 599 You saw the accused for the first time at approximately 1800 hrs the 9th May, you did not see him before that time?
A 599 Yes sir, I did see him before that time?

Q 600 On the 8th May?
A 600 No sir, that was my day off.

Q 601 Were you on duty the 9th May?
A 601 Yes sir.

Q 602 How long have you known the accused?
A 602 I came to Headley about 25th Feb of this year, and I have known him ever since.

Questioned by the Judge Advocate:

Q 603 You have told the court that after the accused made this speech you saw him lead a group of SUS to the tower. How many SUS were there in the group?
A 603 I would not say exactly, I would say approximately 100.

Q 604 Did they all go to the watch tower?
A 604 A few remained on the parade square, a few followed him.

Q 605 How many SUS accompanied the accused when he went to the watch tower?
A 605 I would say approximately 10. They were coming and going, I could not get an exact number.

Q 606 Was there anyone standing closer to the accused when he was making this speech than you were. That is any member of the staff?
A 606 Not that I know of sir.

Q 607 How close to you was the nearest member of the staff at the time this speech was made?
A 607 I would say about 10 ft.

Q 608 Who is that man?
A 608 I do not know just who he was. If it was any of the staff it would have been s/Sgt Wilson. I am not sure of that, but we were both on duty at the same cell.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdraws.

At 1515 hrs 17 Aug 45 the Court adjourns until 0930 hrs 18 Aug 45.

At 0930 hrs 18 Aug 45 the Court re-assembles, present the same members as when adjourned.

The accused is again brought before the Court.

The Prosecutor produces medical certificate showing accused fit for trial.

Eighth Witness for Prosecution: H.66966 Gnr GILMORE A. 2 CARU, AI present a soldier under sentence at 4 Cdn Mil Prison and Detn Bks, being duly sworn, is examined by the Prosecutor:

Judge Advocate to Witness: I wish to make it clear to you that you have the right to refuse to answer any question, the answer to which may incriminate you in any way. Do you understand that? Answer: Yes sir.

Q 609 Will you tell the Court your number, rank, name and Unit?
A 609 I am H.66966 Gnr Gilmore A. presently SUS at 4 Cdn Mil Prison & Detn Bks.

Q 610 I understand you were in Headley Down on 8th May?
A 610 Yes sir.

Q 611 Were you in "A" Compound?
A 611 Yes sir.

Q 612 Which part of "A" Compound?
A 612 In Cell block 6 sir.

Q 613 Which cell of cell block 6?
A 613 Cell 6 sir.

Q 614 Were you in cell 6 cell block 6 on the night of 8th May?
A 614 Yes sir.

Q 615 Were you still in that cell the morning of the 9th May?
A 615 Yes sir.

Q 616 Did you remain in that cell all of the 9th May?
A 616 No sir.

Q 617 About what time did you leave that cell?
A 617 Ten o'clock sir in the morning.

Q 618 How did you get out of that cell?
A 618 I was released sir.

Q 619 On the morning of the 9th was there anything unusual that took place in your cell block?
A 619 Yes sir.

Q 620 Would you tell the Court what you saw and heard?
A 620 I saw the accused with his spoon releasing other SUS.

Q 621 Can you identify the accused, SUS Granville?
A 621 Yes sir (indicates accused).

Q 622 Whereabouts were you in cell block 6 when you first saw the accused?
A 622 In my cell, I could see him through the grill in the alleyway.

Q 623 Where is this grill in the alleyway?
A 623 It is the grill of the cell I was in, I could see out into the hallway.

Q 624 Is the grill in the door of your cell?
A 624 That is right.

Q 625 Where was the accused at that time?
A 625 I could see him in the hall, in the alleyway.

Q 626 Does that alleyway run between your row of cells and the opposite row?
A 626 It is in the centre of the cell block sir.

Q 627 At the time you were looking through your grill what did you see?

A 627 I saw the accused out in the alleyway with other SUS helping to release other SUS.

Q 628 What did you see the accused do at that time?
A 628 I saw him with a spoon helping to take out the screws of the cell door.

Q 629 How long did you remain in your cell?
A 629 Until I was released sir.

Q 630 About how long was that?
A 630 Half an hour later sir.

Q 631 When you were released was the accused still in the hallway?
A 631 Yes sir.

Q 632 Was the grill door of the cell block open or closed at that time?
A 632 It was closed at the time sir.

Q 633 Were there other SUS in the alleyway when you came out of your cell?
A 633 Yes sir.

Q 634 About how many?
A 634 About 9 sir.

Q 635 Did you see any of these SUS carrying anything?
A 635 Only one sir.

Q 636 What was he carrying?
A 636 One of the bars sir, out of the windows.

Q 637 Was the accused carrying that bar?
A 637 No sir.

Q 638 Was the accused with this group of SUS in the alleyway?
A 638 They were all in the alleyway together sir.

Q 639 How long did they remain in this alleyway?
A 639 Until the grill door in the cell block was opened and we all got out sir.

Q 640 Was any damage done in the cell block before this group left?
A 640 Yes sir.

Q 641 Did you see it?
A 641 The damage, yes sir.

Q 642 What damage was done?
A 642 The latrines were smashed and one sink broken sir.

Q 643 Did you see any other damage done in this alleyway before the group left?
A 643 No sir.

Cross-examined by the Defending Officer:

Q 644 What cell were you in?
A 644 Cell 6 sir.

Q 645 What is the size of the window of your cell door?
A 645 About 4 by 5, something like that.

Q 646 That is inches?
A 646 Yessir.

Q 647 What height is it from the floor?
A 647 About 5 ft sir.

Q 648 Are there any bars, or a screen in the window?
A 648 Yes sir.

Q 649 You cannot stick your head out?
A 649 No sir.

Q 650 By whom were you released from your cell?
A 650 SUS Traversey.

Q 651 How was the release done?
A 651 By a spoon sir.

Q 652 Did you have any difficulty getting out of your cell?
A 652 No sir.

Q 653 Was there a lot of noise and movement going on after you got out of your cell in the cell block?
A 653 Yes sir.

Q 654 How long did you stand in the alleyway after you got out of your cell?
A 654 I went into another cell across from me, and I was talking to a friend of mine and did not see what was going on, when I came out the grill was open in the cell block and we walked out into the open.

Q 655 How wide is the alleyway?
A 655 4 ft wide sir.

Q 656 All the SUS were in the alleyway when you were released?
A 656 About 9 of them sir.

Q 657 As soon as you got out where did you go?
A 657 I went across and talked to a friend of mine in his cell.

Q 658 Was he not released at that time?
A 658 Yes sir.

Q 659 You can you say through all this movement that you actually saw the accused trying to release other SUS?
A 659 I could see through the grill of the door of my cell.

Q 660 You were in cell 6, and what cell was the accused in?
A 660 Cell 14 sir.

Q 661 On the afternoon of the 9th were you at any time bothered by the staff or ordered by the staff not to smoke?
A 661 No sir.

Q 662 To your knowledge did the staff make any attempt to stop the outsiders from throwing cigarettes to the prisoners inside the compound?
A 662 Yes sir.

Q 663 Did you see much of the accused on the 9th May?
A 663 Not after I got released sir.

Q 664 You did not see him at all during the day?
A 664 Once or twice sir.

Q 665 What was he doing?
A 665 Just walking around like anyone else.

Q 666 He was not giving any orders or anything like that?
A 666 No sir.

Q 667 On the afternoon of the 9th was there not a football given to the SUS to play with on the parade square?
A 667 Yes sir.

Q 668 Do you remember if it was a set game or just kicking around the ball?
A 668 Just kicking around the ball sir.

Q 669 Did the SUS take part in this footballgame?
A 669 A good majority of them did sir.

The Prosecutor declines to re-examine.

Questioned by the Court:

Q 670 You said you saw the accused in the alleyway with a spoon - did you actually see him remove any screws from the lock of one of the doors?
A 670 Yes sir.

Q 671 Did you see an SUS being released by the accused?
A 671 No sir.

Questioned by the Judge Advocate:

Q 672 On the morning of the 9th May when did the first trouble start in your cell block 6?
A 672 Somewhere around 9:30 or 10 o'clock sir.

Q 673 What was the first trouble?
A 673 Someone broke out sir, and started releasing the others?

Q 674 Someone in the cell block broke out?
A 674 Yes sir.

Q 675 And started releasing other SUS in the cell block?
A 675 Yes sir.

Q 676 At what time was everyone released from the cell block you were in?
A 676 Around 10:30 or 11 sir.

Q 677 You have told the Court you saw some damage done during that period is that correct?
A 677 Yes sir.

Q 678 Please describe what the damage was again?
A 678 The latrines were smashed, and there was a sink that was smashed or broken.

Q 679 Who did that damage do you know?
A 679 I cannot say sir.

Q 680 One man or more than one man?
A 680 I cannot say I did not see it.

Q 681 Did you hear the noise?
A 681 Yes sir, when I came out I saw it all broken, but I do not know who broke it.

Q 682 What kindof noise did you hear?
A 682 A smashing noise.

Q 683 When did you hear this noise?
A 683 When I was in the cell sir.

Q 684 About what time?
A 684 Sometime around ten o'clock.

Q 685 Could you tell from the sound what was being smashed?
A 685 Not for sure sir.

Q 686 How long did this smashing noise last?
A 686 Just about 5 to 10 minutes sir.

Q 687 Was it before or after you heard the smashing noise that you saw the accused in the alleyway?
A 687 It was after sir.

Q 688 Was there any other damage done to that cell block 6, other than the smashingof the latrines?
A 688 There was a light smashed with a bar sir.

Q 689 When was that done?
A 689 It was done about 10:15 sir.

Q 690 Before you were released?
A 690 Before sir.

Q 691 Who did that do you know?
A 691 Borland sir.

Q 692 Was the accused with him at that time?
A 692 No sir.

Q 693 Was it a small spoon or a large spoon the accused was using?
A 693 An ordinary army spoon sir.

Q 694 What did you see the accused doing with that spoon?
A 694 Just turning the screws with the end of the spoon.

Q 695 When you first noticed the accused giving a hand how many other BUS were there with him?
A 695 About 9 sir.

Q 696 All in a group?
A 696 No sir, strung out all over, walking back and forth.

Q 697 Did you see the accused actually at one of the cell locks?
A 697 Yes sir.

Q 698 Which cell?
A 698 I could see through the grill of my cell door, it was the cell opposite mine.

Q 699 Who else was near him at that time?
A 699 I cannot say for sure because they had their backs to me.

Q 700 Was anyone helping him to open this cell door?
A 700 Yes sir.

Q 701 How many others?
A 701 About two others sir.

Q 702 Did they have any instruments?
A 702 Just spoons sir.

Q 703 Were any of the cell doors in this particular cell block smashed?
A 703 Yes sir.

Q 704 When were they smashed?
A 704 When they were damaging the place sir.

Q 705 Before you were released?
A 705 No sir, it was after I was released.

Q 706 Were you present when the cell doors were smashed in cell block 6?
A 706 No sir.

Q 707 How do you know they were smashed?
A 707 I could see them sir when I got out.

Q 708 Approximately what time were these cell doors in cell block 6 smashed?
A 708 Around 10:30 sir.

Q 709 You were released from your cell?
A 709 Yes sir.

Q 710 Then you subsequently were released from the cell block itself?
A 710 Yes sir.

Q 711 And you went outside?
A 711 Yes sir.

Q 712 Did you go back later?
A 712 Yes sir, all my equipment was in there sir.

Q 713 Were the cell doors smashed before you left the cell block?
A 713 A few of them sir.

Q 714 When had they been smashed?
A 714 I cannot say for sure sir.

Q 715 Can you give your idea?
A 715 Between ten and ten thirty sir.

Q 716 After or before you saw the accused with the spoon trying to open one of the doors?
A 716 After sir.

Q 717 In what way were these cell doors smashed?
A 717 With a bar sir, they were not broken down or anything, they were just pushed through by a bar. There was a hole in them.

Q 718 The hole had been made in the cell door with a bar?
A 718 Yes sir.

Q 719 Did you see that damage being done?
A 719 No sir.

Q 720 How do you know it was done?
A 720 I did not see it being done, but I did see the damage.

Questioned by the Defending officer through the Court:

Q 721 Actually you did not see the accused do any of the damage in the cell?
A 721 No sir.

Q 722 When you saw the accused working with a spoon on cell 9 you said there were two other SAS with him?
A 722 Yes sir.

Q 723 Are you sure there were not more than that?
A 723 There could not be any more around the door sir.

Q 724 You were actually seeing their backs?
A 724 I saw some of them when they turned around, but when I first looked out I could only see the back of them.

Q 725 Actually you could not see which one was doing the unscrewing, it could have been any of the three?
A 725 I could see them bending down with the spoons.

Q 726 But actually they were working with their backs to you and you could not see which one was doing the work?
A 726 No sir.

Questioned by the Judge Advocate:

Q 727 Did you hear the accused say anything before you were released?
A 727 No sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdrew.

Ninth Witness for Prosecution: K.67057 Sgt GAVINS J. No. 4 Cdn Mil Prison and Detn Bks, being duly sworn, is examined by the Prosecutor.

Q 728 Will you give the Court your number, rank, name and Unit?
A 728 I am K.67057 Sgt Gavins J. of 4 Cdn Mil Prison and Detn Bks.

Q 729 You were on the staff at Headley Down Detn Bks on 8th May 45?
A 729 Yes sir.

Q 730 What were your duties?
A 730 I was just detailed to watch the SUS and see that no serious damage was done.

Q 731 Were these SUS in "A" Compound?
A 731 Yes sir.

Q 732 Can you identify the accused, SUS Gravelle?
A 732 Yes sir (indicates accused)

Q 733 Where have you seen him before?
A 733 At Headley Detn Bks since the date of his sentence.

Q 734 Did you see the ~~accused on the 8th May~~?
A 734 No sir.

Q 735 On the 9th May?
A 735 Yes sir.

Q 736 Where was he, and where were you?
A 736 At 1600 hrs on the 9th May outside living hut 3 the accused jumped on a coal cart and gave his address to a group of SUS sitting on the grass.

Q 737 How far away from the accused were you?
A 737 About 10 to 15 ft sir.

Q 738 How many SUS were there around him?
A 738 About 75 sir.

Q 739 Could you hear what he said?
A 739 Yes sir.

Q 740 To the best of your recollection what happened?
A 740 After he got on the cart he said "What shall we do gang - shall we have a bonefire?" and the reply from the group was yes. Then he asked "What shall we burn?" No suggestion was forthcoming and he suggested the tower and the living huts.

Q 741 What were his exact words please?
A 741 "How about the tower and the living Huts?" The living huts were vetoed by some SUS because they wanted them to sleep in. Then pulling a bunch of matches from his pocket handing them to the crowd the accused said "Here these will do a lot of damage". Turning to the crowd he said "I hear there are some of our comrades locked in "C" Compound, what shall we do about it?" and turning to me he said to me, I do not remember his exact words but it was in the way of an order to go to the RSM and ask for their release. One of the SUS in the crowd stated he had seen these men taken away. So turning back to the crowd the accused said "Lets strip the tower down and burn it in the centre of the square, that thing has been bothering me for a long time." Jumping from the cart and followed by a number of other SUS he proceeded to the tower on the top of AC 4. I then saw the accused and another SUS placing inflamable materials between the legs of the tower. The fire was then lit. I do not know who lit the match.

Q 742 Did you see the accused again on the 9th May?
A 742 Yes sir.

Q 743 About what time did you see the accused at the watch tower?

A 743 I would say somewhere about 1630 to 1645 hrs.

Q 744 Did you see the accused again that evening?
A 744 Yes sir, at approximately 2230 hrs when I was checking the cell blocks to see how many people were sleeping in them. The accused was along the edge of the fence throwing things at an armoured car. He was ordered to return to his quarters.

Q 745 Did he go?
A 745 I could not say sir.

Cross-examined by the Defending Officer:

Q 746 When you saw the accused addressing the other SIS was it very quiet around?
A 746 Yes sir, the accused had the floor.

Q 747 There was not shouting done or loud talking done by the other SUS?
A 747 No sir, they were mostly listening at that time.

Q 748 Were you facing the accused then?
A 748 Yes sir.

Q 749 How many SUS were on the square when the group of them started to run heading for the tower?
A 749 I cannot say, the party was split up, half on the square and half on the grass, and about 25 followed the accused.

Q 750 Where were you when the group of SUS was on top of cell block 4?
A 750 I was diagonally across, at living hut 3.

Q 751 What is the distance between hut 3 and the tower?
A 751 About 75 yds sir.

Q 752 How many SUS were on top of the cell block?
A 752 Two sir, at that time.

Q 753 Did you see them come down from the tower?
A 753 No sir, I left and went back to the other end of the compound.

Q 754 So actually you did not know if the accused was still on top of the cell block when the fire started?
A 754 Yes sir, I was there when the fire started, and the fire engine came along.

Q 755 When you saw him on cell block 4 were you close by?
A 755 I was still at living hut 3.

Q 756 How many SUS were on the tower?
A 756 Two sir.

Q 757 There were still two?
A 757 Yes sir.

Q 758 When the fire started there was only two?
A 758 Yes sir.

Q 759 You cannot say who lit the fire?
A 759 No sir.

Q 760 In the afternoon of the 9th, was there a lot of smoking done on the parade square by the SUS?
A 760 Yes sir.

Q 761 Were they thrown cigarettes and matches by the outsiders?
A 761 Yes sir.

Q 762 Actually many SUS had matches?
A 762 Yes sir.

Q 763 You cannot say that the matches which were used to light the fire were the matches that the accused had?
A 763 No sir.

The Prosecutor declines to re-examine.

Questioned by the Court:

Q 764 Was there any other provost around close to the accused when he made his speech?
A 764 The one I saw was S/Sgt Powers.

Questioned by the Judge Advocate:

Q 765 How many SUS accompanied the accused in the direction of the watch tower after the accused had made his speech?
A 765 Between 12 and 25 sir.

Q 766 Any of them carrying anything?
A 766 No sir, not at that time, they just pushed the carts over.

Q 767 Were any carrying sticks or clubs or pipes?
A 767 Not that I noticed sir.

Q 768 You did not make an effort to stop them from going to the watch tower?
A 768 I remained with the rest of them trying to keep them from all going over.

Q 769 You say you saw some inflamable material being place between the legs of the watch tower, what was that?
A 769 Bed boards, pallaisses, blankets all from the cell blocks. Sleeping materials mostly, later a can of coal oil from cell block 10. I do not know who got it or put it on the fire.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdraws.

Tenth Witness for Prosecution: L.12065 Cpl MYLAND L.S. No. 3 Cdn Mil Prison and Detn Bks. being duly sworn, is examined by the Prosecutor.

Q 770 Will you give the Court your number, rank, name and Unit?
A 770 I am L.12065 Cpl Myland L.S. of 3 Cdn Mil Prison and Detn Bks.

Q 771 You were on the staff of Detn Bks Headley Down on 8,9 and 10th May 45?
A 771 Yes sir.

Q 772 Did you know the accused?
A 772 Yes sir. (indicates accused)

Q 773 Where have you seen him before?
A 773 He was an SUS at Headley Detn Bks.

Q 774 Had you known him there fore very long?
A 774 A period of approximately a month shir.

[redacted] accused on the 8th May?
A 775 Yes sir.

Q 776 What was he doing?
A 776 He was in the cell block at that time.

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Q 777 Did you see him on the 9th May 45?
A 777 Yes sir.

Q 778 Where were you at the time you saw him?
A 778 I saw him periodically.

Q 779 When you first saw him the morning of the 9th where was he?
A 779 On the parade square sir.

Q 780 What was he doing at that time?
A 780 He was in the lead of a group of SUS crossing the parade square in the direction of 2,3 and 1 cell blocks.

Q 781 Can you give us the approximate time you saw him with this group?
A 781 About 10:30 sir.

Q 782 Where were you at the time they crossed the parade square?
A 782 Directly in front of living hut 1 sir.

Q 783 Where did they cross the parade square - from where to where?
A 783 From cell blocks 8,9.10 in the direction of cell blocks 1,2,3.

Q 784 Did you see the accused's position in this group?
A 784 Yes sir.

Q 785 Where was that?
A 785 He was well at the lead of this group.

Q 786 Did you hear any conversation?
A 786 Yes sir.

Q 788 Did you hear what the accused was saying?
A 788 While he was at the lead of his group across the parade square he shouted 2 or 3 times "Come on, lets go and let the others out".

Cross-examined by the Defending Officer:

Q 789 When you saw the accused on the 9th Maywhere were you then?
A 789 Standing in front of living hut 1.

Q 790 Where was the accused?
A 790 The accused was on the parade square sir.

Q 791 In the centre of the square?
A 791 Well in the lead of a group of SUS.

Q 792 When this body of SUS crossed the parade square were they walking or running?
A 792 They were not in any great rush, they were taking their time.

Q 793 Did you see anyone running out of this group of SUS?
A 793 Not that I recollect sir.

Q 794 While this body of SUS was moving across the parade square was there any loud talking or shouting done by the body as a whole?
A 794 Not to my knowledge, there was not sir.

Q 795 You are sure that you actually heard the accused shouting this "Come on lets get the others out"?
A 795 Yes sir.

Q 796 What time was that?
A 796 At approximately 1030 sir.

Q 797 Were there still SUS in cell blocks 1,2 and 3 at that time?
A 797 Yes sir.

Q 798 You did not see the accused running at this time?
A 798 No sir, not at that time.

Q 799 How many SOS were in this group that you say the accused was leading?
A 799 Approximately 30 men sir.

The Prosecutor declines to re-examine.

Questioned by the Judge Advocate:

Q 800 Were they carrying anything?
A 800 Not to my knowledge sir.

Q 801 Had any of them any clubs, iron pipe or anything that they could use as a weapon?
A 801 Not that I noticed sir.

Q 802 You were close enough to notice if they had been carrying them?
A 802 There was considerable going on, and I did not pay any particular attention to the group itself.

Q 803 Did you follow the group?
A 803 No sir.

Q 804 Did you see where they went?
A 804 To cell blocks 1,2 and 3.

Q 805 Did you see them enter any of these cell blocks?
A 805 Not as a group sir.

Q 806 What did you see them do?
A 806 They went over from the parade square to cellblock 3. After that I left.

Q 807 Did you see any of them enter any of the cell blocks before you left?
A 807 I did see some of them enter, but I could not make a statement regarding that.

In the opinion of the Court and Judge Advocate it is not necessary to complywith RP 83 (B)

The witness withdrawn.

Eleventh Witness for Prosecution: L.7866 Sgt ERLANDSON G.G. No. 3 Gdn Mil Prison & Detn Bks, being duly sworn, is examined by the Prosecutor.

Q 808 Will you give the court your number, rank, name and Unit?
A 808 I am L.7866 Sgt Erlandson G.G. of 3 Gdn Mil Prison and DetnBks.

Q 809 Were you on the provost staff at Headley Down Detn Bks on 8,9 and 10th May 45?
A 809 Yes sir.

Q 810 Do you know the accused?
A 810 Yes sir (indicates accused)

Q 811 Where have you see him before?
A 811 At Headley Down Detn Bks.

Q 812 Did you see him on 9th May this year?
A 812 Yes sir.

Q 813 Where was he at the time you first saw him?
A 813 The only time I saw him, that I would want to see him, was 1530 hrs the 9th May.

Q 814 Where was he?
A 814 At the concrete steps of living hut 1.

Q 815 Where were you?
A 815 Between living hut 1 and the top of the concrete steps, by the iron rail.

Q 816 Was there anyone else with you at that time?
A 816 Yes sir, Sgt Bugh.

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Q 817 What was the accused doing at that time?
A 817 The first time I noticed him he was coming over the parade square from cell block 7 to living hut 1 carrying an iron spike in his hand. When he came to the top of the steps I mentioned about his dress and appearance.

Q 818 What sort of an iron spike?
A 818 About 8" long and 3/4" in diameter.

Q 819 Do you know where he got it?
A 819 No sir.

Q 820 When you spoke to him did he make a reply?
A 820 I asked him why he did not get rid of the iron spike and get wise to himself as to the way he was carrying on. One thing lead to another and he turned around and said "Lets get away from this yellow Provost bastard" and walked away to living hut 2.

Q 821 At that time were you known to the accused?
A 821 Yes sir.

Cross-examined by the Defending Officer:

Q 822 When you saw the accused on 9th May between hut 1 and cell block 1 were there any other SUS there?
A 822 Yes sir, there was quite a large gathering of SUS there.

Q 823 Was there a lot of talking and shouting among these SUS?
A 823 Not that disturbed my talking with the accused sir.

Q 824 There was only one other member of the staff with you then?
A 824 Yes sir, Sgt Engh.

Q 825 What actually did you say to the accused?
A 825 I just remarked on his appearance, and why he was conducting himself like that.

Q 826 Can you recall your words?
A 826 I told him "Get rid of that iron spike and get a grip on yourself" and to get wise to himself from the way he was carrying on.

Q 827 Did you use any strong language?
A 827 Nosir.

Q 828 Then what happened?
A 828 He just said "Lets get away from this yellow provost bastard" and walked toliving hut 2 with the other SUS.

Q 829 After you told him to get wise to himself he turned around and joined the other SUS, and you heard him say that?
A 829 He was about 3 ft away and I knew he was addressing me.

Q 830 He was not saying that to you?
A 830 I certainly took it for granted he meant me.

Q 831 At that time he was facing the other way?
A 831 He was looking over his shoulder when he walked away.

The Prosecutor declines tore-examine.

Questioned by the Court:

Q 832 Did you give the accused an order of any kind?
A 832 I gave him the order to throw away the iron bar.

Q 833 You gave that as an order?
A 833 Yes sir, to get rid of that iron spike he had in his hand.

Questioned by the Judge Advocate:

Q 834 You state the accused was looking over his shoulder when he said something about yellow provost bastards?
A 834 Yes sir.

Q 835 What do you mean he was looking over his shoulder?
A 835 He was standing 3 ft away from me when he was talking, he turned to the right and looked over his left shoulder and said that as he began walking away. He walked away the same time he began talking.

Q 836 Who was he facing?
A 836 His face was towards me and Sgt Hugh.

Q 837 To whom was he speaking?
A 837 There were just two provosts there, and when a man stands 3 ft in front of you and looks in your direction and speaks like that it is obvious who he is speaking to.

Q 838 Could he be easily heard by you and the other provost?
A 838 I certainly heard him sir.

Q 839 He was not just mumbling to himself as it were?
A 839 No sir.

Q 840 Did he speak these words in a loud voice?
A 840 A bit louder than usual.

Q 841 Could he be heard by other SUS?
A 841 Yes sir.

Questioned by the Defending Officer through the Court:

Q 842 You are sure that these words were not said by the accused to the other SUS?
A 842 No sir.

Q 843 But they could have been addressed to the other SUS?
A 843 No sir.

Q 844 Actually you were standing behind the accused when he said these words and he turned his head?
A 844 I was standing in front of the accused when his head came over his left shoulder to address me.

Q 845 Where were you to the right or left of the accused?
A 845 I was in front of him, he turned to the right and looked back over his left shoulder at me.

Q 846 Where were the other SUS then?
A 846 Gathered in front of living hut 1.

Q 847 Were there some behind you?
A 847 No sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 53 (2)

The witness withdraws.

Twelfth Witness for Prosecution: M.11852 Sgt HUGH Y.T. No. 3 Cdn Mil Prison & Detn Hks, being duly sworn, is examined by the Prosecutor:

Q 848 Will you give the Court your number, rank, name and Unit?
A 848 M.11852, Sgt Hugh Y.T. of 3 Cdn Mil Prison & Detn Hks.

Q 849 Were you on the provost staff at Headley Down Detn Bks on 8, 9, and 10th May 45?
A 849 Yes sir.

Q 850 Do you recognise the accused?
A 850 Yes sir. (indicates accused)

Q 851 Where did you see him before?
A 851 At Headley Down Detn Bks.

Q 852 Was he there in the month of May?
A 852 Yes sir.

Q 853 Did you see him on the 9th May 45?
A 853 Yes sir.

[redacted]

Q 854 Where were you at that time?
A 854 At 1900 hrs I was standing between cell block 1 and living hut 1.

Q 855 Was any other member of the staff with you at that time?
A 855 Several of the staff, including Sgt Erlandson.

Q 856 How far was he from you?
A 856 I was standing right next to him.

Q 857 How far were you from the accused?
A 857 Three or four ft sir.

Q 858 Did any conversation take place between the staff and the accused at that time?
A 858 I would not say there was some conversation, what it was I could not say.

Q 859 Did you hear Sgt Erlandson speak to the accused at all?
A 859 I heard some conversation, and as I looked around I saw the accused sitting on the concrete about 3 or 4 ft from me. He looked straight at us, and made a remark about provost bastards, why he made it I cannot say.

Q 860 Can you give us the exact words you heard the accused say?
A 860 "You provost bastards", while looking at us.

Q 861 By us who do you mean?
A 861 Myself, Sgt Erlandson and 2 or 3 others of the staff.

Q 862 Were there any SUS behind you?
A 862 No sir, I was standing against the rail, there were several other SUS around behind the hut and railing.

Q 863 At the time the words provost bastards were used how far would you be from Sgt Erlandson?
A 863 Right next to him.

Q 864 A matter of feet or yards?
A 864 2 or 3 ft maybe.

Q 865 How far was the accused from you?
A 865 About 3 or four ft. The road width between us, he was sitting on the concrete.

The Defending Officer declines to cross-examine.

Questioned by the Court:

[redacted]

Q 866 Did you hear murder of any kind given to the accused?
A 866 No sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdrews.

Judge Advocate to Defending Officer:

There are some witnesses who were called as witnesses on the taking of the Summary of Evidence who have not been called as witnesses for the Prosecution at the Trial. Is it the accused's wish to have any of those witnesses called by the Prosecution for the purpose of cross-examination on behalf of the accused?

Defending Officer: No sir.

The Prosecution is closed.

Judge Advocate to accused:

You will now proceed with your defence. You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. You may, however, make a statement without being sworn, and you will not be subject to cross-examination. But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. You may call witnesses in your defence as to character, whether you give evidence or make a statement or do neither. Have you discussed this with your Defending Officer? Answer: Yes sir.

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~~The prosecution is closed.~~ 1883.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. Yes sir.

Question. Do you intend to call any other witness in your defence ?

Answer. Yes sir.

Question. Is he a witness as to character only ? *Answer.* No sir.

1883 THE DEF OFFR DECLINES TO MAKE AN OPENING ADDRESS

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence ?~~

Answer. ~~The accused in his defence says† :~~

~~[hands in a written address which is read, marked~~

~~signed by the President and attached to the proceedings.]~~

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Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

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The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

First Witness for Defence: B.103659 Tpr GRAVELLE E.O. present SUS in 4 Cdn Mil Prison and Detn Bks, being duly sworn, is examined by the Defending Officer:

Q 867 When did you enlist?
A 867 2 Aug 41 sir.

Q 868 When did you come to England?
A 868 I came over the spring of 43 sir.

Q 869 Did you go to any theatre of war from England?
A 869 Yes sir.

Q 870 Where did you go?
A 870 I sailed with the 1st Div to Sicily with my Regiment the Caligary Tank.

Q 871 Did you remain in Sicily?
A 871 Yes sir, until we went to Italy.

Q 872 How long did you remain in Italy?
A 872 Approximately three months until I was wounded.

Q 873 Where were you sent from Italy?
A 873 To N.Africa sir.

Q 874 And from there?
A 874 To England sir.

Q 875 Were you medically boarded?
A 875 Yes sir.

Q 876 What was the finding?
A 876 L.4. I am not positive, but I think L.4.S.4. and M.2. sir.

Q 877 In the Detn Bks how often in a day were the SUS allowed to break silence?
A 877 We could not talk sir.

Q 878 Actually when there was talking done it was when you were addressed by some member of the staff?
A 878 That is all sir.

Q 879 Before the 8th,9th and 10th May how were you treated as a prisoner in Detn Bks by the staff?
A 879 Fairly good sir.

Q 880 On the afternoon of 8th May did you hear anything special going on in "A" Compound?
A 880 Yes sir, I did.

Q 881 Where was that noise coming from?
A 881 On the afternoon of 8th May I heard some racket and noise coming from the direction of the parade square and I looked out of my window and saw a group of SUS coming down towards the cell blocks shouting and yelling.

Q 882 Was there any shouting done during that time in cell block 6?
A 882 Yes sir, quite a bit.

Q 883 In what cell were you?
A 883 Cell 14 sir.

Q 884 Did you at any time do any shouting yourself to excite the SUS to break out or come to release others?
A 884 No sir, I did not shout to anybody.

Q 885 Did you hear anyone doing that sort of shouting?
A 885 Yes sir, I did.

Q 886 To the best of your knowledge from what cell did that shouting come from?
A 886 From very close to my cell, I would say cell 12 sir.

Q 887 Would it be 12 or 11?
A 887 Either one, I am not exactly positive sir.

Q 888 On 9th May was your cell lock broken by someone?
A 888 Yes sir, it was.

Q 889 Can you tell the Court by whom?
A 889 I cannot say by whom, but it was by an SUS sir.

Q 890 Once the lock of your cell door was broken was it easy or hard to get out of your cell?
A 890 Fairly easy sir.

Q 891 The damage done to your cell was it from inside or outside?
A 891 Outside sir.

Q 892 On the afternoon of the 9th was there a sort of football game going on on the parade square?
A 892 Yes sir.

Q 893 Where did that football come from?
A 893 I got it from the RSM sir.

Q 894 Were you at any time addressing some SUS from a wheel cart on the parade square?
A 894 Yes sir.

Q 895 What was the subject of your conversation?
A 895 It was more or less just talking and shouting going on by a group of SUS and someone said sing us a song, and we started to make jokes until the whole bunch broke up sir.

Q 896 Were there any suggestions made at that time by some SUS to go and set fire to the watch tower?
A 896 Yes sir, there was.

Q 897 What was your reply to that?
A 897 I did not reply to it, I just jumped down from the cart and proceeded across the parade square.

Q 898 Where did you go?
A 898 In the direction of cell block 3 sir.

Q 899 Did you see any SUS on the top of cell block 4?
A 899 Yes sir, I did.

Q 900 Were you on cell block 4 when the fire was started?
A 900 No sir, not when it was started.

Q 901 Did you help anyone in getting the fire started?
A 901 No sir, I did not.

Q 902 Were there cigarettes thrown to SUS by outsiders, and also matches?
A 902 Yes sir.

Q 903 What day was that?
A 903 The afternoon of the 9th sir.

Q 904 Did the staff give any orders to prevent the SUS from smoking that afternoon?
A 904 No sir.

Q 905 During all this alleged disturbance the afternoon of the 9th May were there any efforts made by the staff to stop the SUS from roaming around the compound?
A 905 No time particularly that I noticed.

Q 906 You were more or less free to go where you wanted?

A 906 We were told to stay in "A" Compound.

Q 907 Did you have any chance to escape?
A 907 Yes sir.

Q 908 Did you attempt to escape?
A 908 No sir.

Q 909 You followed orders and remained in "A" Compound?
A 909 Yes sir.

Q 910 Do you recall being ordered by a Sgt to get rid of an iron spike and get wise to yourself and keep quiet?
A 910 No sir.

Q 911 On the morning of the 10th, do you recall having been anywhere special?
A 911 Yes sir, I was on the parade square.

Q 912 Where you with the other SUS when the General gave a talk?
A 912 Yes sir, there was a parade formed up on the square by the CSM, there was a lot of moving around but a parade was formed, we fell into our usual position, and were told we would have a talk by the GOC. We did after waiting 15 mins on the square.

Q 913 After the talk did you go to the sanitary block?
A 913 Yessir.

Q 914 When you got there did you find any damage done?
A 914 There was a crowd of SUS in the inside smashing objects, and some other equipment, and they all left, and I had just walked in walked out with them.

Q 915 You just walked in and walked out?
A 915 I walked right inside, and they all turned around and walked out, and I had to go out as there was so many of us.

Q 916 You state the damage was done when you got to the Sanitary block?
A 916 Yes sir, it was.

Q 917 You did not break anything?
A 917 No sir, I did not break anything.

Cross-examined by the Prosecutor:

Q 918 Your cell window 1½, in cell block 6 is the second from the left hand corner is it not when you face the parade square?
A 918 Yes sir.

Q 919 On the 8th May you were near your window most of the time were you not?
A 919 Yes sir, off and on.

Q 920 You were doing quite a bit of shouting?
A 920 Not in particular sir.

Q 921 Have you got a strong voice?
A 921 Ordinary sir.

Q 922 Do you have any friends in living hut 3?
A 922 No sir.

Q 923 Did you on 8th May?
A 923 No sir.

Q 924 Did you have any in hut 2?
A 924 No sir.

Q 925 Or in hut 1?
A 925 No sir.

Q 926 Do you know SUS Kelly at all?
A 926 I have seen him, but I do not know him as a friend. I never had the opportunity of speaking to him.

Q 927 Do you know him by reputation?
A 927 No sir.

Q 928 On the afternoon of 8th May did you see a group of SUS break out of the living huts?
A 928 Yes sir, pardon, not exactly a break out, they were coming from the direction of the living huts.

Q 929 Where did they go?
A 929 They were going around the parade square on the left.

Q 930 Going towards where?
A 930 They were coming towards the cell blocks sir.

Q 931 Which ones?
A 931 All the cell blocks sir, at the left and back and right.

Q 932 You were watching them as they came out?
A 932 Yes sir.

Q 933 Did you see any of this group approach any of the staff and search them?
A 933 No sir.

Q 934 Did you see S/Sgt Aston at all on the parade square?
A 934 No sir, I did not.

Q 935 If S/Sgt Aston says he was on the parade square and he heard someone from cell block 6 cry out "Get the keys from Aston and get us out" what would you say to that?
A 935 That is correct.

Q 936 If he says he looked in the direction of cell block 6 and saw you at the second from the left, what would you say?
A 936 If he saw me he must have seen others, as everyone was at the windows sir.

Q 937 At the time this group was on the parade square S/Sgt Aston says he was there too, and he says he heard a voice which he recognizes as yours telling them to get the keys from him and help them out. What do you say about that?
A 937 He might have heard a voice.

Q 938 He says that voice said "Get the keys from Aston and get us out" and he states he saw you at the window?
A 938 He might have, he could have if he was close enough.

Q 939 Do you know S/Sgt Aston fairly well?
A 939 No sir, not very well.

Q 940 After you been under his care for some time?
A 940 About six weeks sir.

Q 941 So he would be in a position to know your face and voice when he heard you?
A 941 No sir, I dont see how he could. He never heard my voice before sir.

Q 942 You say Aston may have heard someone yelling "Get the keys from Aston" from cell block 6, but you are telling us you did not say that?
A 942 That is right sir.

Q 943 Who did say it?
A 943 Wieder sir.

Q 944 You heard that did you?
A 944 Yes sir.

Q 945 What is his cell number?
A 945 I cannot say for sure, but it is either 11 or 12 sir.

Q 946 Sgt Heller, do you know him?
A 946 By sight sir.

Q 947 He says he was near the corner of cell block 6 and he stated in court that he was in a position to hear you shout "Come on Kelly, why dont you get this thing started, No 3 what are you waiting for, why dont you come out". Now if he says he heard you say that is he mistaken?
A 947 Yes sir, he could have been mistaken. He could not see who was doing the shouting if he was outside.

Q 948 You were not doing any shouting at that time?
A 948 I was shouting, but nothing in particular sir.

Q 949 What did you say?
A 949 Nothing in particular, just ordinary shouting.

Q 950 Why were you shouting?
A 950 Because the rest of them were shouting.

Q 951 Could it be you said these words but cannot recall them?
A 951 No sir, if I said them I would recall them.

Q 952 Did you hear them said?
A 952 Yes sir.

Q 953 Who said them?
A 953 It came from the direction of Wisder's cell, on my left.

Q 954 The story is that you were hoarse by 2300 hrs the 8th, is that correct?
A 954 I had a cold, but I was not hoarse.

Q 955 Had you been to the M.O. About it?
A 955 Yes sir.

Q 956 When was the last time you had been to the M.O.?
A 956 About a week sir.

Q 957 Your cold was a week old?
A 957 Yes sir.

Q 958 Was it a sore throat?
A 958 No sir, not in particular.

Q 959 Did you say your voice was hoarse from the cold or from the shouting?
A 959 I did not say my voice was hoarse, I said it was a cold.

Q 960 Are you saying now that your voice was hoarse?
A 960 I do not say it was.

Q 961 Was it hoarse?
A 961 No sir.

Q 962 If S/M Thorold says he was in living hut 1 doing his rounds and heard someone shouting mentioning Kelly's name coming from the direction of cell block 6, and he looked out and he saw you at your window, and he immediately thought that was your voice. Was he mistaken?
A 962 Why would he think that?

Q 963 That was his evidence yesterday, you heard it?
A 963 Yes sir, I heard.

Q 964 Was he wrong in saying that?
A 964 He was not wrong in hearing the shout, but he was wrong if he thought I did it.

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Q 965 Do you deny that you were standing at your window most of the afternoon and evening?
A 965 No sir, I do not.

Q 966 Do you deny that you were sitting on the window sill most of the time?
A 966 Yes sir, I was sitting on the window sill.

Q 967 On the 9th May, the second day of the disturbances, you heard the witnesses yesterday give evidence as to why the SUS came from the living huts?
A 967 Yes sir, I did.

Q 968 Do you say that you did not shout to them at any time to come on and let your gang out?
A 968 There was that shouting going on by those in the cells but I did not do it sir.

Q 969 What did you say when you were doing your shouting?
A 969 Nothing in particular sir.

Q 970 And if SUS Gilmore who was in the cell across the corridor to yours says he saw you with a spoon is he mistaken?
A 970 He could have been.

Q 971 Was he mistaken?
A 971 He must have been, I had no spoon in my hand.

Q 972 If he says he saw you unscrewing a lock was he mistaken?
A 972 He could have been mistaken.

Q 973 Will you tell the Court how you did get out of your cell?
A 973 Yes sir. I forget what time it was, there was a lot of shouting & smashing going on on the compound. I was in the cell block and could not see where it was coming from. I saw a bunch of SUS coming down the corridor towards the exit of the cell block. They started to hammer at all the locks on their way out. I pushed on my door and it opened with some difficulty as there was obstructions, broken radiators lying on the floor of the cell block.

Q 974 Did you have a bar from the living hut windows?
A 974 No sir.

Q 975 Was one passed through your window?
A 975 Yes sir.

Q 976 What happened to it?
A 976 It stayed there, I did not touch it sir.

Q 978 You made no marks with it on the inside of your door?
A 978 No sir, I did not make any marks.

Q 979 Who were the first SUS inside your cell block?
A 979 It was all mixed up, some from the living huts and some from the cell blocks.

Q 980 Did you have any conversation with them?
A 980 You could not make any conversation, there was too much noise, only shouting, that is all.

Q 981 What did you shout?
A 981 I did not shout.

Q 982 What did they shout?
A 982 Just ordinary shouting sir.

Q 983 What time did you get outside your cell?
A 983 I would say between 9:30 and 10 o'clock, I am not sure.

Q 984 At the time you got out were there quite a few mixed up in the alleyway?
A 984 Yes sir, quite a few.

Q 985 Was this gang doing quite a bit of damage?
A 985 I could not say, there were too many in there.

Q 986 Were some of them carrying arms?
A 986 Yes sir.

Q 987 What did they have?
A 987 Iron bars sir.

Q 988 Did you see any damage in the corridor?
A 988 Broken radiators lying on the floor of the corridor.

Q 989 What about the light in your cell, was it still intact?
A 989 Nothing was broken inside my cell.

Q 990 Nothing at all?
A 990 No sir.

Q 991 If you broke out from your cell, was it some time before you left the cell block?
A 991 No sir, it was not very long.

Q 992 How long.

A 992 A matter of minutes, about two mins.

Q 994 You heard one of the witnesses say yesterday your blackout was torn down?
A 994 Yes sir.

Q 995 You told me a minute ago there was no damage to your cell?
A 995 They are not inside, they are outside the cell, they are pieces of black tin hanging on a stick outside.

Q 996 You did tear that down?
A 996 No sir I did not.

Q 997 You say you left the alleyway of your cell block shortly after you were let out. Then where did you go?
A 997 Unto the parade square.

Q 998 Is it correct that you lead a group from cell block 6 and as you were going towards cell blocks 1,2, and 3 you said "Lets go and let the others out"?
A 998 No sir, I did not say that.

Q 999 Did someone say that?
A 999 It might have been said, I did not hear it, and I did not say it.

Q 1000 What was the damage done inside your cell block itself?
A 1000 From what I saw the radiators were lying on the floor. That was all.

Q 1001 Where were the radiators in the cell block?
A 1001 In each cell sir.

Q 1002 How about the latrines?
A 1002 I did not go that way sir.

Q 1002 How about the light switch?
A 1002 I did not notice the light switch sir.

Q 1003 Was the grill door before the unit smashed?
A 1003 Not that I noticed in particular, it was just open, that is all.

Q 1004 You tell us of being on a cart talking to a group on the parade square?
A 1004 Yes sir, that is correct.

Q 1005 About what time was that?
A 1005 I cannot say sir.

Q 1006 At the time you were talking to the group was there anyone else on the cart with you?
A 1006 No sir.

Q 1007 Had there been anyone else on the cart before you got on it?
A 1007 No sir, it came from the parade square.

Q 1008 What about after you get off it?
A 1008 There might have been, I did not notice.

Q 1009 Where did you go?
A 1009 In the direction of cell block 3.

Q 1010 Next to cell block 4?
A 1010 Yes sir.

Q 1011 So that as far as you know there was no one else that was standing up addressing that group on the parade square?
A 1011 That is correct.

Q 1012 When you were on the cart - did you, as one of the witnesses mentioned, throw matches among the group and say "Here these will do a lot of damage"?
A 1012 No sir, I had no matches at that time.

Q 1013 When did you have matches?
A 1013 The night of the 9th sir, about 9 o'clock.

Q 1014 Where did you get them?
A 1014 From a soldier on the other side of the fence.

Q 1015 So that these witnesses who say they saw you with matches before the fire must be mistaken?
A 1015 They must have been sir, because I had no matches at the time sir.

Q 1016 And yet they were quite close to you they said?
A 1016 I cannot say if they were or not sir.

Q 1017 Going from the cart towards cell block 3 is it not right you were in the lead?
A 1017 No sir, I was not in the lead.

Q 1018 Who was leading it?
A 1018 There was no one leading, there was just a rush andrunning.

Q 1019 Were you following it?
A 1019 I did not run, I just walked sir.

Q 1020 Why in the direction of cell 3?
A 1020 Just because I went in that direction. There was no reason. I was just walking around that is all.

Q 1021 What did you do when you got to cell 3?
A 1021 Stood there talking to a group of SUS, 3 or 4 fellows that I knew, just talking.

Q 1022 What were there names?
A 1022 SUS Dupuis, and SUS Clark.

Q 1023 While you were standing their talking what was going on with the rest of the group?

A 1023 There was a lot of yelling about near cell block 4, and I saw a bunch climb on the roof of cell 4 there were some other SUS below giving a hand with palliasses and broken bed boards, throwing them up on the roof.

Q 1024 So we have a few taking part in the preparation of this fire?
A 1024 There was about 12 on the top of the cell block. I never counted them, but about that many.

Q 1025 And this ladder - were there quite a few on the ladder?
A 1025 I did not notice sir.

Q 1026 While you were standing in the corner of the parade square, were you near any staff?
A 1026 I did not notice any, there was so much excitement, there might have been staff I did not notice any.

Q 1027 If there were some staff who said you were on the roof, were they mistaken?
A 1027 I was not there during the fire sir.

Q 1028 When were you on the ladder?
A 1028 About 2 o'clock in the afternoon I was on top of cell block 4.

Q 1029 So that if the S/M said he saw you on top of cell block 4 in the afternoon of the 9th May, you say you may have been?
A 1029 I did not say 'I may have been' I was before the fire.

Q 1030 What were you doing there?
A 1030 I just climbed up there to look around.

Q 1031 Was it then you formed the opinion that the watch tower was an eye sore?
A 1031 I did not form that opinion sir.

Q 1032 If someone says you said that to the crowd were they mistaken?
A 1032 It might have been said, but not by me.

Q 1033 About how long did you see the SUS on the tower?
A 1033 During all the time the fire was lit.

Q 1034 How long did the fire take?
A 1034 About half an hour altogether.

Q 1035 For that half hour did you just stay near this cell block 4?
A 1035 Yes sir, right on the corner of cell 3 and 4.

Q 1036 Not taking any part in it at all?
A 1036 No sir.

Q 1037 Were you there when the hose came out?
A 1037 Yes sir.

Q 1038 And you stayed there just watching?
A 1038 I did not walk very far.

Q 1039 If Major Germen said you tried to cut the hose with a razor blad is he mistaken?
A 1039 He must be, I did not try to cut the hose sir.

Q 1040 Whoever did try, did they succeed?
A 1040 I did not see sir.

Q 1041 Did you see the water spouting from the hose?
A 1041 Yes sir, from the front end.

Q 1042 Did you see any leaks in the hose?
A 1042 No sir, there were about 200 SUS all around, and I did not see any.

Q 1043 If Major Germen says he is quite sure you were one of the SOS interferring with the hose is he mistaken, because you say you were standing at the corner just watching?
A 1043 That is correct sir.

Q 1044 Do you remember also on the 9th May seeing Sgt Erlandson and Sgt Haigh?
A 1044 I remember Sgt Erlandson, but not Sgt Haigh sir.

Q 1045 You heard Sgt Erlandson's evidence that he spoke to you about your appearance and the spike?
A 1045 He was not speaking to me sir.

Q 1046 Who else had a spike?
A 1046 I did not see anyone else in particular, I was sitting down.

Q 1047 Did they have something else?
A 1047 I could not see if they had anything else or not sir.

Q 1048 Did you have a spike in your hand?
A 1048 No sir, I didn't.

Q 1049 An instrument of any sort?
A 1049 No sir, I didn't.

Q 1050 If Sgt Erlandson was 3 ft away from you and said you had, is he mistaken?
A 1050 He may have been 3 ft away, but he never spoke to me sir.

Q 1051 You never heard him give you an order to get rid of the spike?
A 1051 No sir, I did not have a spike.

Q 1052 And you did not say to him "You yellow provost bastards"?
A 1052 No sir.

Q 1053 Did you say it to anyone?
A 1053 No sir.

Q 1054 Did you think it?
A 1054 No sir, I had no reason to think it, no one was speaking to me sir.

Q 1055 You told us in your examination that there is absolute silence at all times?
A 1055 Yes sir.

Q 1056 What about the talking periods?
A 1056 The talking periods were very seldom given, there was no talking period while I was there sir.

Q 1057 And you said your treatment had been fairly good, is that correct?
A 1057 Yes sir.

Q 1058 So you have had no complaints against the staff about your treatment?
A 1058 That is right sir.

Q 1059 On the 10th May were you on the parade square when the general spoke?
A 1059 Yes sir.

Q 1060 After he finished speaking was there not an order or instruction to return to your quarters?
A 1060 Yes sir.

Q 1061 Why did you not obey it?
A 1061 I went up towards the latrines sir.

Q 1062 Which is in just about the opposite direction to your cell?
A 1062 Yes sir.

Q 1063 Why did you go towards the latrine?

A 1063 It was obvious sir, I wanted to go, that is all.

Q 1064 Do you suggest that is the same reason all the others had when you go up there?
A 1064 I do not say that sir.

Q 1065 Are you suggesting it now?
A 1065 No sir.

Q 1066 When you got there you say you found a lot of SUS inside the building?
A 1066 That is correct sir.

Q 1067 You went inside the building yourself?
A 1067 Yes sir, I did.

Q 1068 S/Sgt Semple stated he looked in the window and saw you there with a bar. Is that correct?
A 1068 He may have seen me in there, but not with a bar.

Q 1069 Is he mistaken on that?
A 1069 I did not have a bar sir.

The Defending Officer declines to re-examine.

Questioned by the Court:

Q 1070 On the morning of the 9th did you make any attempt to release any other SUS from the cell block?
A 1070 No sir, I was the last out, they were all out when I came out sir.

Q 1071 In the afternoon of the 9th when you were standing on the car were you speaking?
A 1071 Yes sir.

Q 1072 What did you say?
A 1072 I was just talking and joking, someone said "Sing us a song" and things like that.

Q 1073 You did not say anything else?
A 1073 No sir.

Q 1074 Why is it immediately following this entertainment everyone seemed to be possessed of one mind to go over and set fire to the tower?
A 1074 I did not suggest it, it was suggested in the crowd.

Q 1075 It was in the crowd?
A 1075 Yes sir.

Q 1076 You say you did not know this other SUS Kelly as a friend?
A 1076 No sir.

Q 1077 In your evidence you stated someone else, probably from cell 11 or 12 called to Kelly, what was the person's name?
A 1077 Wieder sir.

Q 1078 Do you know if Wieder and Kelly were known to each other as friend?
A 1078 I cannot say that. Wieder had just moved into our cell block, from where I do not know.

Questioned by the Judge Advocate:

Q 1079 How long had you been in cell block 6 prior to 8th May?
A 1079 I think I went in the 28th or 29th March.

Q 1080 Had you been in confinement in cell 14 cell block 6 from the 28th or 29th March until the 8th May 45?
A 1080 That is right sir.

Q 1081 Who suggested that the watch tower be burnt down?
A 1081 It was just a suggestion made in the crowd sir, I cannot say who said it.

Q 1082 What did you say when you heard that suggestion?
A 1082 I did not say anything, I just jumped down off the cart.

Q 1083 And where did you go then?
A 1083 In the direction of cell 3 sir.

Q 1084 In the same direction as the watch tower?
A 1084 Yes sir.

Q 1085 How many other SUS went with you?
A 1085 They didn't go with me. I went in that direction and they were to my right going to cell block 4.

Q 1086 Did you, or did you not, know that some were going to the watch tower?
A 1086 Yes sir, I knew that.

Q 1087 Did you not went to go with them?
A 1087 No sir, I did not want to have anything to do with that.

Q 1088 Did you tell anyone that?
A 1088 No sir, I just minded my own business and stayed down below sir.

Q 1089 So you say you were simply a spectator so far as the fire on the watch tower was concerned?
A 1089 I was one of the SUS who were there sir.

Q 1090 You were present, but just there watching others set fire to the tower?
A 1090 Yes sir.

Q 1091 And you yourself took no part whatever in setting fire to it?
A 1091 No sir, I did not.

Q 1092 So all the witnesses for the prosecution who said you did are mistaken?
A 1092 They could be sir.

Q 1093 Well they must be if what you say is true?
A 1093 It is the truth that I am saying sir.

Q 1094 Have any of the members of the staff shown any spite towards you at any time?
A 1094 Yes sir, one of them.

Q 1095 Which one?
A 1095 CSM Amyott sir.

Q 1096 When?
A 1096 Not this year sir, it is a long time ago.

Q 1097 What was the nature of that?
A 1097 I was serving a sentence of 4 months in 1943 before I went abroad. I was under his care in cell block 10 in April 43. Amyott came in and searched the cell one day and founds razor blade under my bed. He started to question me and I said I knew nothing about it. He proceeded to argue, he gave me a push and he went to strike me and I struck him. I went up to office and got 21 days bread and water for it.

Q 1098 Except for CSM Amyott are there any others who you think or suspect might have any spite towards you?
A 1098 No sir, I never gave anyone any reason.

Q 1099 During the time you were at Headley Down undergoing your present sentence had you anything to do with CSM Amyott prior to the 8th May?
A 1099 No sir.

Q 1100 You knew he was a member of the staff there?
A 1100 Yes sir, I kept out of his way.

Q 1101 Did you see him frequently?
A 1101 Yes sir, quite often.

Q 1102 Did you ever speak to each other?
A 1102 No sir, I never gave him an opportunity to speak to me.

Q 1103 You have told the Court you did not even pick up the iron bar that was thrown through the window of your cell?

A 1103 No sir.

Q 1104 Where did it fall?
A 1104 It was thrown with considerable force, it struck the door and fell down on the floor of my cell.

Q 1105 Did it break the window?
A 1105 No sir, the window was down.

Q 1106 You did not pick it up?
A 1106 No sir.

Q 1107 You did not use the bar to help you get out of the cell?
A 1107 There was no need to. I could not open it from the inside anyway sir.

Questioned by the Defending Officer through the Court:

Q 1108 Was there a difference of treatment between the SUS in some cell blocks and SUS in other cell blocks?

A 1108 Yes sir.

Q 1109 Will you tell the Court exactly what were the cell blocks that were under a more severe rule?

A 1109 Cell blocks 7,8,9 and 10, they could never go out for exercise unless handcuffed.

Q 1110 And the other SUS in cells 6,5,4,3,2, and 1 could they go out in the day?
A 1110 Yes sir, for drill and work in the garden.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

At 1225 hrs 15 Aug 45 the Court adjourns until 1400 hrs 15 Aug 45.

At 1400 hrs 15 Aug the Court re-assembles, pursuant to minute of adjournment, present the same members.

The accused is again brought before the Court.

Second Witness for Defence: C.363 SUS TRAVERSEY A.Q. 3 CITR, at present a soldier under sentence at 4 Cdn Mil Prison & Detn Bks, being duly sworn, is examined by the Defending Officer:

Judge Advocate to witness: I wish to make it clear to you that you have the right to refuse to answer any question, the answer to which may incriminate you. Do you understand that?
Answer: Yes sir.

Q 1111 Will you give the Court your number, name and unit?
A 1111 I am C. 363 SUS Traversey A.Q. of 3 CITR, presently SUS at 4 Cdn Mil Prison and Detn Bks.

Q 1112 Were you in cell block 6 on the night of 8th May?
A 1112 That is right sir.

Q 1113 About what time did you hear some shouting going on in cell block 6 on the 8th May 45?

A 1113 I would say around - I am not sure - I would have to make a guess, but I think it would be about ten o'clock in the morning sir.

Q 1114 In the late afternoon and part of the evening did you hear any shouting going on in cell block 6?
A 1114 Yes sir.

Q 1115 Did you hear someone shouting "Come on living huts, what are you waiting for, come up and get us out" or words to that effect?
A 1115 I did sir.

Q 1116 In what cell were you in cell block 6?
A 1116 Cell 12 sir.

Q 1117 In what cell was the accused?
A 1117 14 sir.

Q 1118 Do you know where the shouting was coming from?
A 1118 Cell block 6 faces the square and as I was facing the square the shouting was coming from the left, 14 cell is on my right.

Q 1119 Have you any idea about what cell it would be coming from?
A 1119 I have an idea sir.

Q 1120 Was it a cell very close to yours, or a little away?
A 1120 I cannot say for sure, it was from my left, about 10 or 9 sir.

Q 1121 You are definitely sure the shouting did not come from the cell on your right?
A 1121 Definitely sir.

Q 1122 As an SUS in 1 Cdn Detn Enc at the time did you consider yourself as having been fairly well treated by the staff?
A 1122 I would rather not answer that one sir. I would say yes, up to a certain point.

Q 1123 On the 9th May did you see the accused at any time?
A 1123 Yessir, I saw him around.

Q 1124 What was he doing?
A 1124 At the time I saw him he was just with the other fellows around.

Q 1125 Did you hear him give any orders or directions to any other SUS?
A 1125 No sir, I did not.

Cross-examined by the Prosecutor:

Q 1126 Have you known the accused for very long?
A 1126 No, not long sir.

Q 1127 How did you get out of your cell?
A 1127 Witness declines to answer.

Q 1128 Did you do any shouting out of the window yourself?
A 1128 Witness declines to answer.

Q 1129 Did you see any damage done in cell block 6 when you came out?
A 1129 Witness declines to answer.

Q 1130 You were in cell 12?
A 1130 That is correct sir.

Q 1131 Who was in cell 13?
A 1131 I cannot remember his name, I do not know it.

Q 1131 Who was in cell 11?
A 1131 11 was the boiler room of the cell block itself, it was not a cell.

Q 1132 How wide was the partition?
A 1132 About the same size as the cell itself.

Q 1133 Who was on your right?
A 1133 I cannot say for sure.

Q 1134 Was there anyone there?
A 1134 I think so, yes sir.

Q 1135 What was the first you knew of any disturbance on the 9th May?
A 1135 I believe it was the time when living hut 2 broke out of their living hut.

Q 1136 Did you see them break out?
A 1136 I was watching from my window.

Q 1137 Were you watching throughout?
A 1137 I was looking out the window.

Q 1138 Quite frequently?
A 1138 Off and on sir.

Q 1139 Were you doing any shouting yourself?
A 1139 Witness declines to answer.

Q 1140 Did you get out of your cell in cell block 6?
A 1140 Yes sir.

Q 1141 When you got into the corridor of cell block 6 was anyone else there at the time?
A 1141 There was sir.

Q 1142 Who was there?
A 1142 There was quite a commotion, most of the occupants of the cell were out there.

Q 1143 Was the accused one of them?
A 1143 I did not see him.

Q 1144 Do you know where he was?
A 1144 He was probably in his cell.

Q 1145 Were you one of the first let out?
A 1145 One of the first.

Q 1146 Were you actually let out or did someone let you out?
A 1146 Witness declines to answer.

Q 1147 Were there any bars taken from your window?
A 1147 Witness declines to answer.

Q 1148 What time did you leave cell block 6?
A 1148 I cannot remember exactly what time it was sir.

Q 1149 Were you in the corridor a short time before you left the cell block?
A 1149 Yes sir.

Q 1150 When you were in the corridor did you hear any damage being done?
A 1150 I heard damage, yes sir.

Q 1151 Did you see anyone doing any of this damage?
A 1151 No sir.

Q 1152 When was the first time you saw the accused on the morning of the 9th?
A 1152 On the parade square.

Q 1153 You never saw him in the cell block at all?
A 1153 Yes, before when he was in his cell.

Q 1154 When was the first time you saw him on the morning of 9th May 45?
A 1154 Outside the cell block, out on the parade square.

Q 1155 When you left your cell block 6 did you goover towards the cell blocks to your right?
A 1155 No sir, I didn't.

Q 1156 Did you see any others go over there?
A 1156 I saw a lot of SUS going that way, whether they were from our cell block I do not know.

Q 1157 Did you see any occupants of cell block 6 being released from their cells?
A 1157 No sir, I didn't.

Q 1158 Were you in the first or towards the end?
A 1158 I would say I was not the first, I do not know where I was.

Q 1159 How long were you in the corridor before you got out of the cell block?
A 1159 Witness declines to answer.

Q 1160 How many were in the corridor when you got out?
A 1160 I would say about 5 or 6.

Q 1161 Do you remember the fire on the watch tower?
A 1161 Yes sir.

Q 1162 Did you see the accused on the watch tower?
A 1162 No sir.

Q 1163 Were you in the crowd near the watch tower?
A 1163 No sir, I had quite a headache, I was not feeling very well.

Q 1164 Why did you get your headache?
A 1164 I guess from the commotion while we were outside I was paraded to the M.O. to get some tablets.

Q 1165 On the parade square did you hear the accused addressing a group just before the fire?
A 1165 I saw a group on the edge of the parade square, but I did not actually see the accused anywhere around.

Q 1166 Where were you at the time you saw this group?
A 1166 Down by cell block 4.

Q 1167 Just sitting there?
A 1167 I was more or less watching my kit, some of it had been damaged.

Q 1168 Did any of that go on the fire?
A 1168 No sir, I had all my kit.

Q 1169 When you were near cell block 6 you say you saw this group on the parade square. Did you see someone standing on a cart at that time?
A 1169 Yes sir.

Q 1170 Do you recognise the accused as being that person?
A 1170 I cannot say, I was on the other side of the parade square.

Q 1171 Did you watch that group from time to time?
A 1171 Off and on.

Q 1172 What happened?
A 1172 They dispersed and when towards the tower.

Q 1173 Was the accused in the lead?
A 1173 No sir, I did not see him, where my cell block is they had to come part of the way facing us, the accused was not in the lead.

Q 1174 Who was leading?
A 1174 I do not know, there were several in the lead.

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(1880)

Q 1175 This business of where the shouting came from - there was shouting from cell block 6 on the afternoon and evening of the 8th, is that correct?
A 1175 Yes sir, that is right.

Q 1176 You heard it?
A 1176 Yes sir.

Q 1177 Are you now telling us that you heard none of that shouting coming from the right?
A 1177 There was a lot of shouting. I guess from both directions.

Q 1178 You are not prepeared to say there could not be shouting from cell 14?
A 1178 There could have been, yes sir.

Re-examined by the Defending Officer:

Q 1179 You said before there was some shouting coming from your left. Do you remember any particular words that were said?
A 1179 I remember "Burn the huts down" and "get the keys off Aston" and so on. That was coming from my left sir.

Questioned by the Court:

Q 1180 You say you heard some shouting during the morning, was that one person or several?
A 1180 Several sir.

Q 1181 At night did it appear to be a weaker voice?
A 1181 More or less hoarse sir.

Q 1182 Weaker at night than in the morning?
A 1182 Yes sir.

Q 1183 Had you been released from your cell before the accused?
A 1183 I believe I was sir.

Q 1184 You say on the afternoon of the 8th there was a lot of yelling?
A 1184 Yes sir.

Q 1185 Was that just prisoners on the side of the cell block facing the square?
A 1185 It was the whole cell block sir.

Q 1186 There was a lot of yelling - everyone was whooping it up?
A 1186 Yes sir.

Questioned by the Judge Advocate:

Q 1187 Did you hear the accused say anything on the 8th May?
A 1187 Yes sir.

Q 1188 What was he saying?
A 1188 You mean about the yelling?

Q 1189 Yes, he was shouting too?
A 1189 Yes sir.

Q 1190 To the best of your recollection what was he shouting?
A 1190 For one thing he was yelling at me. "Riyah Traversey, how is she going" and things like that, and yelling across to other fellows in other cell blocks, yelling out familiar names. That is all I heard sir.

Q 1191 To the best of your recollection what else did he say?
A 1191 I hope I am right, I heard the word Meathead and things like that. In fact I said that myself.

Q 1192 I am not interested in ~~one~~ 18th what you said I am trying to find out what the accused said?
A 1192 I heard "meathead" sir.

Q 1193 You cannot remember anything else that the accused shouted on the 8th May at any time?
A 1193 No sir, outside of calling other fellows names in the other cell blocks. That is all sir.

Q 1194 You say he was mentioning names?
A 1194 Yes sir.

Q 1195 Did he mention the name Kelly?
A 1195 It seems there was quite a few yelling Kelly. I cannot say for sure.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (3)

The witness withdraws.

Third Witness for Defence: C.102935 SUS CLARKE R.J.W. 2 CITR, presently a soldier under sentence at 4 Cdn Mil Prison and Detn Bks, being duly sworn, is examined by the Defending Officer:

Judge Advocate to accused: I am advising you that you do not have to answer any questions, the answer to which may incriminate you. Do you understand that? Answer: Yes sir.

Q 1196 Will you give the court your number, name and Unit?
A 1196 C.102935 SUS Clarke R.J.W. presently under sentence at 4 Cdn Mil Prison andDetn Bks.

Q 1197 In what cell block were you on the 9th May?
A 1197 3 Cell block sir.

Q 1198 By whom were you released?
A 1198 Major Graney gave the order to have us released.

Q 1199 Was the whole block released?
A 1199 Yes sir.

Q 1200 Do you remember what time it was?
A 1200 I cannot exactly remember the time, I think between 9 and 10 o'clock.

Q 1201 In the afternoon of the 9th May did you see the accused?
A 1201 Yes sir.

Q 1202 Did you remain with the accused for part of the afternoon?
A 1202 Yes sir, I was with him part of the time.

Q 1203 What were you and the accused doing at that time?
A 1203 Just walking around with the rest of the crowd.

Q 1204 During that same afternoon did you see the accused on a wheel cart addressing some other SUS?
A 1204 Yes sir.

Q 1205 Do you remember what was said by the accused at this time?
A 1205 What I heard at the time he was just saying a few jokes to the fellows.

Q 1206 Did the accused ever suggest burning the tower?
A 1206 Not to my knowledge sir.

Q 1207 Did the accused appear to you as being the leader of that group?
A 1207 No sir.

Q 1208 While there was that talking by the accused and also talking by the other SUS was there any interference from the staff?
A 1208 No sir, there was not.

Q 1209 Did you see the watch tower on cell block 4 burning?
A 1209 Yes sir, I did.

Q 1210 Where were you then?
A 1210 Standing between 3 and 4 cell block sir.

Q 1211 Were you with anyone in particular at that time?
A 1211 The accused was there, and there was close to 100 other SUS standing around there.

Q 1212 Do you remember if the accused was among that group at the bottom of cell block 3?
A 1212 Yes sir, he was.

Q 1213 Were you close to the accused?
A 1213 He was about 5 ft from me sir.

Q 1214 While you were there did you see the accused at any time going up to the top of cell block 4?
A 1214 No sir, I didn't.

Q 1215 Did you see him participating in the organization of the fire?
A 1215 No sir.

Q 1216 Do you remember him carrying any materials to feed the fire on the roof of cell block 4?
A 1216 No sir, I did not see him.

Q 1217 Were there any interferences from the staff during the afternoon so far as smoking by the SUS on the parade square?
A 1217 No sir, there was not.

Cross-examined by the Prosecutor:

Q 1218 What time was it you were released?
A 1218 I would say around 9 or 10 in the morning sir.

Q 1219 What did you do the rest of the morning?
A 1219 We just walked around the yard.

Q 1220 Did you see the accused in the morning of the 9th?
A 1220 Yes sir I did.

Q 1221 Where was he?
A 1221 Walking around with the rest of us.

Q 1222 Walking from cell block to cell block?
A 1222 No sir, everybody was out at the time walking around the parade square, and a lot around the front of the yard by the road.

Q 1223 Some of these in your group. Did they have bars from the windows of the living huts?
A 1223 I did not notice them sir.

Q 1224 You would have seen them if they had?
A 1224 Yes sir.

Q 1225 Are you saying they did not?
A 1225 No sir, they might have.

Q 1226 If they did have them you would have seen them?
A 1226 I do not remember anyone in particular having them.

Q 1227 I am saying did you see anybody having bars from the living huts?
A 1227 Yes sir, there were some.

Q 1228 Did the body move along to the cell blocks?
A 1228 No sir, the cell blocks were at that time pretty well smashed up, and they were not bothering them at the time?

Q 1229 How long during the morning of the 9th were you with the accused?

A 1229 For a couple of hours sir.

Q 1230 You were with the accused for about 2 hours?
A 1230 Yes sir.

Q 1231 Are you a friend of his?
A 1231 No sir.

Q 1232 In the afternoon you saw him addressing a crowd on the parade square?
A 1232 Yes sir.

Q 1233 Were you part of that crowd?
A 1233 Yes sir.

Q 1234 Did you join with the crowd at the beginning?
A 1234 Yes sir, I was there most of the time.

Q 1235 Where were you when you were not there?
A 1235 I left it for about 5 mins to get a drink and came back.

Q 1236 When you came back it was still going on?
A 1236 Yes sir.

Q 1237 When the group first formed up who was on the cart?
A 1237 The accused sir.

Q 1238 Was he on the cart when you left for your drink?
A 1238 Yes sir.

Q 1238 Was he still there when you came back?
A 1238 Yes sir.

Q 1239 Did he stay on the cart until the whole group left to go to the watch tower?
A 1239 Yes sir.

Q 1240 Did anyone else get on the cart at any time while you were there?
A 1240 No sir.

Q 1241 What do you mean he did not appear as leader?
A 1241 He was up there just joking with the fellows, the cart was there and he stood up on it.

Q 1242 The crowd did not disperse when you left for 5 mins?
A 1242 No sir, they were sitting around.

Q 1243 When you came back was it shortly after that they moved off?
A 1243 Yes sir.

Q 1244 You know nothing of what happened while you were away for that 5 mins?
A 1244 That is correct sir.

Q 1245 You state there was no interference from the staff about the cigarettes?
A 1245 No sir, they did not interfere.

Q 1246 Was there any interference from the staff for anything else?
A 1246 No sir.

Q 1247 What were they doing while you were on the parade square?
A 1247 At the time the accused was on the cart they were all just standing around. They were not interfering with the fellows at all.

Q 1248 Were they standing at the various cell blocks?
A 1248 At the four corners of the parade square most of the time sir.

Q 1249 You say you were standing near the front of cell block 3 when you saw this tower burning?
A 1249 Yes sir.

Q 1250 Did you see any of the preparations for this tower burning?
A 1250 Yes sir.

Q 1251 Where were you then?
A 1251 I was standing there all the time.

Q 1252 Did you see SGS Kelly up on top of cell block 4?
A 1252 No sir.

Q 1253 Do you know SGS Kelly?
A 1253 Yes sir.

Q 1254 You did not see him up there?
A 1254 No sir.

Q 1255 Did you see anybody up there with one trouser leg off?
A 1255 No sir, there was quite a few up there. I did not notice anybody in particular.

Q 1256 For all you know the accused might have been up there?
A 1256 No sir, because he was talking to me at the time down below.

Q 1257 Is that the time the fire was taking place, or during the preparations?
A 1257 Both sir.

Q 1258 He was standing beside you all the time?
A 1258 Yes sir.

Q 1259 If I told you that other witnesses have stated they definitely saw the accused up on top of cell block 4 what would you say to that?
A 1259 He was standing there beside me sir.

Q 1260 I am suggesting to you that the accused was not standing next to you all the time?
A 1260 He was sir.

Q 1261 How about after the fire broke out?
A 1261 After the fire broke out the offr came down and broke the couples up.

Q 1262 What offr was that?
A 1262 Major Greacy.

Q 1263 Did you see Major Gernon at that time?
A 1263 After they brought the fire hose down there was a lot of offrs running around. Everyone broke up and walked away.

Q 1264 Did you see anyone interfering with the hose?
A 1264 No sir, I walked away.

Q 1265 Did the accused go with you?
A 1265 No sir, I did not see him after that.

Q 1266 When was the last time you saw the accused?
A 1266 When the offrs came down.

Q 1267 Did you see water coming out of the hose?
A 1267 Yes sir, the hose was leaking on the way up.

Q 1268 Did you see the accused interfere with that hose in any way?
A 1268 No sir, I didn't see him after the fire was lit, I walked away.

The defending Officer declines to re-examine.

Questioned by the Court:

Q 1269 While you were with the accused on the afternoon of 9th May did you see him smoke?
A 1269 Yes sir.

Q 1270 Did he produce matches?
A 1270 No sir, we got lights off the staff sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (B)

The witness withdraws.

Fourth Witness for Defence: B.77629 SUS DUPUIS F. Royal Winnipeg Rifles, presently a soldier under sentence at 4 Cdn Mil Prison and Detn Bks, being duly sworn, is examined by the Defending Officer:

Judge Advocate to accused: I am advising you that you do not have to answer any questions, the answer to which may incriminate you. Do you understand that? Answer: Yes sir.

Q 1271 Will you give the court your number, name and Unit?
A 1271 I am B.77629 SUS Dupuis F. Royal Winnipeg Rifles, at present SUS at 4 Cdn Mil Prison and Detn Bks.

Q 1272 On the afternoon of the 9th May did you see the accused?
A 1272 Yes sir.

Q 1273 Did you see the accused when the tower on cell block 4 was burning?
A 1273 Yes sir.

Q 1274 Where was the accused then?
A 1274 Between 3 and 4 cell blocks.

Q 1275 Was he very close to you?
A 1275 Yes sir, beside me.

Q 1276 Did the accused go up at any time during or before the fire on top of cell block 4?
A 1276 I never saw him sir.

Q 1277 Did you see him carrying materials to help set fire to the tower?
A 1277 No sir.

Q 1278 Did you see the accused giving any directions or orders to other SUS telling them what to do or exciting them to make trouble?
A 1278 No sir.

Q 1279 Did you see the accused while he was standing on the wheel cart?
A 1279 Yes sir.

Q 1280 What was the accused saying?
A 1280 I could not hear what he was saying, I was not close enough.

Q 1281 Was there laughing going on?
A 1281 Yes sir.

Q 1282 Did the accused appear to you as being one of the main leaders of this alleged disturbance?
A 1282 I cannot tell you.

Q 1283 Did you follow him yourself?
A 1283 No sir.

Cross-examined by the Prosecutor:

Q 1284 Have you been charged as yet in connection with the disturbances of the 8th, 9th and 10th May?
A 1284 Yes sir.

Q 1285 Were you concerned in any way yourself with the fire that ook place at the watch tower?
A 1285 No sir.

Q 1286 Were you concerned in any way with the fire hose that was used in connection with the fire?
A 1286 No sir.

Q 1287 When did you first see the accused on the 9th May?
A 1287 About ten o'clock in the morning sir.

Q 1288 Where are you located in "A" Compound?
A 1288 No. 5 cell block sir.

Q 1289 How often did you see the accused during the afternoon of the 9th?
A 1289 Three or four times sir.

Q 1290 Did you just see him and then pass on?
A 1290 Yes sir.

Q 1291 Were you near the watch tower at all during the afternoon?
A 1291 Yes sir.

Q 1292 Did you see SUS Kelly on top of the watch tower?
A 1292 No sir.

Q 1293 Did you see anybody?
A 1293 I do not know whom.

Q 1294 Did you see anybody on the watch tower that has now been torn down?
A 1294 No sir.

The Defending Officer declines to re-examine.

In the opinion of the Court and Judge Advocate it is not necessary to comply with RP 83 (3)

The witness withdraws.

The Defending Officer makes a Closing Address.
(See document marked "J" attached)

The Prosecutor makes a Closing Address.
(See document marked "K" attached)

The Judge Advocate addresses the Court.
(See document marked "L" attached)

J 89

1782

CLOSING ADDRESS BY DEFENDING OFFICER:

The 1st Charge alleges that the accused on the 5th May endeavoured to persuade other SUS to break out of confinement, and to release other SUS in 1 Cdn Detn Bks.

The Defence submits that the Prosecution failed to prove that the accused did endeavour on the 5th May to persuade other SUS confined in living huts to break out of confinement. The evidence disclosed is that the actual breakout from living huts 1,2 and 3 took place without any attempt on the part of the accused to persuade those SUS to break out. Actually there was a breakout according to the evidence which happened in cell block 6 some time during the afternoon of the 5th. The charge reads that the accused endeavoured to persuade SUS to break out from living huts. There is a witness that stated before the Court that he could not say any breakout followed at any time that would be due to the shouting from the accused during the afternoon of the 5th May.

The second part of the charge reads that the accused endeavoured to persuade SUS confined in living huts to release from confinement other SUS. The evidence disclosed by S/M Thorold is that the SUS from living hut 3 broke out first and then a body of SUS went down to living hut 2 and excited SUS from living hut 2 to break out, and that the 2 groups proceeded to living hut 1 and excited the SUS from living hut 1 to break out, and then the three parties melted into one body and proceeded to cell block 1. There is nothing in the evidence that says this breakout, of which the accused was charged, has been prompted by the accused in any way. Granted there was shouting from cell block 6, but any shouting that could have been doine did not have any influence on this actual breakout, because the words that are supposed to have been said, were said after the breakout had occurred in the living huts.

S/Sgt Semple, who was on duty in "A" Compound at 1700 hrs 5 May stated before the Court that he spent the afternoon roaming around living huts and cell blocks, and at no time did he see or hear the accused exciting SUS to breakout. He recalls the fact that the accused spoke to him, and asked how he was, and did that sort of trivial shouting. Cpl Ryland who was on duty from 1700 hrs on, who was standing outside the cell block 6, actually on the left hand side of the cell block, heard shouting, and this shouting contained words exciting SUS from living huts to break out. He disclosed before the Court that he thought they were the accused's words, because he recognized his voice. S/M Thorold also heard these words and attributed them to the accused alleging he recognised his voice. Actually there is nothing in the evidence that says they actually saw the accused while he was shouting these words. They heard them, turned around, and saw the accused and others shouting, but did not actually see him when he was supposed to have been speaking.

It has been brought out in evidence by the Defence that the SUS, especially those in cell blocks have very seldom the occasion to talk, and that in the cell blocks the talking period of half an hour allowed to SUS in living huts is not permitted. The accused had only been in Detn since March, about 5 or 6 weeks at the time, and he had always been in the cell block, meaning he did not have very much opportunity to use his voice, and become familiar to the members of the staff. Even if it had been shown, the doubt must be given to the accused because somebody with a similar voice might have said the words and misled these witnesses. It is a fact that one is often misled by his hearing, and when it is relating to a charge of such a serious nature, hearing and seeing must be combined to assure the evidence.

The 2nd, or alternative Charge, alleges that the accused was improperly concerned in a disturbance at 1 Cdn Detn Bks. The Defence submits that the Prosecution has failed to prove that charge on the grounds that evidence of the afternoon of 5th May shows there was quite a lot of confusion in living huts 1,2 and 3 and S/Sgt Semple who was on duty in "A" Compound all afternoon until 1700 hrs stated before the Court that the accused was more or less joking during that time in cell block 6, and also asked him how he was getting along, and the accused did not really cause any trouble. If this is the disturbance that the accused is charged with being improperly concerned with, the Defence submits that the Prosecution has failed to prove that the accused was engaged in that disturbance. Major Gorman also stated the disturbance occurred in the living huts, and was pretty local. To prove what he stated before the Court, that disturbance did not warrant any additional staff for the afternoon. The disturbance occurred the other side of the parade square, which is quite a distance away, and it is clear the people involved were those who actually broke out of the living huts, and it is brought before the Court that the accused was certainly not involved in that group from the living huts.

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The 3rd Charge alleges that the accused on the 9th May combined in Mutiny to release other SUS , to damage the said Detn Bks, and set fire to the watch tower. The Defence submits that the Prosecution failed to prove that the accused on the 9th May did combine in mutiny. I will read from Chap 3 para 5 MAL which defines the term mutiny (quotes)

There is no evidence that the accused combined with other soldiers to release other SUS who were in confinement at that time. When a party, in which the accused was seen the morning of the 9th walked towards cell blocks 1, 2, and 3 no evidence was brought out to prove the accused had been seen to enter any of these cell blocks to release SUS. A little later these SUS were released by the staff.

Also, in this particular cell block 6, it is brought in evidence that the cell locks of the doors had been broken by some other SUS, but there is no evidence that any of them had been broken by the accused. There is also no definite evidence that the accused combined with other SUS to damage the Detn Bks. There has actually been proven there was a lot of damage done, but not actually proven that the damages were made at the excitement of the accused, or by the accused himself, even if he may have been seen at the scene of the damage buildings. The damages which occurred on the 10th May in the Sanitary block outside "A" Compound shows that one of the witnesses saw the accused in the sanitary block when he looked through the window, and the witness stated to the Court there was a lot of damage done, but he did not actually see the accused doing any of this damage, and on the other hand the evidence of the accused is that after the talk by the GOC he went to the Sanitary block which contains latrines, and even if he walked in the opposite direction from what he was told to, it was the latrines he was going to at the time. He admitted he went in, but he could not stay long, or not long enough to do any damage as all the SUS were crowding the door, and he had to get out.

There is also no evidence that the accused on the 9th combined with other SUS to set the watch tower on fire. Some evidence may lead the Court to believe this, but the Defence has brought two witnesses, besides the evidence of the accused himself, to show that just before, and during the fire, the accused was not on top of cell block 4, nor assisting or organising the fire, or helping to set fire, or even to light the fire.

To combine with the other SUS we must suppose that the accused was a leader, but there is no clear evidence to that effect. It is only the opinion of a few witnesses, and they all admitted on the other hand that he was not dangerous, and he sort of did the same thing all the other SUSs were doing, and that was roaming and wandering around in the parade square talking one to the other. Also it has been brought out in evidence, the staff paid very little attention to actually what was going on during the afternoon, they did not interfere, they were just standing at the 4 corners of the parade square giving lights to the SUS who wanted to smoke cigarettes which were thrown into the parade square by outsiders, and that, although the rules of Detn forbids smoking at any time by SUS. The staff never endeavoured to interfere and more or less gave the impression that the SUS were allowed to smoke. For the same reason the Defence submits the 4th and 5th alternative Charges have not been satisfactorily proven.

The 6th Charge alleges that on the 9th May the accused used insubordinate language towards the members of the staff. The evidence as brought out before the Court is very contradictory. The main witness concerned with this charge said the accused replied to him "You yellow provost bastards" while he was walking away from him. It is his opinion that the words were meant for him. On the other hand Sgt Nagh, who was standing 3 ft away stated the accused said these words while sitting on the steps, and that he could not say if he was referring to anybody in particular or not. The 3rd witness is the accused himself, who says he did not say these words and does not recall talking at any particular time to Sgt Erlandson.

The last Charge alleges that the accused was improperly concerned in a disturbance on the 10th May. The defence submits the prosecution failed to prove that Charge on the ground that on the morning of the 10th May, after the GOC's talk the accused was found in the sanitary block after the disturbance had actuallyoccurred. The disturbance that occurred was when a lot of SUS got into that block and damaged the windows and toilets and latrines. One witness states he saw the accused through

the window, but he was just standing there, and according to the evidence of the accused he just went in but had to come right out again as the other SUS were cramming the doors and going out of the sanitary block. Granted there might have been a disturbance on the 9th, but the accused is not charged with being improperly connected with any disturbance on the 9th.

I wish to draw to the attention of the Court to the fact the accused fought in Sicily and Italy as a private. A man who has an leadership, would be proved while in action, but during all that time he remained a trooper because he was not found by his superiors to be a leader. It is improbable that on one day he would become the leader of a Mutiny, and he has himself told the Court he had no reason to excite the others as he had been fairly well treated as a prisoner. The term Mutiny involves combining, and no evidence is given that the accused combined. The only evidence of the witnesses is that he was running around like the others, and they did not actually hear what he said to the other soldiers. None of them heard him give orders or directions to soldiers. The staff also said that they did not think he was dangerous and never had cause to arrest him, or remove him, which would be a normal step if they did see the accused leading a mob to rioting or damaging buildings. The accused, like the other SUS was told by the staff to remain in "A" Compound, and that is what he did. Others escaped, and he never tried to, and he had all the chance to.

The Court must give the accused the benefit of the doubt any time the evidence may warrant it. The staff of the Detn Bks obviously did not use any of their power to establish their authority and control the SUS by removing the leaders.

I therefore submit that the Charges were not proven, and that the accused be found Not Guilty.

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K 93

CLOSING ADDRESS BY THE PROSECUTOR:

The first thing to consider is this blank denial of the accused of all the things of which these seven Charges consist. That bank denial by the accused, plus the uncertain support from other SUS places the issue before the Court of deciding whether to believe the witnesses for the Prosecution or the witnesses call by the Defence.

There are two considerations which I ask the Court to keep in mind when coming to a decision of which witness is to be believed. First - as the accused on his own admission was never treated unfairly by any member of the staff, there was no reason for any of them to pick on him or to give uncertain evidence against him as being certain and positive. They had no prejudice against the accused, and their evidence is given in a straight forward manner, and was not shaken on cross-examination. The second thing is that while these witnesses have nothing to gain by falsely stating their evidence, the accused has everything to gain if he can persuade the Court to believe him. The other SUS also have a sympathetic interest in his favour. I would ask the Court to consider carefully the witnesses which they are to believe.

I say that his blank denial unsupported in any way by satisfactory evidence can only mean one thing. I ask the Court to disbelieve the accused and to believe the provost witnesses. The Defence would have us regard the accused as a joke-arousing, potential singer, and an obtainer of a football, and a sober and innocent onlooker when the fire took place. I say this is not a true picture.

Having come to that decision that the evidence of the accused is unfavourable, the thing is to consider the charges, and I propose to speak as briefly as possible in the order in which they appear on the Charge Sheet.

The 1st Charge dealing with the 5th May, is one of endeavouring to persuade others to join in Mutiny. To support this Charge it is not necessary that the Prosecution prove there actually was a mutiny. So long as this joining of a Mutiny was intended, and that is what the accused was trying to persuade the others to join in. He is not charged with joining in a mutiny, but in endeavouring to persuade others to join in one. The fact a mutiny did break out on the 5th is confirmation of the intention. As to what a mutiny is I expect the statement read by the Defence has adequately defined it. It is submitted that the position is made very clear by note 5 on Sheet 312 MCL which states "quotes". This clearly shows us what a mutiny is, and I say that when a body of SUS unlawfully force their way out of living huts when that is the proper place of confinement they are guilty of mutiny. Moreover, should that body after getting out then unlawfully release other SUS there can be no question that that would be mutiny. The combining of 2 or 3 persons to resist lawful military authority. That is exactly what the accused intended in this case. That is what he was endeavouring to persuade others to do. Whether he joined themor not is immaterial to this Charge. He is only charged on the 5th May with attempting to get one started.

The situation was that the accused was doing a lot of shouting from his window of cell block 6 cell 14 facing the parade square during the afternoon and evening of the 5th May. He is locked up. SUS in living huts number between 52 and 56, and there are only two members of the staff posted near the doors. It is obvious that the SUS in theliving huts would find it an easy matter, by combining, to get out. So very well might the accused shout across the parade square, as heard by Sgt Heller, standing only at the corner of cell block 6, and nearer to the accused when he was shouting than when he was in the Court room giving evidence. Well might the accused say "Come on Kelly, why dont you get this bunch started, what are you waiting for, lets get this thing started". That makes it very clear that the accused has in his own mind.

On the occasion when the group from 3 and 4 broke out and were on the parade square searching for the keys, well might the accused from his window say "Get the keys from Aston, and get us out". That took place on the 5th of May - persuading others in joining in a mutiny. There can be no mistake as the accused doing the shouting, when S/M Thorn who was in living hut 1 heard the accused shouting to Kelly and when he recognized the accused's voice he saw him at the window. Aston also recognized the accused's voice when he called "Get the keys from Aston" and looking in the direction of cell block 6 where the accused was, he saw the accused at the window, and also stated that he did not see any others standing at the window in cell block 6. It is submitted by the Prosecution on this evidence, the 1st Charge is obviously made out.

The 2nd Charge is alternative to the 1st, and I do not think it is necessary to dwell on it at t is point. The same remarks apply to this 2nd Charge as applied to the 1st.

The 3rd Charge which dwells with the 9th May. On this Charge the accused joined in mutiny, in combining with other SUS to do three things (1) release soldiers in confinement (2) damaging the Detn Hse (3) setting fire to the watch tower. On the evidence there is no question about the definition of mutiny. The accused joined in mutiny - he was one of 2 or 3 who combined to resist lawful military authority. The mutiny started with the breakout on the morning of the 9th May from the living huts, then joined by others, and soon hundreds were involved in this combined resistance to lawful military authority.

It is obvious that while hundreds were involved, the majority were led throughout by a few, and the evidence is clearly put before the Court that this accused was one of these gang leaders. We hear of him addressing a crowd from a wheel cart previous to the outbreak of the fire. We have him dispersing the watches, and we have him leading the mob over towards the fire. It is not necessary to deal with the first specification in this particular charge, that is to say release ing soldiers from confinement. It is not necessary to prove the accused actually broke the lock of the cell of even one SUS. It is sufficient to show that he was one of a group who counited others to resist lawful authority and release other SUS from confinement. Further to that point there is a statement in KOL found on page 106 which states "The responsibility of a person for the natural consequences of his acts is not limited to the simple case where he is present, and actually commits and offence with his own hand". There can be no doubt about what he intended, and what followed was part of what he had intended.

The second part - damage to the Detn Hse - we have the evidence of the person who was closest to the cell block 6 at the time the damage occurred - SUS Gilmore. His evidence of the damage done, and the accused's own admission, is that radiators were torn off the wall, latrines were broken, and the light switch broken, and I believe the grill was broken. The evidence is slightly uncertain on the exact times of what took place and the relation to the time the accused got out of his cell, but nevertheless the whole thing ties in . The group that came in there, moved by his words, was a group of which he was a part, and their acts he must take the responsibility for.

The third part, which is specifically set out as part of this Third Charge of Mutiny is that he set fire to the watch tower. I think that has been fully discussed and I do not intend saying anything more about them now.

The 4th Charge is alternative to the 3rd Charge, and it is a charge of riotous damage. It is alternative to the charge of joining in a mutiny, and if the Court finds him not Guilty of the 3rd Charge then this 4th Charge comes up for consideration. As to what constitutes riotous damage I will read from page 1235 of Archibald(quotes) (1) the presence of not less than three persons - there is no question about that (2) a common purpose - their common purpose was to break out of their huts and defy lawful military authority. (3) execution or inception of the common purpose - that too is clear (4) an intent to help one another, by force if necessary, against anyone who may oppose them in the execution of the common purpose - here the picture is suggested by the Defending Offr that the staff were standing around doing nothing. But picture a staff of 40 handling a group of 400, some of them armed with long bars which are from the bed windows. So that the question of intent can be easily inferred by the Court - that these men intended to help one another by force, if necessary. The last requirement is again a matter of inference which the Court can easily deal with on these facts. I say it is an easy inference that if any member of the staff had tried to interfere other than to give orders to keep the men in "A" Compound would have put them in all likelihood in a position of receiving physical violence. This constitutes all that is necessary to show on this charge of riotous damage. As to the actual damage to the Hse, I do not propose to dwell on that. The damage to the barracks once this thing got started, and as a result of the instigation of the accused, the damage which took place on the 9th May can be laid at his door step and he must accept the responsibility of any damage that others may have committed.

The 5th Charge is alternative to the 3rd Charge - not alternative to the 4th Charge, only to the 3rd. That is t o say that if the Court finds the

accused Guilty of mutiny on the 3rd Charge, the 4th and 5th Charges are dropped. If he is Not Guilty of the 3rd Charge he may be found Guilty of the 4th and 5th, because the 4th deals with riotous damage to the Barracks, and the 5th with Specific damage to the watch tower. I say the evidence is clearer that this accused played a leading part in actually starting that fire with words, rather than his actions of preparing for the fire and being on the tower just before the fire took place.

The 6th Charge has the simple and straightforward evidence of Sgt Erlandsen and Sgt Hugh. The accused had a convenient lapse of memory about seeing these two members of the staff at that time. This is no more than a convenient lapse of memory. The fact that Sgt Hugh did not remember exactly what Sgt Erlandsen heard does not mean his evidence is unsatisfactory, because two people's recollection of what happened over two months ago will not be identical, if it is, it would look as if they had got in cahoots.

The last Charge is that the accused was improperly concerned in a disturbance the 10th May. Major Gorman gave evidence that he inspected the sanitary block 10 to 15 mins before the General spoke, and at that time it was alright. S/Sgt Semple said he saw 40 to 50 crowding around the building, heard shushing and breaking going on, and saw the accused in there with a long bar in his hand. The accused gives a little different story - he went there to use the latrine, but he was seen inside by the provost with a bar in his hand. The damage is considerable to the water closets and fixtures, which is sufficient to make out fully the 7th Charge which establishes a disturbance, and the accused's identification by S/Sgt Semple establishes him as being improperly concerned in it.

Accordingly, it is the Prosecution's submission that the Charges have all been made out with the qualification that certain of the Charges are alternative.

L 97

1800

GCM-17-18 AUG 45
BIO2659 Tpr Earl Oscar GRAVELLE,
4 Cdn Mil Prison & Detn Bks

SUMMING-UP BY JUDGE ADVOCATE

It is now my duty as Judge Advocate to advise the Court with respect to the law relating to this case and to sum-up the evidence. In a civil court where a trial is by Judge and Jury it is the duty of the Judge to decide all questions of law and the duty of the Jury to decide all questions of fact. Under our system of military law, however, a court-martial combines both of these functions, and it is therefore the duty of this Court to decide all questions of law as well as all questions of fact arising in this case. As J.A. I am not a member of the Court, but it is my duty primarily to advise the Court on all matters of law. The Court should follow my advice on all questions of law, and if they see fit to disregard it should do so only for very weighty reasons which should be recorded in the proceedings. The Court are the sole and absolute judges on all questions of fact, and must form their own opinions as to the facts of the case, and should entirely disregard my views as to the facts.

It is a fundamental principle of British Justice that the accused must be presumed to be innocent until proven guilty beyond a reasonable doubt. The accused does not have to prove that he is innocent of any of the charges against him. On the contrary the onus is upon the prosecution throughout the trial of proving that the accused is guilty beyond a reasonable doubt. By a reasonable doubt I do not mean an imaginary doubt, or a capricious doubt, or a foolish doubt, but by a reasonable doubt I mean what might be called a common-sense doubt, that is such a doubt as to the guilt of the accused as would likely remain in the mind of an ordinary reasonable man, after carefully considering the evidence before the Court. If, with respect to any of the charges against the accused, the Court is either convinced that he is innocent, or is left in reasonable doubt as to his guilt, then it is the duty of the Court to find the accused not guilty of that charge.

Before proceeding to deal specifically with the charges against the accused I will read to the Court all of paras 16, 17 and 18, Ch VII, MML page 107, dealing with responsibility for crime. (quotes "If a person is present. . . .for the commission of another unconnected therewith").

I will now proceed to deal with each of the charges against the accused in the order in which they appear in the charge sheet.

First Charge-(Read to Court). In considering the evidence with respect to that charge the Court must be careful to remember that it deals only with the events of the 5th May, 45. The Court, before being justified in finding the accused guilty of the first charge, must be satisfied beyond a reasonable doubt that the accused did in fact endeavour to persuade SUS in living huts to break out of confinement and to release other SUS from confinement, and that such conduct would have constituted a mutiny. As to the meaning of mutiny I will read to the Court all of paras 5 and 6 Ch III MML beginning at bottom page 15 (quotes: "The term mutiny imples.....in considering the question of punishment"). So much for the meaning of "mutiny".

Dealing with the Second Charge-(Read to Court). This charge is alternative to the First Charge and the accused cannot therefore be found guilty of both the first and second charges, but may be found guilty of either one, or not guilty of both. The essential elements which the prosecution must establish on this charge are that there was a disturbance on 5th May, that the accused was improperly concerned therein, and furthermore that his conduct, under all the circumstances constituted conduct to the prejudice both of good order and military discipline.

With respect to the 3rd charge-(Read to Court).I have already dealt with the meaning of the word "mutiny". Under this charge the accused is charged with actually joining in a mutiny on May 9th.Before the accused can be convicted of this charge the Court must be satisfied beyond a reasonable doubt that the conduct alleged in the particulars of the charge,if proven by the evidence, did amount to mutiny. If the Court should find that some of the acts alleged in the particulars are proven but others not, for example, if the Court should find that the accused did combine with other SUS to release other SUS, and did combine with other SUS to set fire to the watch tower, but are not satisfied beyond a reasonable doubt that he did combine with other SUS to damage the Detn Bks, then the Court should consider whether a special finding should be made under the provisions of RP 44(2),MCL p 648, which I will now read to the Court.(Quotes:"Where the Court....record a special finding.").I will also read the first para of note 6 to RP44 at p 649 MCL (Quotes:" The special finding.....articles in question.")

With respect to the 4th charge-(Read to Court).This charge and the 5th charge are both alternative to the third charge. Now that means that the accused cannot be found guilty of all three charges. If he is found guilty of the 3rd charge he must be found not guilty of both the 4th and 5th charges. If he is found not guilty of the 3rd charge, he may be found guilty of both the 4th and 5th charges, or of either of them, or not guilty of all three.The 4th charge deals with the events of the 9th May. Sec.12 of the Malicious Damage Act,1861, to be understood must be read tog ther with Sec II thereof.I will now read these 2 secs from p 520 of Archbold's Cr Pl, 31st Ed (Quotes:"Riotously demolishing houses.....and he may be punished accordingly.") In order to justify a finding of guilty on this charge the Court must be satisfied beyond a reasonable doubt, that a riot took place, and that the accused was one of the rioters, and that during the riot damage was done to the Detn Bks.As to the meaning of "riot" and the essential elements which must be present to constitute a riot, I will now read to the Court from Archbold on Cr Pl, 31st ed page 1235.(Quotes: "Riot is a tumultuous disturbance of the peace.....at least one person of reasonable firmness ".) Now it is not necessary that the damage be done by the accused personally;if it is done by some other member of the riotous assembly,in furtherance of the common purpose of the riotous assembly of which the accused is a member, the accused may be held liable as well.

I will now deal with the 5th charge-(Read to Court).I will now read Sec 5 of The Malicious Damage,Act,1861,from p 790 Archbold's Cr Pl, 31st ed (Quotes:"Setting fire to public bldgs....with or without whipping.").To be malicious, the burning must be done wilfully,as distinguished from mere accident or negligence.If the accused did not himself set the fire personally, he may still be found guilty if he aided and abetted some other person or persons to set the fire,or if he incited some other person or persons to set the fire. Under Sec.56 of the said act a principal in th second degree, or an accessory before the fact to an offence under Sec 5 is punishable as a principal in the first degree.

The 6th charge is laid under Sec 8(2)AA and reads as follows(Read to Court).As to the meaning of "insubordinate language" I will read to the Court Note 5 to Sec 8 AA p.433 MCL.(Quotes: Where the charge is . . .must be charged under Sec40".)Whether the language alleged to have been used was used,to Sgt Mclaudsen is a question of fact for the Court to determine.

The 7th charge is the same as the 2nd charge, save that it relates to the events of the 10th May. What I said with respect to the 2nd charge applies equally to the 7th charge.

There is evidence before the Court which may be considered to be of a circumstantial nature. As to the weight to be given to that evidence, I will read to the Court para 42 Ch VI, MML p 51(Quotes:"From the circumstances. .....that the accused was the guilty person".)

The Court in carrying out their duties, are supposed to use common sense and their general knowledge of human nature and the ordinary affairs of mankind. They may also use their general knowledge of military affairs which all offrs of the Cdn army are presumed to know. In deciding the guilt or innocence of the accused they must consider solely the evidence which has been brought before the Court, and they must ignore any information concerning this case which may have come to their attention outside of the evidence.

In deciding what evidence to believe and what evidence to disbelieve, the Court may accept or reject all or any part or parts of the evidence of any witness.

In closing I wish to remind the Court that they are the sole and absolute judges of all questions of fact, and that the accused must receive the benefit of any reasonable doubt as to his guilt upon any of the charges against him.

Are there any further matters upon which the Court, the Prosecutor or the Def Offr, wish me to advise the Court?

Answer by Pres:No.
Answer by Prosecutor:No.
Answer by Def Offr: No.

"O" 101

A800

PLEA IN MITIGATION OF PUNISHMENT:

The accused enlisted the 2nd Aug 41 and came Overseas to England in Nov 43. He went to Sicily the 10th Jul 43 with the Calgary Tank Regt with the 1st Cdn Armoured Tank Bde and fought throughout the Sicilian campaign, then landed in Italy and fought with his Unit until he was wounded sometime in Nov 43. He was wounded in the leg and evacuated to N. Africa and from there he came to England on a hospital ship.

In England he was sent to S General Hospital and at the end of his stay there, after he had been categorized L.H.S.H.M.2, he went to 2 CADRU and was given to understand that with his leg he would be proceeding home very soon. He waited there for a while having no special employment until the end of June 44 when he was sent to 22 Cdn Spec Emp Coy. He remained with that Unit until he went to hospital the 9th Aug. While he was with this Unit his duty was to shovel coal in the surrounding district. The work began after a while to be too heavy for his leg and he was paraded and asked to be relieved of his duties, and his request was granted. A few days later he went to hospital for treatment in his leg, and remained there three weeks. He was also examined by the psychiatrist while he was there, which did not change the figure under the S. of his Pulhems which still remained 4. He consented of hospital and went back to 22 Cdn Spec Emp Coy where he was not given any special duty, and just told to wait around.

After a while he got fed up and went AWL in Sept. While AWL his girl friend was found to be in the family way and he married her. The child was born, and subsequently died. In Nov 44 the accused heard the news that his father had died leaving his mother alone back home. While he was AWL he worked in London with a friend of his fathers and sustained his wife and child until the child died 4 months later. He worked there until he was picked up in military uniform by the provost corps.

For his offence of AWL he was sentenced at the end of March to a year Detn. That is the sentence he was actually undergoing while this disturbance occurred on VE Day. Since he has been in Detn he has had a fairly good record, and it is my intention to produce before the Court as an exhibit the certified true copy of the work sheet of the accused. Before I will actually put it before the Court there are a few explanations which will help the Court understand it. Each day that a DETS has been in Detn, if he has good behaviour and is a good worker he is given 6 marks. He may earn less than 6 marks per days then on Sunday the average is taken for the days of the week and this average is added as his Sunday mark. Suppose he has 36 points accumulated during the 6 days of the week, then Sunday he would have 6 points as an average. Since the accused has been in Detn since the 4th Apr he has accumulated 1139 marks out of a possible 1160, so actually he only lost 21 marks. On the top left of the form there is heading which says the marks required are 1960. This may tend to mislead the Court. The figure of 1960 is the total marks required for the accused to earn during the period of sentence, and when he reaches this mark he is immediately released no matter how long or how many days balance of unexpired sentence he has. There are 3 items in read, two earned when the accused was paraded to report before the C.O. and another time when brought up before the C.O. and given 7 dys FDQ and they deducted so many marks from his good marks.

WORK SHEET IS PRODUCED, ACCEPTED BY THE COURT, AND MARKED EXHIBIT "P" A800

The accused now has to support not only his wife here in England, but his mother back home, and he has fought for five years for the security of society. He has been wounded while fighting for his country, and I submit to the Court that the accused deserves high consideration and sympathy.

A800

EXHIBIT
"W.A. Towers Lt. Col"
PRES GCM
AGB

P 103

NO. 4 CANADIAN MILITARY PRISON & DETENTION BARRACKS

REGISTER OF MILITARY INSTRUCTION, PRODUCTIVE WORKS, AND MARKS

Army No. B-102659 Name GRAVELLE, E.O. Unit 22 Spec. Emp. Coy.

Offence A.A. Sec. 15(1) - 40. Sentence 1 year

Date of Sentence 24 Mar. 45 Date of Admission 4 Apr.45 Remission 120 days

Marks Required 1960 Register No. 158 Cell No. _____ Diary Date 23 Nov.45

Date		Remarks	Marks D	Marks F	Marks Total	Date		Remarks B. F.	Marks D	Marks F	Marks Total
Apr 3	11	Mks on ADM	88		88						
4	12	Admitted	8		96						
11	19		56		152						
16	24	(SEC 2) WARNING	38	2	190						
30	38		112		302						
May 7	45		56		358						
21	59	(SEC 1) WARNING	110	2	468						
22	60	(SEC 2) 9 DAYS FOR	-	14	462						
31	69		69	3	531						
June 30	99		240		771						
Jul 31	130		248		1019						
Aug 15	145		120		1139						

CERTIFIED TRUE COPY OF 4 CDN. MIL. PRISON & DETN. BKS. WORKSHEET OF B-102659, SUS GRAVELLE, E.O.

(sgd) L.S. Grayson,
(L.S. Grayson) Lt.-Col., Commandant

President to accused: Do you wish to give evidence yourself or to call any witnesses as to Character? Answer: No sir.

The Prosecutor produces Statement as to Character and Particulars of Service, and certified true copy of Conduct Sheet purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because they purport to be signed in the manner required by AA 163 (1) (g) (h) and (ii) they purport to refer to a soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Exhibit "M" and Ex "N" respectively.

✓ AND CONDUCT SHEET ✓ APP.

President to accused. Do you wish to address the Court on the Statement, and in mitigation of punishment? Answer: Yes sir, through my Defending Offr. (See document marked "O" attached).

The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.

105

E

1000

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused B.102659 Tpr Earl Oscar GRAVELLE No. 4 Cdn Mil Prison and Detn Bks is guilty of the Second and Third Charges, but is not guilty of the First, Fourth, Fifth, Sixth and Seventh Charges.

Signed in the Field, in England, this 18th day of Aug 45

"L.J.Brody Capt"
Judge Advocate

"W.A.Townsley Col"
Pres G.C.M.

1000

The Court is re-opened. The President announces the findings of Not Guilty and states to the accused that the findings on the 2nd and 3rd charges, being subject to confirmation, will be promulgated later.

Proceedings on Conviction *before* Sentence.

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~ 1000

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

1000

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

106

F

Sentence.

The Court sentence the accused B.102659 Tpr Earl Oscar GRAVELLE No. 4 Cdn Mil Prison and Detn Bks to suffer penal servitude for the term of Five years, and to be discharged with ignominy from His Majesty's Service.

Sentence.
PENAL SERVITUDE FOR 5 YEARS and DISCHARGED WITH IGNOMINY

Signed in the Field, in England, this 18th day of Aug 45.

"L.J.Brody Capt"
Judge Advocate

"W.A.Townsley Col"
Pres G.C.M.

No illegalities or irregularities such as would warrant withholding confirmation.
5 Sept 45 W.P. Taylor Lt Col
AJAG

I reserve the Findings and Sentence for confirmation.

In the Field
28 AUG 45

D.C. Spry
(D.C.Spry) Maj-Gen
Comd
Cdn Rft Units

"I confirm the findings & Sentence".

"Ernest G. Weeks"
(E.G. Weeks) Maj. Gen.
i/c Adm.
C MHQ
10 Sept 45

B-102659, Tpr. Earl Oscar Gravelle; Promulgated 12 Sept 45
"L.S. Grayson" Lt. Col
Commandant #4 C.M.P. & D.B.

107

"W. A. Townsley Ld"
Pres GCM

COURTS - MARTIAL ARMY FORM A 47

FORM OR ORDER FOR THE ASSEMBLY OF A GENERAL OR DISTRICT COURT MARTIAL

ORDERS BY.....Maj-Gen. D.C. Spry, DSO,.....

Commanding the.....Cdn Rft Units.....

(Place and date).....Farnborough, Hants, 13 Aug 45.....

B102659 Tpr. Earl Oscar GRAVELLE
4 Cdn Mil Prison & Detn Bks

The detail of officers as mentioned below will assemble at.....1000 hrs.....on the..17th.....day of.....Aug 1945.....
at Hut N.2, HQ CRU, Farnborough, Hants,
for the purpose of trying by General Court-Martial the accused person ~~(persons)~~ named in the margin (and such other person or persons as may be brought before them)

PRESIDENT

Col. W.A. Townsley, ORE, MC, ED, 2 CGRU is appointed president

MEMBERS

Lt-Col.	G.F.P. Bradbrook,	7 Cdn Repat Depot
Major	F.R. Spenard,	4 CITR
Major	P.R.A. Simard,	4 CITR
Major	A.C. MacWilliams	2 CGRU

WAITING MEMBERS

Major	J.W.K. Smeltzer,	2 Cdn Repat Depot
Major	A.L. Gollnick,	7 Cdn Repat Depot

JUDGE ADVOCATE

Capt. L.J. Brody, Barrister-at-law, HQ CRU

~~has been (or where the convening officer has the appointment of a judge-advocate,~~ is hereby) appointed judge-advocate.

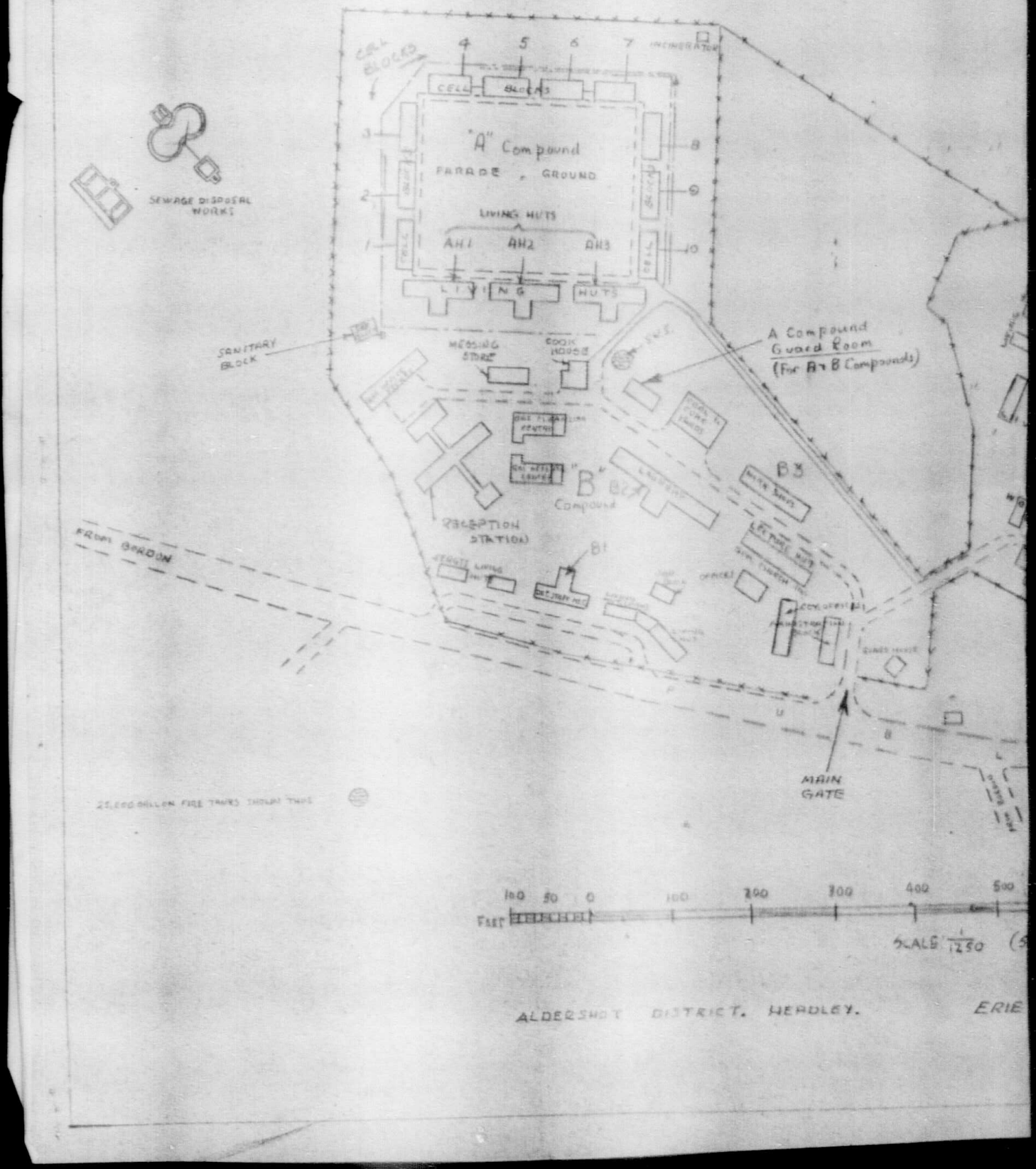
The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to Col i/c Adm, HQ CRU

Signed this...13th.....day of.....August.....1945.

D.C. Spry

(D.C. Spry) Maj-Gen
Comd
Cdn Rft Units


"A" Compound
PARADE GROUND
LIVING HUTS
AH1
AH2
AH3
LIVING HUTS
CELL BLOCKS
INCINERATOR
SEWAGE DISPOSAL WORKS
SANITARY BLOCK
MESSING STORE
COOK HOUSE
A Compound Guard Room (For A & B Compounds)
"B" Compound
B3
B1
RECEPTION STATION
FROM BARRON
MAIN GATE
25,000 GALLON FIRE TANKS UNDER THIS
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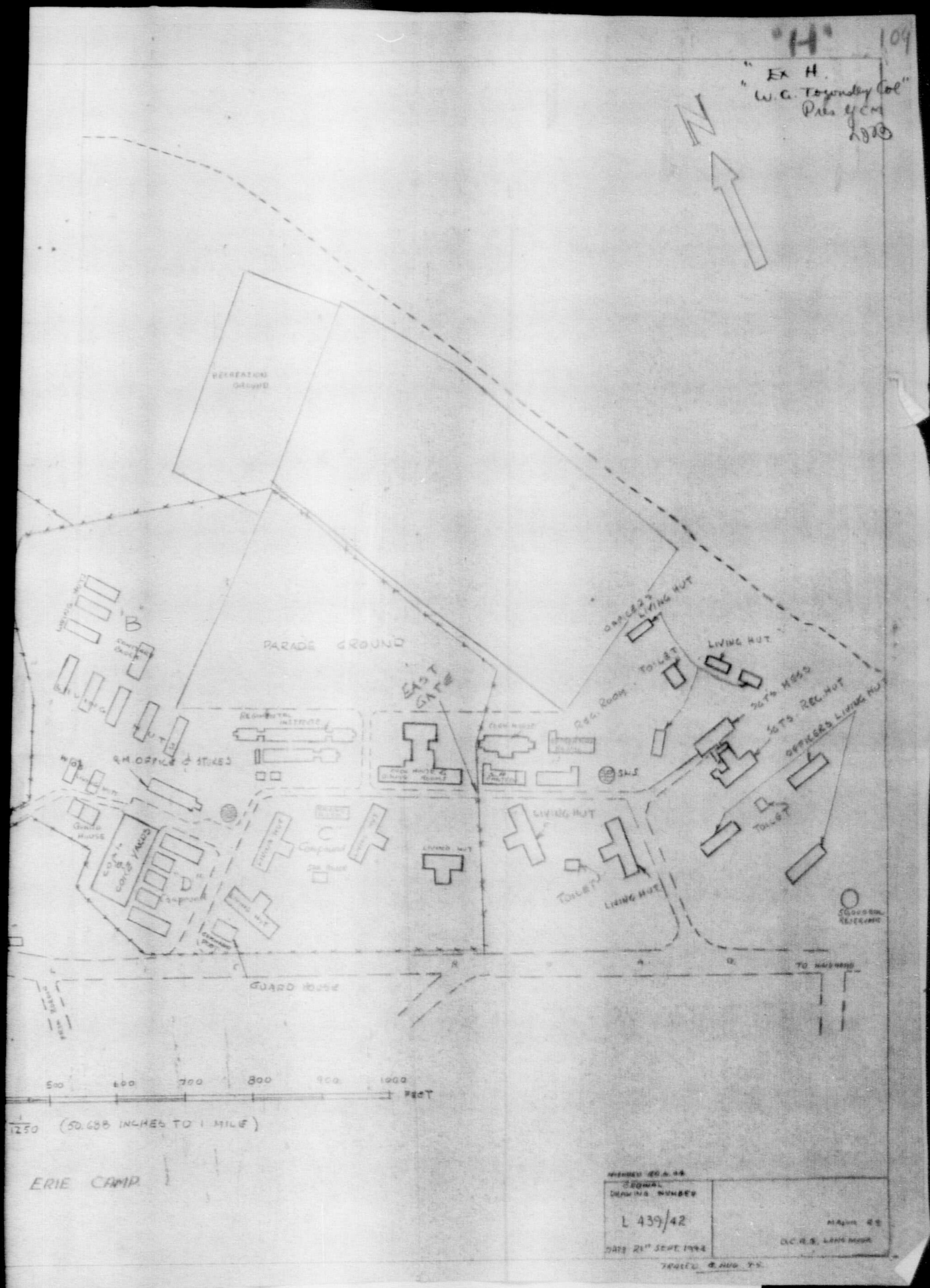
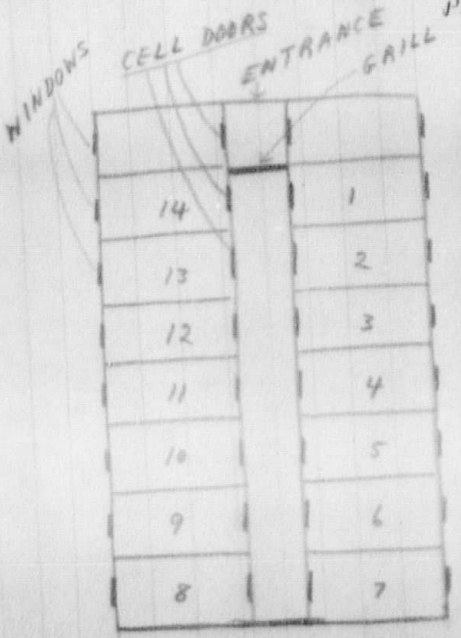
FEET
SCALE 1/1250
ALDERSHOT DISTRICT. HEADLEY.
ERIE


"H"
109
"Ex H.
"W.G. Toyondley Col"
Pres YCM
2003
N
RECREATION GROUND
PARADE GROUND
EAST GATE
"B"
"C"
"D"
R.M. OFFICE & STORES
REGIMENTAL INSTITUTE
GUARD HOUSE
COAL & COKE YARDS
Compound
LIVING HUT
TOILET
REG. ROOM
OFFICERS LIVING HUT
SGTS. MESS
SGTS. REG. HUT
SWS
GUARD HOUSE
TO HAIGHAND
500
600
700
800
900
1000
FEET
1/1250 (50.688 INCHES TO 1 MILE)
ERIE CAMP
L 439/42
DATE 21st SEPT 1942

9

Ex. "9"
"W. A. Townsley Col"
Pres of CM
1983

111



SKETCH OF AN 'A' COMPOUND CELL BLOCK TO SHOW LAYOUT AND NUMBERING OF CELLS

CDN DETN BRKS HEADLEY DOWN
8 – 10 MAY 45

(11) A Secretary Cos Ex 41817 M 113
Boks 4 CM A 8?D

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-102659	Tpr.	GRAVELLE, E.O.	4 C.n. Mil.Prison & Detn. Bks.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	Sec.15(1) A.A.	5 times.
For	19.	2 times.
For	40	3 times.
For		times.

Date of first entry in Field Conduct Sheet 5 May 42.

Date of last entry in Field Conduct Sheet 4 Sept. 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for One (1) year detn beginning on the 24th day of Mar. 1945

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for Nil days in military custody, *i.e.*, Nil days in open arrest, Nil days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 25

6. The date of his attestation / calling up for military service is 2/8/41

7. The service which the accused is allowed to reckon is 4 years 2 days

8. The accused is in possession of; CVSM & Clasp; 1939-43 Star.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.8670/666 100,000 4/43 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(21484) W1.22924/1875 90,000 9/43

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
D.C.M.	4 Sept. 42 Camp Borden, Canada.	A.A. Sec. 15(1)	60 days Detn.	10 days
FGCM	Field 8 Feb. 44.	A.A. Sec. 15(1); 40;	120 days detn.	26 days.
FGCM	Field 24 Mar 45.	A.A. Sec. 15(1) x 3; 40 x 2.	1 yr. detn.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of AUGUST 1945

(L.S. Grays n) Lt-Col
Comd 4 CMP & DB

No. Name Gravelle, E.O. Sqn, Battery, or Company Corps Date of enlistment GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/136 (7018)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Sept. 44.	Tpr.		A.A.Sec.15(1) AWL 137days16hrs45mins A.A.Sec.15(1) AWL 14 days19hrs50mins A.A.Sec.15(1) AWL 37 days 9hrs50mins A.A.Sec.40 Improper poss MBW Pt.I A.A.Sec.40. Improper poss. Leave pass Close arrest 2 days 6 hrs 55 mins.; 4 days, 2 hrs; 4 days 10hrs 9 mins; Cost of escort £1-3-9		One (1) yrs detention.	24 Mar. 45.	FGCM	Forf.191days pay. FR&I 149(1)a Forf 10 days pay FRI 149 (1)(c)(i) Forf.365 days pay FRI 149 (1)(b) Stopp. of pay £1-3-9

CERTIFIED TRUE COPY 12 Aug 45

(L.S.Grayson) Lt-Col. Comd. 4 CMP & DB.

Officer having custody of original.

EXHIBIT N

No. B102658 Name Gravelle, E.O. Sqn. Battery, or Company — Corps C.A.C. — Date of enlistment 2Aug41 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/PAS/156 (7010)

Date of last entry in Company Conduct Sheet n/a — No. and date of last drunk n/a — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature GC Company, etc — Character

Place	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Camp Borden	5 May 42	Prvelous Tpr.		sheet destroyed November 1944. A.A. 15(1) AWL from 0600 hrs 5 May 42 to 1800 hrs 7 Aug.42. (2) Losing by neglect his equipmen and Regimental necessaries $13.43.	Documentary	60 dys Detn.	4Sept.42	DCM	10 days rem. of sentence Cost of app. $19.98.
Field	4Jun 43	Tpr.		A.A. Sec.15(1) AWL from 2400 hrs 4 JUN 43 to 0830 hrs 5 JUN 43. Absent 8 hours 30 mins.	Tpr. MacDougall	14 days Detn.	7JUN43	Lt.-Col. C.M.Norton	Forf 1 days forf of pay FRAI 149(1)a
Field	26 Nov.43	Tpr.		A.A. Sec. 15(1) AWL 6 dys 13 hrs 30 mins.	RSM Meadcroft	5 days pay	3 Dec.43	Col. H.C. Young	7 days pay

OPTO

No. Name GRAVELLE, E.O. Sqn. Battery, or Company — Corps — Date of enlistment — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/PAS/139 (7008)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature GC Company, etc — Character

Place	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	4JUN 44	Tpr.		A.A.Sec. 15(1) AWL from 2230 hrs 4 JUN 44 until 2210 hrs 15JUN44 Absent 10 days 23 hrs 4 minks.	Doc. A/Cpl. Hayman	Forf 28 days pay AA Sec.46 (2)(c)	17JUN44	Col. J.H. Perry	Forf.11 days pay 149(1)(a) 28 days pay 149(2(
Fiedl	23 Jun 44	Tpr.		A.A.Sec. 40. Was Out of Bounds in that he was outside the area as specified by CRU 419/Leave/ 1/Pers d/9Apr. 44 and repeated in Unit orders.	Documentary CSM Ralstrick	14 days CB	27JUN44	Major Murdoch	Stoppage of pay 11 S FRAI 149(1)a

OPTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Dec. 43	Tpr.		A.A. Sec. 15(1) AWL from 1800 hrs 22 Dec.43 to 2330 hrs 3 Jan 44. 43 days 4 hrs 30 mins. A.A. Sec. 40 in possession of a document purporting to be genuine pass well knowing it was not. Close arrest 2330 hrs 3 Feb.44, 4 days 10 hrs 39 mins.	Sgt. Jones RSM Meadowcroft Cpl.Slingbell Capt.Grayson	120 days Detn.	8 Feb.44	FGCM	Forf 44 days pay FR&I 149(1)a. Forf 120 days pay FR&I 149(1)b. Forf 4 days pay FR&I 149(1)c.
Field	1/5/44			Released from Detn. and granted 26 days remission of sentence Pt.II DO Y35 d/12-5-44.					
Field	15 JUN 44	Tpr.		A.A. Sec. 19. Drunkeness in that he at about 2210 hrs was found drunk and disorderly in a public place.	Doc.	Forf. $5.00 for second charge of drunkenness A.A. Sec.46(3)	17Jun44	Col. J.H. Perry	Forf. $5.00 FR&I 149(2)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1Jul44	Pte.		AWL while serving a sentence of 14 days CB from 1700 hrs 1 JUL 44 to 1600 hrs 10 JUL 44. Total 8 days 23 hrs. A.A. Sec. 15(1)	CSM Ralstrick	14 days FP 14 days forf of pay FR&I 149(1)(b) Assessed cost of escort 11/-	12JUL44	Major R.A. Murdoch	9 days for of pay 14 days forf.149(1)(b) Cost of escort 11 S.
Field	30 Jul. 44	Tpr.		AWL 1200 hrs 30Jul44 to 0045 hrs 4 Aug.44 (4 days 12 hrs 45 mins) A.A. Sec. 15(1) Conduct to the prejudice OUT OF BOUNDS AA Sec.40.	Doc.	21 days FP 21 days Pay FR&I 149(1)(b) Escort 11S.	4Aug.44.	Major R.A. Murdoch	5 days pay FR&I 149(1)(a) 21 days forf. 149(1)(b)
Field	28 Aug. 44.	Tpr.		A.A. Sec. 40		7 days CB	28Aug.44	Major R.A. Murdoch	

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"W. A. Townsley, Col"
Pres. GCM
[illegible]

SUMMARY OF EVIDENCE.

in the case of

B 102659, Pte. GRAVELLE E.O.

No. 4 Cdn. Mil. Prison & Det. Bks.

By order of the Commanding Officer,

All evidence is taken under oath.

In the Field 18 July 45.

FIRST WITNESS:

D 82755, S/Sgt. ASTON J., Cdn. Detn. Bks., Alton, having been duly sworn states:

I am D 82755, S/Sgt. ASTON J., Cdn. Detn. Bks., Alton. On 8th May I was i/c Cell Blocks, "A" Compound, Headley Detn. Bks. from 1630 hrs. At approx 1700 hrs., I saw a body of SUS go down the steps by Cell Block No 1. This body of SUS headed down toward Cpl. GAVINS and Sgt. SIMMONS apparently looking for keys to the Cell Blocks. While Staff SIMMONS was being searched the accused first came into the picture. He was located in Cell Block 6. He shouted to this group of SUS to get the keys from ASTON and let them out. This was about 1710 hrs. Other than a lot of shouting from his cell I didn't see the accused much until the following morning. About 2300 hrs, I heard the accused shout, "Come on, Living Huts, burn the huts down and let us out!" The next time I noticed the accused particularly was about 1800 hrs 9th May. I saw SUS GRAVELLE E.O. with a large party of SUS gathered around him on "A" Compound Parade Square. He was standing on a two-wheeled cart, which was used for hauling coal. I didn't hear what he was talking about. Shortly after this talk the group headed toward Cell Block 4, where the Look-out Tower is located and started to gather material (WD material, bed-boards, stools, palliases, blnkets, etc.) and place it at the foot of the tower. I saw the accused up on the steps leading to the tower. The next I noticed the fire had started on the Tower. The night of the 9th, I tried to get the SUS to bed. I had reports from Staff that they could account for all SUS with the exception of the accused. I searched for him with no result. He seemed to be running from one hut to another, trying to evade the Staff and keep the remaining SUS awake. I definitely state that SUS GRAVELLE was one of the main leaders and agitators of the trouble in Headley Camp.

The accused declines to cross-examine the witness.

_____ S/Sgt.
(J.Aston)

SECOND WITNESS:

A 34001, S/Sgt. SEMPLE P.J., No. 3 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states. I am A 34001, S/Sgt. SEMPLE P.J., No. 3 Cdn. Mil. Prison & Detn. Bks. On 9th, May I was i/c Cell Blocks, 1 to 10, in "A" Compound, Headley Dtn. Camp from 0740 hrs. At 0800 hrs, the riot started with clanging of mess tins and the breaking out of living huts. Shortly after this I saw a group of SUS with iron bard and clubs going along, passing same through the windows of the cell blocks. I saw SUS BROWN break the lock on the accused's cell. During this time GRAVELLE was passing remarks in my direction. About 15 minutes later I heard a lot of shouting and smashing going on in the cells. SUS were all in the corridor when I arrived. These SUS were from both Cell Blocks and Living Huts. I went along the corridor of the Cell Block and looked in Cell 14, where the accused was. He had an iron bar in his hand. He was pounding at his door trying to open it. I then had to go to No 8 Cell Block where more SUS were breaking out. These escaping SUS formed a parade on the Square and I lost sight of the accused until about noon, when I saw him roaming from hut to hut, talking to various groups of SUS. I saw him up on the look-out Tower on top of No 4 Cell Block. He was just walking around talking at this time. Between 1730 and 1800 hrs, that evening, I again saw the accused climbing the ladder to the tower. He was carrying some material which looked like straw. Other SUS were helping him. This material was to be used for firing the tower. I saw the fire start and the accused saw in the group which lit it. Staff THOROLD sent for fire-fighting equipment. A hose was laid. I saw a group of SUS attempt to cut the hose. The accused was in this group. After the GOC's talk I saw the accused in a latrine, near Living Hut 1. I looked in and saw the accused with an iron bar and the windows, sheis, and all equipment was smashed. The accused was one of the leaders of the rioting SUS in Headley Camp.

SECOND WITNESS: (CONTINUED)

The accused declines to cross-examine the witness

_____ S/Sgt.
(F.J. Semple)

THIRD WITNESS:
C 11721, C.S.M. AMYOTT W.F., No 3 Cdn. Mil. Prison & Detn. Bks. having been duly sworn, states:
I am C 11721, CSM AMYOTT W.F., No. 3 Cdn. Mil. Prison & Detn. Bks. On evening of 8th May, I saw the accused in his cell No 14, AC 6. He was locked up then. I was i/c Compound. On the morning of 9th May, I was on duty as i/c Compound. At approximately 0830 hrs when the Cell Block inmates broke out, I saw the accused with iron bars which had been torn from windows, (approx three bars.) He passed them through a Cell Block window. He had adopted the attitude of a leader as he was giving orders to other SUS to "Break the joint up and burn her down." He paid no heed to advice given by Staff, only persisted in giving filthy and abusive language in return. On evening of 9th May at approximately 1830 hrs I saw this SUS up on the tower with a bunch of palliases and straw. The tower was on fire at the time. The rest of the night, I saw him roaming around the compound talking to SUS. He was doing a lot of talking and was a leader. I saw the accused assist in the breaking of cell block doors. Just before the fire I saw the accused standing up on something addressing ten or twelve SUS. I heard him say, "Let's burn the God-damned joint." It was shortly after this speech that the fire in the tower started. The accused was one of the leaders of the riot in Headley Detn. Camp.

The accused declines to cross-examine the witness.

_____ C.S.M.
(W.F. Amyot)

FOURTH WITNESS:
B 9048, Sgt. WILLIAMS W.T., Cdn. Detn. Bks., Alton, having been duly sworn, states:
I am B 9048, Sgt. WILLIAMS W.T., Cdn. Detn. Bks., Alton, On 9th May I was on duty in "A" Compound from about 1800 hrs. At about 1800 hrs, I saw SUS GRAVELLE standing on a hand-cart. He had a block-pipe in his hand and was addressing a group of rioting SUS. I heard him say, "A bunch of our friends are hand-cuffed in "C" Compound Guard Room. Should we get them out? While we are out here having a good time. It's up to you fellows. Or should we have a bonfire? What will we burn first? The huts or the tower?" Shortly after this speech I saw the accused jump down off the cart and lead a group of the SUS across the parade square towards the look-out tower. About four men climbed upon Cell Block 4, where the Tower is located. It was too far away for me to say definitely if the accused was one of these four. Shortly after this the tower was set on fire.

The accused declines to cross-examine the witness.

_____ Sgt.
(W.T. Williams)

FIFTH WITNESS:
B 95603, Sgt. SUTHERLAND J.W., Cdn. Detn. Bks., Alton, having been duly sworn, states:
I am B 95603, Sgt. SUTHERLAND J.W., Cdn. Detn. Bks.,

FIFTH WITNESS: (CONTINUED)
Alton. On 9th May, I was Staff on living Hut No. 3, "A" Compound. I was on all day due to the riot. At approx. 1800 hrs, I saw the accused standing on a cart addressing a group of rioting SUS. I didn't hear any particulars of the speech that I can remember other than it was an open discussion as to what could be burned or damaged in the camp. A number of suggestions were made including the Tower. The accused backed up the suggestion and was the leader in taking the group over to the tower. I saw the accused on the roof of Cell Block four, where the Tower is located, also on the Tower itself shaking straw out of palliasses. Later the Tower was set on fire.

The accused declines to question this witness.

_____ Sgt.
(J.W. Sutherland)

SIXTH WITNESS:
R 59020, Cpl. HILL R.G., Cdn. Detn. Bks., Alton, having been duly sworn, states:
I am R 59020, Cpl. HILL R.G., Cdn. Detn. Bks., Alton. On 9th May I was 2 i/c of Cell Blocks 6,7,8,9 and 10 from 1630 hrs. At about 1800 hrs, I saw the accused standing on a two-wheeled cart addressing a group of rioting SUS between Living Huts 2 and 3. I didn't hear any of his direct words. I heard someone say, "Let's set the tower on fire." The whole gang went over to Cell Block 4 on which the tower stands. I saw some SUS go into Cell Blocks and bring out palliasses and blankets and took them up to the tower and placed them underneath, where they were set on fire. The last I saw of the accused, he was on top of Cell Block 4, before and after the fire started.

The accused declines to cross-examine the witness

_____ Cpl.
(R.G. Hill)

SEVENTH WITNESS:
D 156593, Pte PATENAUDE R., No 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:
I am D 156593, Pte PATENAUDE R., No 4 Cdn. Mil. Prison & Detn. Bks. On 9th May I was part of staff on guard in "A" Compound, Headley Detn. Camp. At about 1900 hrs, I saw the accused pushing a cart around the Parade Square. On 10th May, about noon, I saw the accused with a white cloth tied to a pole, climb on top of a Cell Block and shouted, "We surrender." He tied the cloth on to the electric wires over the Cell Blocks.

The accused declines to cross-examine the witness.

_____ Pte.
(R. Patenaude)

EIGHTH WITNESS:
B 11011, Sgt. LEE A.B., No 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:
I am B 11011, Sgt. LEE A.B., No 4 Cdn. Mil. Prison & Detn. Bks. On 9th May I was on duty in AH 1, "A" Compound, from 0600 hrs. About 1700 hrs, I saw the accused standing on something, addressing a group of rioting SUS. He said "What shall we do now?" He suggested going over to "C" Compound to get some comrades who were locked up there. Someone suggested a fire. Someone said "Let's burn the tower." SUS GRAVELLE said, " That thing's been an eye-sore to me for a long time." The group proceeded to the Look-out Tower, piled inflammable material beneath it and set it on fire.

The accused declines to cross-examine the witness.

_____ Sgt.
(A.B. Lee)

NINTH WITNESS: F 1100 Cpl. DONCASTER N.B., No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am F 1100, Cpl. DONCASTER N.B., No. 4 Cdn. Mil. Prison & Detn. Bks. On 9th May I was on duty in "A" Compound, Headley Detn. Bks. At about 1645 hrs I saw the accused near the look-out Tower when it was burning.

The accused declines to cross-examine the witness.

Cpl.
(N.B. Doncaster)

TENTH WITNESS: L 7868, Sgt. ERLANDSON G.G., No. 3 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am L 7868, Sgt. ERLANDSON G.G., No. 3 Cdn. Mil. Prison & Detn. Bks. On 9th May I was on duty in "A" Compound, Headley Detn. Bks. About 1900 hrs I saw the accused between Living Hut 1 and Cell Block 1, at the top of the stairs. I was with Staff Sgt. Engh at the time. The accused approached Living Hut 1, carrying an iron spike. I spoke to the accused about his appearance. He called us many names including, "You yellow Provost bastards."

The accused declines to cross-examine the witness.

Sgt.
(G.G. Erlandson)

ELEVENTH WITNESS: M 11852, Sgt. ENGH Y.T., No. 3 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am M 11852, Sgt. ENGH Y.T., No. 3 Cdn. Mil. Prison & Detn. Bks. On 9th May I was on "stand-to" in "A" Compound, Headley Detn. Camp. Between 1800 hrs and 1900 hrs, I saw the accused sitting down on the walk outside Hut 1, with several other SUS. I was standing by the rail between Cell Block 1 and Hut 1. There was quite a lot of conversation between SUS and Staff. I heard the accused say, "You Provost bastards".

The accused declines to cross-examine the witness.

Sgt.
(Y.T. Engh)

TWELFTH WITNESS: L 12065, Cpl. MYLAND L.S., No. 3 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am L 12065, Cpl. MYLAND L.S., No. 3 Cdn. Mil. Prison & Detn. Bks. On 9th May I was not on duty but as an Instructor I was in "A" Compound during the day. I saw the accused leading a group of SUS, heading across the Parade Square, toward 1,2, and 3 Cell Blocks. As he was running, the accused shouted, "Let's go and let the others out."

The accused declines to cross-examine the witness.

Cpl.
(L.S. Myland)

THIRTEENTH WITNESS: G 18345, Sgt. WILSON D.H., No. 4 Cdn. Mil. Prison & Detn. Bks.m having been duly sworn, states:

I am G 18345, Sgt. WILSON D.H., No. 4 Cdn. Mil. Prison & Detn. Bks. On 9th May, I was on duty in Living Hut 2, "A" Compound, Headley Detn. Camp. About 1800 hrs, I saw the accused standing on a hand-cart on the Parade Square, addressing a group of rioting SUS. I heard fire mentioned. Someone shouted, "The look-

THIRTEENTH WITNESS: (CONTINUED)

out Tower, it's been an eye-sore for a long time." SUS GRAVELLE looked at me and said, "Look, that's the first time I've seen that son-of-a-bitch smile since I came here." This group then went toward the tower which is on top of Cell Block 4. The accused was leading this group. They took straw and palliases to the foot of the Tower. Shortly after the fire broke out. The accused was the agitator and leader in getting the fire going. About 2300 hrs, the accused entered my Hut and was ordered out.

The accused declines to cross-examine the witness.

Sgt.
(D.H. Wilson)

FOURTEENTH WITNESS:

C 48515, Cpl. BRUNDAGE D.H., Cdn. Detn. Bks., Alton, having been duly sworn, states:

I am C 48515, Cpl. BRUNDAGE D.H., Cdn. Detn. Bks., Alton. On 9th May I was on duty in "A" Compound, from approximately 0730 hrs. About 1800 hrs. I saw the accused on the roof of Cell Block 4 with four other SUS, preparing a fire under the Tower. I saw the accused light the fire. As the fire got under way I saw this group of SUS come down off the roof and watch the fire from the ground.

The accused declines to cross-examine the witness.

Cpl.
(D.H. Brundage)

FIFTEENTH WITNESS:

K 53520, C.S.M. THOROLD C.G., No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am K 53520, C.S.M. THOROLD C.G., No. 4 Cdn. Mil. Prison & Detn. Bks. On 8th May at 1630 hrs, I took over duties as Staff i/c "A" Compound. At approximately 1700 hrs, I began an inspection and count of SUS in the Compound. Having taken the count of SUS in Living Hut 3, I proceeded to Living Hut 2. While in Living Hut 2, I heard the sound of running feet on the path outside. On leaving Hut 2 to investigate, I found it ot be SUS from Living Hut 3. This group was joined by SUS from Hut 2. I sent for more STAFF and the general alarm was sounded. Later the occupants of Cell Block 8 broke out and attempted to escape, but were apprehended. During these proceedings the accused SUS GRAVELLE, was constantly urging the others to escape, by shouting and encouraging from his cell. This continued until approximately 2300 hrs. On the morning of 9th May, SUS GRAVELLE led other SUS around the compound in large bodies. He acted as spokesman. The accused walked about talking to large groups of SUS up until midnight trying to incite trouble.

The accused declines to cross-examine the witness.

C.S.M.
(C.G. Thorold)

SIXTEENTH WITNESS:

L 109390, Cpl. HALL C.J., No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am L 109390, Cpl. HALL C.J., No. 4 Cdn. Mil. Prison & Detn. Bks. On 9th May I went on duty about 0900 hrs. I was just outside the gate going for duty when I saw a mob of approximately 150 SUS coming toward "C" Compound Gate. They forced their way out. I then went to "A" Compound and took up duty around the Cell Blocks. The situation with the SUS was out of control and the riot was beyond the scope of the Staff. The SUS generally milled about until 1900 hrs, when I saw SUS GRAVELLE standing on a cart on "A" Compound Parade Square. He was addressing a mob of rioting SUS. He said, "Unfortuneately, three of our comrades have been taken away in hand-

SIXTEENTH WITNESS: (CONTINUED)

cuffs, and I think they are in "C" Compound Guard Room." Someone in the mob shouted that they had left for Reading. GRAVELLE then said, after pulling a match from his pocket, "This match can do a lot of damage." "This look-out Tower has been bothering me for a long time, let's go and set it on fire." He then jumped off the cart and led the rioting SUS toward the Tower. With the assistance of the others, GRAVELLE set the Tower on fire. GRAVELLE is the only SUS I saw with matches. The accused was definitely the leader of this rioting mob of SUS.

The accused declines to cross-examine the witness.

(C.J. Wall) Cpl.

SEVENTEENTH WITNESS:

H 66966, Gnr. GILMORE A. (SUS), No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am H 66966, Gnr. GILMORE A. (SUS), No. 4 Cdn. Mil. Prison & Detn. Bks. On 9th May, I was a SUS in Cell Block 6. SUS GRAVELLE was in Cell Block 14, Headley Detn. Bks. Someone released me from my cell. After I got out I saw the accused in the alleyway near his cell. I saw him help other SUS to escape from their cells, by taking out screws with a spoon from the locks.

The accused declines to cross-examine the witness.

(A. Gilmore) Gnr.

EIGHTEENTH WITNESS:

R 103361, Cpl BEAGRIE, T.N., No. 4 Cdn Mil Prison and Det Bks having been duly sworn states:

I am R 103361 Cpl BEAGRIE, T.N., No 4 Cdn Mil Prison and Det Bks. On 9th May I was on duty in "A" Compound, Headley Det Bks. About 1000 hrs I saw the accused walking about the parade square carrying an iron bar five or six inches long.

The accused declines to cross-examine the witness.

(T.N. Beagrie) Cpl.

NINETEENTH WITNESS:

L 64865 Sgt MELLOR, T., No 4 Cdn Mil Prison and Det Bks having been duly sworn states:

I am L 64865 Sgt MELLOR, T., No 4 Cdn Mil Prison & Det Bks. On 8th May I was on duty along 6, 7, 8 and 9 cell blocks in Headley Det Camp from 1700 hrs. Shortly after I went on duty I went into No 7 Cell block. I found the SUS rioting and out of control. I left there and went to No 6 cell block. It was quiet with the exception of SUS GRAVELLE who was at his window. He had torn his blackout off and was shouting a great deal. He persisted in calling for SUS KELLY. One of the Staff asked why he was shouting for KELLY and he replied, "He is one of the best shit-disturbers we have here". He was shouting across the parade square to No 3 Living Hut urging them to break out of their hut. This shouting and agitating continued until the accused was quite hoarse. I heard this going on up until 2300 hrs that night. The accused led the other rioting SUS to a very great extent.

The accused declines to cross-examine the witness.

(T. Mellor) Sgt.

SIXTEENTH WITNESS:(CONTINUED)

cuffs, and I think they are in "C" Compound Guard Room." Someone in the mob shouted that they had left for Reading. GRAVELLE then said, after pulling a match from his pocket, "This match can do a lot of damage." "This look-out Tower has been bothering me for a long time, let's go and set it on fire." He then jumped off the cart and led the rioting SUS toward the Tower. With the assistance of the others, GRAVELLE set the Tower on fire. GRAVELLE is the only SUS I saw with matches. The accused was definitely the leader of this rioting mob of SUS.

The accused declines to cross-examine the witness.

(C.J. Wall) Cpl.

SEVENTEENTH WITNESS:

H 66966, Gnr. GILMORE A. (SUS), No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am H 66966, Gnr. GILMORE A. (SUS), No. 4 Cdn. Mil. Prison & Detn. Bks. On 9th May, I was a SUS in Cell Block 6. SUS GRAVELLE was in Cell Block 14, Headley Detn. Bks. Someone released me from my cell. After I got out I saw the accused in the alleyway near his cell. I saw him help other SUS to escape from their cells, by taking out screws with a spoon from the locks.

The accused declines to cross-examine the witness.

(A. Gilmore) Gnr.

EIGHTEENTH WITNESS:

M 103361, Cpl BRADLEY, T.E., No. 4 Cdn Mil Prison and Det Bks having been duly sworn states:

I am M 103361 Cpl BRADLEY, T.E., No 4 Cdn Mil Prison and Det Bks. On 9th May I was on duty in "A" Compound, Headley Det Bks. About 1000 hrs I saw the accused walking about the parade square carrying an iron bar five or six inches long.

The accused declines to cross-examine the witness.

(T.E. Bradley) Cpl.

NINETEENTH WITNESS:

L 64865 Sgt MELLOR, T., No 4 Cdn Mil Prison and Det Bks having been duly sworn states:

I am L 64865 Sgt MELLOR, T., No 4 Cdn Mil Prison & Det Bks. On 8th May I was on duty along 6, 7, 8 and 9 cell blocks in Headley Det Camp from 1700 hrs. Shortly after I went on duty I went into No 7 Cell block. I found the SUS rioting and out of control. I left there and went to No 6 cell block. It was quiet with the exception of SUS GRAVELLE who was at his window. He had torn his blackout off and was shouting a great deal. He persisted is calling for SUS KELLY. One of the Staff asked why he was shouting for KELLY and he replied, "He is one of the best shit-disturbers we have here". He was shouting across the parade square to No 3 Living Hut urging them to break out of their hut. This shouting and agitating continued until the accused was quite hoarse. I heard this going on my until 2300 hrs that night. The accused led the other rioting SUS to a very great extent.

The accused declines to cross-examine the witness.

(T. Mellor) Sgt.

#358

4883

TWENTIETH WITNESS:

K 67057 Sgt GAVINS, J., No 4 Cdn Mil Prison and Det Bks, having been duly sworn states:

I am K 67057 Sgt GAVINS, J., No 4 Cdn Mil Prison and Det Bks. On 9th May I was on Stand To in "A" Compound Headley Det Bks. I saw the accused at approx 1600 hrs jump up on a cook cart and address a mob of rioting SUS. He said "What shall we do to-night gang? Shall we have a fire and a sing-song?" The gang replied "yes". He then said "What shall we burn?" He suggested "The tower on a living hut". Several suggested not to burn the sleeping huts and the matter dropped. SUS GRAVELLE then pulled a bunch of matches from his pocket and threw them among the crowd stating "Here - these will do a lot of damage". He then said to the group "Some of our comrades are under lock and key, what are we going to do about it?" He then requested me to see the RSM and order their release. Jumping from the cook cart the accused and others ran across the square to the tower which is on top of ACh. GRAVELLE and another SUS climbed to the top of ACh while SUS on the ground gathered and threw up inflammable materials from the cell blocks. These were placed between the legs of the tower by GRAVELLE and other SUS. The fire was then lit. At about 2200 hrs STAFF ASTON and myself were detailed to check and see how many SUS were sleeping in each cell block and to detail others to return to their living quarters. We found SUS GRAVELLE near the fence throwing stones at an armoured car on the road outside. We ordered him to go to bed. On the 10th May I was detailed as STAFF i/c one truck containing ten SUS, one of which was GRAVELLE, for the trip from Headley to Reading Prison. En route SUS GRAVELLE who was hand-cuffed with other SUS raised his arms and shouted to people on the streets "This is what you get for fighting for this fucking army". This was repeated again during the trip.

The accused declines to cross-examine the witness.

_____ Sgt.
(J. Gavins)

TWENTY-FIRST WITNESS:

B 30011, Sgt LOWE, S.C., No 3 Cdn Repot Depot having been duly sworn states:

I am B 30011 Sgt LOWE, S.C., No 3 Cdn Repot Depot. On 9th May I was on general duty in "A" Compound, Headley Det Bks. Approx 1330 hrs I saw the accused standing on the parade square between Living Huts 1 and 2 talking to other SUS. I think the conversation concerned getting cigarettes. I again saw the accused about 1700 hrs when the Commandant and the RSM came along behind Living Hut 32. A group of SUS came up and surrounded the Commandant and asked for cigarettes. He said he had none. SUS GRAVELLE was standing near the CO with a butt in his hand and said to the CO "Take a puff at mine". This brought laughter from the other SUS.

The accused declines to cross-examine the witness.

_____ Sgt.
(S.C. Lowe)

TWENTY-SECOND WITNESS:

B 40915, Pte FERRAY, E.T. (SUS) No 4 Cdn Mil Prison and Det Bks, having been duly sworn states:

I am B 40915, Pte FERRAY, E.T. (SUS) No 4 Cdn Mil Prison & Det Bks. On 9th May I was working in the

TWENTY-SECOND WITNESS (CONTINUED):

Padre's Office. I was a SUS at the time. This was at Headley Det Bks. I saw the accused with a gang of SUS on "A" Compound parade square. The gang had a two wheeled cart, pushing it around the parade square.

The accused declines to cross-examine the witness.

_____ Pte.
(H.T. Forney)

TWENTY-THIRD WITNESS:

K 73875 Cpl BROWN, J.E., No 4 Cdn Mil Prison and Det Bks, having been duly sworn states:

I am K 73875 Cpl BROWN, J.E., No 4 Cdn Mil Prison and Det Bks. On 9th May I was on general duty around the cell blocks in "A" Compound, Headley Det Bks. I was around cells 1, 2, 3, 4 and 5 most of the time. About 1900 hrs I saw the accused climb up on a cart on the parade square near AH2. GRAVELLE spoke to a large group of SUS and asked "Do you want a fire now or later?" The question brought general agreement that the fire should be now. The group left then for the tower. They took paillasses etc., to the tower and set the tower on fire.

The accused declines to cross examine the witness.

_____ Cpl.
(J.E. Brown)

TWENTY-FOURTH WITNESS.

STATEMENT OF Lt.-Col. R. SHANKLAND, V.C., D.C.M.

"On 8th May 45, following break-out from Living Hut 3 and 2 of "A" Compound, from which ten SUS escaped at approximately 1650 hrs, I spoke to the SUS quartered in Living Huts 1,2 and 3 and Cell Blocks 1 and 2, where I had to leave to attend a phone call from C.R.U. and from there Major GRAYSON carried on. Later, around approximately 2200 hrs, I spoke to SUS quartered in B 2.

In speaking to the SUS, I pointed out that the war was not yet over, we were still in the army, and had to carry out our orders, and that whatever might be decided with reference to what was to happen to them had still to be notified. In discussing and planning their disposal, higher authority would no doubt give thought and consideration to their conduct.

In one of the Cell Blocks and Living Hut B.2, where the question of smoking was raised, they were told that smoking was contrary to regulations and I had no authority to change regulations."

(R. Shankland) Lt.-Col.

Date: 20 July 45

I certify that this witness is not available owing to the exigencies of the service and that he is not required for the purpose of cross-examination (R.P. 4(C))

Capt.
(C.F.A. Graham)

Officer detailed to take the Summary.

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LMB

TWENTY-FIFTH WITNESS:

STATEMENT OF LT.-COL. L.S. GRAYSON

On the 8th, 9th and 10th May, 1945, I was Assistant Commandant at No 1 Cdn. Detention Barracks, Headley Downs, Hants. Following a break-out of SUS from Living Huts 2 and 3, "A" Compound, at approximately 1640 hrs, 8 May 1945, I accompanied Lt.-Col. R. SHANKLAND, Commandant, to Living Huts 1 2 and 3 and Cell Blocks 1 and 2, "A" Compound, where he spoke to the SUS quartered therein, telling them that we were all still in the army and must continue to carry out orders and regulations; that their disposition, as Soldiers under Sentence, had not been notified to him and that, in deciding their disposition, higher authority would no doubt give consideration to the way in which they conducted themselves. After speaking to the inmates of Cell Block 2, Lt.-Col SHANKLAND was called away to the telephone, and I, in company with the Regimental Sergeant Major, continued through the remaining cell blocks and Living Huts B2 and B3, speaking to the SUS quartered there along the same lines. During the course of the evening I visited all accomadation in "A" Compound, as well as Living Huts B2 and B3, going to most accomodation several times, speaking to and warning the inmates. This was done by Compound officers as well.

Whenever the question of smoking was raised, the SUS were told that it was contrary to regulations and could not be permitted.

(L.S. Grayson) Lt.-Col.

Date: 21 July 45

I certify that this witness is not available owing to the exigencies of the service and that he is not required for the purpose of cross-examination (R.P. 4(G)).

_____ Capt.
(F.[illegible] Graham)
Officer detailed to take the Summary.

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TWENTY-SIXTH WITNESS:

SPECIAL INVESTIGATION SECTION 15th JULY 45.

I, Reg. No. C.30629, S/Sgt. DENTON, L.A., certify that Reg. No. B.102659, GRAVELLE, E.O. (SUS) having been duly cautioned, made the statement which is attached on 31st MAY 45.

S/Sgt.
Reg. No. C.39629, (L.A.DENTON)
Canadian Provost Corps / S.I.S.

The statement referred to is attached to the Summary as Exhibit "A".

Capt.
(Capt C.F.A. Graham, CAC)

I certify that this witness is not available owing to the exigencies of the Service and that he is not required for the purpose of cross-examination. (R.P.4(G).

Capt.
(Capt C.F.A. Graham, CAC)

The accused is now cautioned according to R.P. 4(E) and answers as follows:

I do not wish to make a statement at this time.

Pte.
(E.O. Gravelle)

This Summary of Evidence taken down by me in the presence and hearing of the accused and in accordance with R.P. 4(C),(D),(E), (F) and (G), on this eighteenth day of July, 1945.

Capt.
(Capt C.F.A. Graham, CAC)

Officer detailed to take the Summary.

COPY

SPECIAL INVESTIGATION SECTION
CEN. PROVOST CORPS C.M.H.Q.

31st May 45.

STATEMENT OF:

Regt. No. B-102659 GRAVELLE R.O. (22 Spec. Emp. Coy.)
S.U.S. No. 1 Cdn. Det. Bks.(A.C. 6 "A" Compound

BEGINS:

I have been cautioned by S/Sgt. DENTON of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) R.O. GRAVELLE

STATES:

I have already been cautioned that I am not obliged to say anything unless I wish to do so, but whatever I do say will be taken down in writing and may be used in evidence.

I broke out of my cell in A.C.6 after the big crowd marched on the parade square and in the direction of the East Gate and "C" Compound. I was in my cell at this time and did not take part in the march. I got out of my cell with an iron bar which was passed through to me by another S.U.S. I broke my cell door down with this bar. The remaining cell occupants were already out. The time of my escape from my cell was about 1000 hrs 9 May 45.

After breaking out of my cell, I went out on the parade square and joined the crowd and occupied the time until 1130 hrs 9 May 45, bumming cigarettes and having fun. I did not do anything special in the afternoon and committed no damage.

At about 1800 hrs 9 May 45, I stood on a coal cart on the parade square and started cracking jokes with a crowd of S.U.S. Someone yelled out "We are wasting time let's burn the tower down". I was in favour of a bonfire, but not in favour of burning the look-out tower. I did not light this fire and I had no matches. I was on top of A.C.4 hut before the fire was started.

I was not the instigator of this riot although perhaps I was a little noisy.

I have read over this statement and it is true.

(SGD) R.O. GRAVELLE

(WITNESSED) L. DENTON S/Sgt. S.I.S.

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LIST OF WITNESSES

WITNESSES FOR PROSECUTION

1.	D 82755	S/Sgt	ASTON, J.
2.	A 34001	S/Sgt	SEMPLE, P.J.
3.	C 11721	CSM	AMYOTT, W.F.
4.	B 9048	Sgt	WILLIAMS, W.T.
5.	B 95603	Sgt	SUTHERLAND, J.W.
6.	H 59020	Cpl	HILL, R.G.
7.	D 136593	Pte	PATENAUDE, R.
8.	B 11011	Sgt	LEE, A.B.
9.	F 1100	Cpl	DONCASTER, N.B.
10.	L 7868	Sgt	EHLANDSON, G.G.
11.	M 11852	Sgt	ENGH, Y.T.
12.	L 12065	Cpl	MYLAND, L.S.
13.	G 18345	Sgt	WILSON, D.H.
14.	C 48515	Cpl	BRUNDAGE, D.H.
15.	K 53520	CSM	THOROLD, C.G.
16.	L 103930	Cpl	HALL, C.J.
17.	H 66966	Gnr	GILMORE, A.
18.	M 103961	Cpl	BRAGNIA, T.M.
19.	L 64865	Sgt	MELLON, T.
20.	K 67057	Sgt	GAVINS, J.
21.	B 20014	Sgt	LOWE, S.C.
22.	B 40915	Pte	FERNAY, H.T. (RMS)
23.	K 73875	Cpl	BROWN, J.E.
24.	Lt Col H. Shankland		
25.	Lt Col L.S. Grayson		
26.	C39629	S/Sgt	DENTON, L.A.

WITNESSES FOR DEFENCE

NIL

In the Field, 18 July 45

LIST OF EXHIBITS

1. Statement of Accused - Exhibit "A"

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To: B.102659 Tpr GRAVELLE E.O.
No. 4 Cdn Mil Prison & Detn Bks.

TAKE NOTICE that Major H.F. Germen, Assistant Commandant Cdn Detn Bks, Headley, England, will be called as a witness at your trial by Court Martial and his evidence will be to the effect that: -

1. He was Officer i/c "A" Compound Cdn Detn Bks Headley Down Hants, on 8, 9 and 10 May 45.

2. On afternoon of 8 May he inspected "A" Compound and found considerable noise and shouting from SUS in the Cell Blocks and Living Huts A1, A2 and A3.

3. At about 1730 hrs 8 May ten SUS escaped from Living Huts 2 and 3.

4. The normal posting of staff is 1 man for each two Cell Blocks and 2 men for each Living Hut.

5. Each Cell Block contains 14 individual cells and each Living Hut approximately 52 SUS.

6. The night of 8/9 May staff of "A" Compound was practically doubled by putting on all shifts.

7. SUS in Cell Block 8 tried to break out that night but failed.

8. On 9 May 45 at about 0845 hrs a large number of SUS from Living Huts and from some of the Cell Blocks of "A" Compound were milling about "A" Compound parade square. Bars from the windows of the Living Huts had been torn out and were being handed by SUS through the windows of the Cell Blocks to the SUS inside who attempted to get out by force.

9. It was impossible for the staff to restore order at this time.

10. At approximately 0900 hrs 9 May a body of about 150 SUS left "A" Cpd and came towards "C" Cpd and headed for the East Gate which they broke open and some escaped.

11. About 1900 hrs 9 May some of the SUS set fire to the watch tower on the roof of Cell Block 4.

12. The staff managed to put out the fire with Camp equipment but not without interference from SUS.

14. Any attempt by the Staff togive an order was immediately seized upon by SUS for loud cries and insubordination.

15. Normal staff for "A" Cpd is about 20, From night of 8 May on it was between 40 and 50.

16. The number of SUS in "A" Cpd was approx 430. Ten escaped the evening of 8 May and 47 escaped morning of 9 May.

17. It is against Camp Standing Orders and Prison Regulations for SUS to smoke at any time and there was no authority for any change in this regulation.

Certified true abstract of this Witness's evidence.

In the Field
14 Aug 45.

(S.C. Biggs) Capt.
GOR of C
PROSECUTOR

Exhibit "A" attached to the Summary of Evidence, being the statement by the accused referred to in the statement by S/Sgt Denton L.A. the 26th Witness in the Summary of Evidence, was lost subsequent to the trial and cannot be found.

A document purporting to be a copy of said Exhibit is annexed to the typewritten copy of the Summary of Evidence attached to these proceedings.

L.J. Brody

(L.J. Brody) Capt

Judge Advocate.

Farnborough, Kents

28 Aug 45

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2003

In the case of B.102659 T pr Earl Oscar GRAVELLE no 4 Cdn Mil Prison & Datn Bks
(Number - Rank - Name - and Unit of Accused)

Receipt for copy of Charge Sheet and Summary of Evidence

I have been given, free of charge, a copy of the Charge Sheet and Summary of Evidence in my case at 11.45 hrs this 11th day of AUG 1945.

E O Gravelle
(Signature of Accused)

Acknowledgement of notice under RP 89(b) and request for Defending Officer

I have been warned at 1145 hrs this 11th day of AUG 1945, that the Prosecutor at my trial by Court Martial will be an officer having legal qualifications, and that I am entitled to 7 days notice of such fact. I expressly waive such notice.

I request that an officer having legal qualifications be appointed to represent me as my defending officer at my trial by Court Martial.

E O Gravelle
(Signature of Accused)

5 G. 140

Tpr. Granelle, E.O.

RECORDED AT CMHQ IN AR 100 Pre-Record 101 56-140

RECEIVED 13 APR 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAS) 40/P & S/1698 (6144) 4/38B

Convened by Order of Brigadier J.E.Sager, E.D. Comd "F" Gp, CRU dated 23 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183 fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 102659		Earl Oscar	Gravelle	22 Cdn Spec Emp Coy

PROCEEDINGS REVIEWED 13 Apr 45 27 Apr 45 [illegible]
K. G. Dick Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 24 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. M. Miller EDKC	HQ CRU
Member	Capt	H. F. Walker	7C IIR
Member	Lieut	J H Topping	8C IIR
~~Judge Advocate~~			
Prosecutor	Lieut	D. S. Tysoe	22 CSEC
Defending Offr	Lieut	W. D. Lowden	22 CSEC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a) plea~~ .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to less charge, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusal to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(2)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B 102659 Tpr Gravelle, E. O.; 22 Cdn Spec Emp Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	Guilty	Guilty	
2nd AA Sec 15 (1)	Guilty	Guilty	
3rd AA Sec 15 (1)	Guilty	Guilty	
4th AA Sec 40	Guilty	Guilty	
5th AA Sec 40	Guilty	Guilty	
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for — NOT — beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo Detention for one (1) year and to be put under stoppage of pay until he has made good the sum of £1-11-9 (costs of returns)

(Sgd) Judge-Advocate, if any. 24 Mar 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(2)~~ [initials]

~~(1. AA 57A. Delete if not used.)~~

(Sgd) [signature] Brigadier

Date 27 Mar. 45 Commanding "F" Sp. C.R.U. Confirming Officer.

Date

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 102659 Tpr Gravelle, E.O.	28 Mar 45	[signature] Major

PART II ORDER # 15

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

...se Sheets of Record.

...CORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....

Do you intend to call witnesses on your behalf? Ans.....

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 7, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 86 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents (i) refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Plea noted and take[illegible]

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or rebut anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [and, after JA, if any.](2)

(1. When several accused tried separately see RP 75 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 110, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2222, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MAc. p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(7), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

B.102659 Tpr. Gravelle, E.O. 3 May 45

R.A.Murdoch, Major

Promulgated in accordance with instructions of E.G. Weeks, Major-General

Offr.i/c Adm,
C.M.H.Q.

Part II Order No.20

B 102659 Tpr Gravelle, E.C., 22 Cdn Spec Emp Coy - FGCM of 24 Mar 45

The Deputy Judge-Advocate-General, Canadian Military Headquarters, having advised that the sentence in these proceedings is invalid, I, being an authority who would have had the power to commute the punishment awarded by the sentence in these proceedings if such sentence had been valid, hereby direct that the sentence be and the same is hereby removed and the accused relieved of all consequences of such sentence, and I do hereby sentence the accused B-102659 Tpr Gravelle, Earl Oscar, 22 Cdn Spec Emp Coy, to undergo detention for one year, and to be put under stoppages of pay until he has made good the sum of £1. 3. 9, such sentence to be effective as if awarded by the Court-Martial on 24 Mar 45.

(E.G. WEEKS) Major-General
In charge of Administration
CANADIAN MILITARY HEADQUARTERS.

(E.G. WEEKS) Major-General
In Administration
Canadian Military Headquarters

5 APR 1945

CHARGE SHEET

The accused No.B102659 Trooper Earl Oscar GRAVELLE, on strength of 22 Canadian Special Employment Company, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
A.A. Sec. 15 (1)

While on Active Service

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Alton, Hants absented himself without leave from 0630 hours the 4th September,1944 until 2315 hours 19th January, 1945 and thereby incurring costs of returning him to his unit in the amount of Six Shillings and Sevenpence.

Total time absent 137 days,16 hours,45 minutes.

SECOND CHARGE
A.A. Sec. 15 (1)

While on Active Service

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Warnham, Sussex while in arrest absented himself without leave from 0610 hours 22nd January, 1945 until 0200 hrs 6th February, 1945 thereby incurring costs of returning him to his unit in the amount of Eight Shillings and Ninepence.

Total time absent 14 days,19 hours,50 minutes.

THIRD CHARGE
A.A. Sec. 15 (1)

While on Active Service

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Warnham, Sussex while in arrest absented himself without leave from 0400 hours 10th February, 1945 until apprehended in London at 1350 hours 19th March,1945 thereby incurring costs of apprehension and returning him to his unit in the amount of Eight Shillings and Fivepence.

Total time absent 37 days,9 hours,50 minutes.

FOURTH CHARGE
A.A. Sec. 40

While on Active Service

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he

At London on 19th March, 1945 was in improper possession of a Military Book Ml,Part 1, the property of D4952 Private Arthur FRENETTE, a soldier of the Canadian Army.

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CHARGE SHEET

While on Active Service

FIFTH CHARGE
A.A. Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

At London on 19th March, 1945 was in improper possession of one C.F.A.24 (leave pass form) made out to D4952 Private Arthur FRENETTE a soldier of the Canadian Army.

R.A.Murdoch
(R.A.Murdoch), Major
Officer Commanding,
22 Can Spec Emp Coy.

GRAYLANDS,
Warnham, Sussex
21st March, 1945

To be tried by Field General Court Martial

95 Page
(J. B. BADER) Brigadier,
Comd "F" Gp, CHU

23 Mar 45

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 102659	Tpr		Earl Oscar	Gravelle	22 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	E. M. Miller, E. D., RCOC	HQ, CRU
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

A Capt	from and to be detailed by OC	7 CITR
A Lt	from and to be detailed by OC	8 CITR
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

J. E. Sager (J. E. SAGER) (Signed personally. RP 105 fn 2.)

Brigadier, (Rank.)

Dat 23 Mar 45

Commanding "F" Gp, CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6148)

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate

I hereby certify that I have this morning examined No. B/103453 Rank Pte.

Name Granville E.O. of 22 C.S.E.C. (Unit) and in my opinion

he is ~~unfit~~ fit to undergo trial by Court Martial.

Station 22 C.S.E.C.

Date 24 March 45

Signed [signature] Capt

Unit 22 C.S.E.C.

Med Off'r RCAMC

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Pilea in Mitigation - (Tpr Gravelle E.A.)

Sir,

When we look at a charge sheet against a soldier & his M.F.M.6 we are apt to consider there is no defense for him, but when a man's case is analysed it takes on a different complex. When we consider the accused's background we can find some reasons for his actions.

He was raised in a lumber camp in N. Ontario. His father was a lumberjack & his mother did the camp washing. Opportunities for education were limited & his is approximately one year. When he was 12 years of age is father was permanently injured in an accident & the accused had to earn his own living & more & more assist his family. Can we expect this man to understand the army analyse its complicated moves. Can he reason & see the necessity for its rigid discipline after feeling his own way from such an early age in a backwoods community.

He enlisted in Aug 41 at the age of 21. Like all of us who enlisted his purpose was to fight. He was kept in Canada for 1½ years, & we find him having his first crime (85 Days A.W.L.) The background I have mentioned enters into the matter. He couldn't understand why the army kept him in Canada. His father's disability had got worse & his pay assignment was not sufficient & we went out to earn some money for his family.

He came overseas in Mar. 43 & 2 mos. later joined the Calgary Tank Regt. A matter of 8 hours A.W.L. was his only crime when with that unit. He embarked with this Regt. & went through the Sicily campaign with them, then on to Italy. ~~I want to point out to the court~~ & developed malaria where he was wounded, 7 Sep 43. This was the duty for which he enlisted, & I wish to emphasize to the court that while the accused was a soldier on real active service he had a clean record. He returned to U.K. no longer fit for action owing to his disability.

2. Mitigation Plea (Gravelle)

From here on his crime sheet really starts - 4 cases of A.W.L. He feels that he is no longer of any use to the army. He considers that his civil occupation of lumberjack is more useful than General Duty in U.K. Again his early background does not give him the reasoning power to understand why the army keeps him.
After being wounded his mail went astray & he was a long period without mail. During this period his father died, & his mother had to move frequently, & his mail to her went astray. This depressed him mentally, & made him more anxious to return to Canada. He had a girl friend in England & he used to go absent to visit her to overcome mental depression. When he broke out of detention I it was to visit this girl. She was to have a child to him & he married her during his absence (Mar 13) & I have here the marriage certificate.
Gentlemen in passing sentence I want you to take the following points into consideration.
His crimes are A.W.L. which his background does not appeal to as crime as I have previously stated.
The accused has done his duty in action in an honourable way, & is no longer fit for further action.
A Long term of imprisonment will in no way add any value to the country's war effort.
A severe punishment will hurt a widowed mother & bride of 2 weeks.

Respectfully submitted, Sir

W. D. Lowden Jr
Officer for Defense

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B1C2659 Tpr Earl Oscar GRAVELLE on strength of 22 Canadian Special Employment Company, a soldier of the Canadian Army Overseas,

By direction of the Commanding Officer the Summary of Evidence is taken under Oath.

FIRST WITNESS FOR THE PROSECUTION

Captain E.R.Robertson on strength of 22 Canadian Special Employment Company having been duly sworn, states:

I am Captain E.R.Robertson, officer in charge of Records for 22 Canadian Special Employment Company. I produce a certified true copy of the declaration of a Court of Inquiry pertaining to the accused, whom I now recognize.

This document is attached to the Summary of Evidence and marked Exhibit "A"

I produce a Certificate of Apprehension pertaining to the accused.

This document is attached to the Summary of Evidence and marked Exhibit "B".

I produce C.M.H.Q. form 100:55 pertaining to the accused.

This document is attached to the Summary of Evidence and marked Exhibit "C".

I produce a second Certificate of Apprehension pertaining to the accused.

This document is attached to the Summary of Evidence and marked Exhibit "D".

I produce a second C.M.H.Q. 100:55 pertaining to the accused.

This document is attached to the Summary of Evidence and marked Exhibit "E".

(E.R.Robertson), Capt.

The accused declines to cross examine this witness.

SECOND WITNESS FOR THE PROSECUTION

B51985 L/Cpl.Molnar, C. on the strength of 22 Canadian Special Employment Company having been duly sworn, states:

I am B51985 L/Cpl. Molnar, C. I was NCO in charge of Regimental Guard Room on the night of January 21st - 22nd. When I went to waken the prisoners at 0610 hrs I found Pte. Gravelle was absent. He had put a kit bag and greatcoat in his bed to make it look as though he were there I immediately reported to Sgt. Cook but the search that followed was unsuccessful.

L/Cpl. Molnar, C.

The accused declines to cross examine this witness.

The accused was cautioned as follows "Do you wish to make a statement or give any evidence on Oath? you are not obliged to make any statement or give any evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement and reserves his defense.

I certify that the foregoing Summary Of Evidence consisting of four pages was taken down by me in presence and hearing of the accused and that Rules of Procedure 4 (c),(d),(e) and (f) have been complied with.

R.H. Lindsay Lieut.

Warnham, Sussex
6 February, 1945

(R.H.Lindsay), Lt.
Officer detailed to
take Summary of Evidence.

Summary of Evidence

Summary of Evidence in the case of B 102 659 Tpr. Earl Oscar Gravelle on the strength of 22 Cdn. Spec Emp. Coy. a soldier of the C.A.O.

By direction of the commanding officer the summary of evidence is taken on oath.

First Witness For the Prosecution Capt E R Robertson on strength of 22 Cdn Spec Emp Coy, having been duly sworn states: I am Capt E R Robertson, officer in charge of Records for 22 C.S.E.C. I produce a certified true copy of the declaration of a court of enquiry pertaining to the accused whom I now recognize.

This document is attached to the summary and marked exhibit 'A'.

I produce a certificate of apprehension pertaining to the accused

This document is attached to the summary of evidence & marked

exhibit 'B'

I produce C M H Q 100:55 pertaining to the accused.

This document is attached to the summary of evidence & marked exhibit 'C'.

I produce a second certificate of apprehension pertaining to the accused.

This document is attached to the summary of evidence and marked exhibit 'D'.

I produce a second C.M.H.Q. 100:55 pertaining to the accused

This document is attached to the summary of evidence & marked exhibit 'E'

[signature] Capt
ER Robertson - Capt

The accused declines to cross examine this witness.

Second Witness
For the Prosecution

B 51985 L Cpl. ~~[illegible]~~ Mr Molnar C. on strength of 22 C S E C having been duly sworn

states: I am B 51985 Pfc Mohnar C. I was M.C.O. i/c of regimental guard room on the night of Jan. 21st - 22nd. When I went to wake the prisoners at 0610 hrs. ~~Pte~~ I found Pte Gravelle was absent. He had put a kit bag & great coat in the bed to make it look as though he were there. I immediately reported to Sgt Cook & the search that followed was unsuccessful.

- - - - - - -

L Cpl Mohnar C
B 51985 L Cpl Mohnar C.

The accused declines to cross examine this witness.

The accused was cautioned as follows: Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence but any

statement you may make or any evidence you give will be taken down in writing & may be given as evidence.

The accused declines to make a statement & reserves his defence.

I certify that the foregoing summary of evidence was taken down by me in presence & hearing of the accused and that Rules of Procedure 4(c)(d)(e) & (f) have been complied with

Graylands, Horsham
6 Feb 45

R Hindsay Lt
Officer detailed to take summary of evidence

Wj

ADDITIONAL SUMMARY OF EVIDENCE

Additional Summary of Evidence in the case of B.102659 Tpr Earl Oscar GRAVELLE, on strength of 22 Canadian Special Employment Company, a soldier of the Canadian Army Overseas.
By direction of the Commanding Officer the additional Summary of Evidence is taken under oath.

FIRST WITNESS FOR THE PROSECUTION

Captain E.R. Robertson, on strength of 22 Cdn Spec Emp Coy., Officer in Charge of records for 22 Cdn Spec Emp Coy, having been duly sworn, states: I am Captain E.R. Robertson, officer in charge of records for 22 Cdn Spec Emp Coy. I produce the following documents, pursuant to Overseas Routine Order 5382, which has been read over to the accused, which are attached hereto as Exhibits "F", "G" and "H" and as Appendices "I" and "J".

Exhibit "F": I produce a certified true copy of the record of a Court of Inquiry pertaining to the accused.

Exhibit "G": I produce a Certificate of Apprehension pertaining to the accused.

Exhibit "H": I produce CMHQ Form 100:55 in the amount of eight shillings five pence pertaining to the accused.

Appendix "I": I produce Military Book M.I, Part I, referred to in the statement of B.76252 Sgt. Winn, C.D.

Appendix "J": I produce C.F.A.24, one leave pass form made out to D.4952 Pte. Frenette, A., referred to in the statement of B.76252 Sgt. Winn, C.D.

E.R. Robertson, Capt.

The accused declines to cross examine this witness.

SECOND WITNESS FOR THE PROSECUTION

G.18423 Pte. Pelletier, J., on strength of 22 Cdn Spec Emp Coy., having been duly sworn, states: I am G.18423 Pte. Pelletier, J., a member of the Regimental Police of 22 Cdn Spec Emp Coy. On the morning of 10 February 1946, I was on guard at the door of the Guard Room. At approximately 0330 hours I took some of the prisoners to the toilet. I then returned them and locked them back in the Guard Room. I then went to the kitchen to get some tea, when I returned to the Guard Room at 0400 hours Private Gravelle had broken out of the Guard Room and disappeared.

G.18423 Pte. Pelletier, J.

The accused declines to cross examine this witness.

THIRD WITNESS FOR THE PROSECUTION

B.76252 Sgt. Winn, C.D., on strength of S.I.B., C.M.H.Q.
A written statement of this witness' evidence purporting to be signed by him has been read over to the accused and is included in this additional Summary of Evidence and marked Appendix "K".
Having regard to the exigencies of the service, attendance of this witness can NOT in my opinion be readily procured.

D.S. Tysoe, Lieut.
Offr. detailed to take Additional Summary of Evidence.

The accused does NOT demand the attendance of this witness for cross examination.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the above Additional Summary of Evidence consisting of three pages was taken down in the present and hearing of the accused, and that rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

D.S. Tysoe, Lieut.
Offr. detailed to take Additional Summary of Evidence.

Additional Summary of Evidence

Additional Summary of Evidence in the case of B102659 Tpr Earl Oscar Travelle on strength of 22 Canadian Special Employment Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the additional Summary of Evidence is taken under Oath.

First Witness for the Prosecution.

Captain E.R. Robertson on strength of 22 Cdn Spec Emp Coy, Officer in charge of records for 22 Cdn Spec Emp Coy having been duly sworn, states:

I am Captain E.R. Robertson, Officer in charge of records for 22 Cdn Spec Emp Coy. I produce the following documents, pursuant to Overseas Routine Order 5352 which has been read over to the accused, which are attached hereto as Exhibits "F", "G," and "H" and as Appendices "I" and "J".

Exhibit "F": I produce a certified true copy of the record of a Court of Inquiry pertaining to the accused.

Exhibit "G": I produce a Certificate of Apprehension pertaining to the accused.

Exhibit "H": I produce C.M.H.Q. Form 100:55 in the amount of eight shillings five pence pertaining to the accused.

Appendix "I": I produce Military Book M1 Part 1 referred to in the statement of B 76252 Sgt Winn, C.D.

Appendix "J": I produce C.F.A. 24, one leave pass form made out to D 4952 Pte Frenette, A, referred to in the statement of B 76252 Sgt Winn, C.D.

E.R. Robertson Capt.

The accused declines to cross examine this witness

Second Witness for the Prosecution

G 18423 Pte. Pelletier, J., on strength of 22 Cdn Spec Emp Coy. having been duly sworn, states:

I am G 18423 Pte. Pelletier, J., a member of the Regimental Police of 22 Cdn Spec Emp Coy. On the morning of 10th February 1945, I was on guard at the door of the Guard Room. At approximately 0330 hours I took some of the prisoners to the toilet. I then returned them and locked them back in the Guard Room. I then went to the Kitchen to get some tea, when I returned to the Guard Room at 0400 hours Private Gravelle had broken out of the Guard Room and disappeared.

J. Pelletier
G 18423 Pte. J. Pelletier.

The accused declines to cross examine this witness

Third Witness for the Prosecution

B-76252 Sgt. Winn, C.D., on strength of S.L.S. C.M.H.Q.

A written statement of this witness's evidence purporting to be signed by him has been read over to the accused and is included in this additional Summary of Evidence and marked Appendix "K". Having regard to the exigencies of the service, attendance of this witness can NOT in my opinion be readily procured.

D. L. Lyne, Lieut
Offr. detailed to take
Additional Summary
of Evidence

The accused does NOT demand the attendance of this witness for cross-examination.

W

The accused was cautioned as follows:
"Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the above Additional Summary of Evidence consisting of three pages was taken down in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

D. L. Lyne Lieut
Offr. detailed to take
Additional Summary
of Evidence

Ex "A"

RECORD of the Declaration of a Court of Inquiry assembled at Alton Hants on the ~~25~~ 26th day of September 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-102659 Trooper Earl Oscar GRAVELLE

DECLARATION

The Court declare that No. B-102659 Trooper Earl Oscar GRAVELLE a soldier of the Canadian Army on Active Service illegally absented himself without leave from 0630 hrs at Alton Hants on the 4th day of September 1944, that he is still so absent, and that on the ~~25~~ 26th September 1944 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	100% VALUE	75% VALUE	ARTICLES	100% VALUE	75% VALUE
3 Titles Canada	$ .06	.05	1 Haversack	$ 1.79	1.34
1 Trousers B.D.	5.39	4.04	1 Pack large	1.84	1.38
2 Towels hand	.64	.48	2 Pouches basic	1.12	.84
2 Vests cotton gum	.72	.54	2 Straps shoulder	.64	.48
1 Bottle water	.82	62	2 Straps supporting	.26	.19
			Total -	$ 68.32	$ 51.28
2 Socks worsted	1.11	.83	[illegible]	.57	.42
1 Spoon desert	.07	.05	1 Carrier waterbottle	.37	.28

J.A. Dugal Lieut 22 C.S.E.C. President

R.H. Lindsay Lieut 22 C.S.E.C. Member

M.G. Woods Lieut 22 C.S.E.C. Member

Signed at Alton Hants

this ~~25~~ 26th day of September, 44

Signature of Commanding Officer R.A. Murdoch
(R.A. MURDOCH) Major

Certified true copy E.R. Robertson Capt
Signature of Officer having custody of original record
(E.R. ROBERTSON) Capt

3/608 NFB 375-AFB 135 40/PAS/392 (6610)

Ex "B"

CERTIFICATE TO ACCOMPANY A.F.C. 2797 of 19 Jan 45

I certify that No. B.102695 Rank Tpr. Name Gravelle, E.C.

Unit 22 Spec. Emp. Coy. was arrested at London Place

at 2315 (Hour) on 19 Jan. 45 (date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxxx. Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Non-commissioned Officer or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
20 Jan. 45

(R.E.Birch), Capt.
D.A.P.M. - C.M.H.

Ex "C"

Expense Voucher Re— Ref: KR & O (Can) 53

Reg No. J-102695 Rank Pte Name Gravelle Jo Unit 22 Spec Exp Coy.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London

Date	Particulars (1/3 Portion 2 Escort)	Amount		
21 Jan 45	Escorts return fare from LONDON To Horsham		3	9
	Prisoners single fare to LONDON From			
21 Jan 45	Prisoners fare from London to Horsham		2	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		6	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson LIEUT.
J. A. THOMSON.
ADMIN. OFFICER—D.P.M's BR.
C. M. H. Q.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100/55
40/P & S/483 (6762)

CERTIFICATE IN ACCORDANCE WITH P.C. Ex "D" Apr 43

102459 Ad

I certify that No. B ~~12659~~ Rank Pte Name Gravelle, E.C.

Unit 22 Special Emp. Coy. (CRU) was arrested at London Place

0200 (Hour) on 6 Feb 45. (date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxxxxx Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

R.E. Birch

(R.E.Birch), Capt.
D.A.P.M. - CMM.

London
6 Feb 45.

Ex. "E"

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. B-2659 Rank Spr. Name Granelle E.O. Unit 22 Spec Emp Coy.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London.

Date	Particulars	Amount		
6 Feb 45	Escorts return fare from LONDON To Horsham.		5	10.
	Prisoners single fare to LONDON From			
	Prisoners fare from London to Horsham		2	11
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson LIEUT.
J. A. THOMSON,
ADMIN. OFFICER—D.P.M.'s P.P.
C.M.H.Q. Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (6762)

EXHIBIT "F"

RECORD of the Declaration of a Court of Inquiry assembled at Warnham, Sussex on the 4th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M102659 Trooper Earle Oscar GRAVELLE

DECLARATION

The Court declare that No. M102659 Trooper Earle Oscar GRAVELLE a soldier of the Canadian Army on Active Service illegally absented himself without leave from 0400 hrs at Warnham, Sussex on the 10th day of February, 1945, that he is still so absent, and that on the 4th March, 1945 he was deficient, and that he is still deficient of the following articles :—

	ARTICLES	100%				ARTICLES	100%		
1	Anklets web prs	.99		75	1	Brushes clothes	.48		36
1	Blouse B/D	6.50	4	88	1	Brush hair	.34		26
1	Boots ankle pr	5.82	4	38	1	Brush boot pol.	.28		21
1	Berets khaki	1.20		60	1	Tooth brush	.11		09
2	Drawers Cell.@43¢	.86		65	1	Cap comforter	.34		26
2	Drawers Woolen	2.80	2	10	1	Comb hair	.04		03
1	Gloves woolen pr	.47		36	1	Dressing field	.24		18
1	Jersey pullover	1.79	1	35	1	Holdall	.19		15
1	Overalls Comb.	2.52	1	66	1	Knife clasp	.08		06
2	Shirts Flan khaki	4.80	3	60	2	Shorts gym(Brit)	.80		60
1	Shoes Canvas Can	2.29	1	72	2	Singlets Gym @41¢	.82		62
3	Socks prs @46¢	1.38	1	04	1	Towel hand TC	.34		26
1	Trousers B/D	6.55	4	92	1	Belt waist web	.24		18
2	Vests woolen @1.20	2.40	1	80	1	Bottle water	.82		62
2	Titles Shoulder(Can)	.07		06	2	Braces WE L&R @30¢	.60		46
1	Bags kit universal	1.02		77	1	Carriers W/Bottle	.37		28
1	Braces prs	.32		24	1	Frogs bayonet	.19		15
1	Brasses button	.04		03	1	Haversack patt/37	1.79	1	35
1	Brushes button	.26		20	1	Helmet steel	1.66	1	25

D.S.Tysoe Lieut. 22 C.S.E.C. President

W.D.Lowden Lieut. 22 C.S.E.C. Member

Signed at Warnham, Sussex

F.C.Pithart Lieut.22 C.S.E.C. Member

this 4th day of March 1945

Signature of Commanding Officer (R.A.Murdoch), Major
22 Can Spec Emp Coy

Certified true copy

Signature of Officer having custody of original record

3/60B MFB 375-AFB 115
40/P&S/392 (5610)

ARTICLES	100%	VALUE	75%
1 Nets camf. helmet	.07		05
1 Pack patt/37	1.84	1	38
1 Pouches basic	1.19		90
2 Straps shoulder haversack @32¢	.64		48
1 Capes anti gas #1Cam	2.76	2	07
1 Respirator A/Gas	4.68	3	51
1 Outfits A/Dim	.04		03
2 Ointment A/G @69¢	1.38	1	04
1 Eyeshields A/G Pk6	.45		34
2 Detectors Indiv. @6¢	.12		09
1 Blanket Br.single #1098	3.07	2	31
1 Sheets Ground	2.94	2	21
2 Straps web support @13¢	.26		20
	$72.58		$54.62

ARTICLES

Ex "G"

CERTIFICATE IN ACCORDANCE WITH P.C. 2787 of 10 Apr 42

I certify that No. B-12659 Rank. Tpr. Name. Gravelle. E.O.

Unit. 22 Spec. Employment Coy (CRU) arrested a t London. (place)

at 1350 hrs. (Hour) on 19-March-45. (date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxxxx Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

(W.G.Stevens), Lieut.
D.A.P.M. CMHQ.

London
20-March-45.

Exhibit "H"

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No B-12629 Rank Tpr. Name Gravelle, E.D. Unit 22 Spec. Emp. Coy

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London to Horsham

Date	Particulars	Amount		
21-Mch-45	Escorts return fare from LONDON To Horsham		5	7
	Prisoners single fare to LONDON From			
	Prisoners fare from London to Horsham		2	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] [signature] Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100.55
40/P & S. 483 (6762)

Appendix "K"

Statement of EVIDENCE in the case of
B-12659-Tpr. Gravelle E.O.
No.22 Can. Special Emp. Coy. (CHU)

Sir:

At London at about 1350 hours the 19-Mar-45, I was on duty at the "White Fairy Public House, Sutherland St" ,when I saw the m/n soldier.

Knowing him to be an absentee I placed him under close arrest and escorted him to (Gerrald Row) Police Station).

On being searched at the Police Station I found he had in his possession the attached M.B.M.I Part 1,and C.F.A. 24.made out in the name of (D-4952 Pte. Frenette AJ

He was later escorted to No. 6 (Area) Provost Company Detention Office,where he was handed over to the N.C.O. i/c of cells to be detained.

London
19-Mar-45.

.....Sgt.
B-76252 Winn C.D.
(S.I.S.) C.M.H.Q.

REMARKS

CHARGE

Army Form B 252
(See King's Regulations)

No. 22 Canadian Special Employment Coy Regiment
(CRU) Battery / Squadron / Troop or / Company

CHARGE against No. B-12659 Rank Tpr.

Name Gravelle K.O.

Place London Date of Offence 19-Mar-45.

OFFENCE W.O.A.S. was (1) A.W.I. (2) In possession of a M.B.M.I. Parts 1, and a C.F.A. 24 in the name of D-4952 Pte. Frenette A.

Names of Witnesses

Sgt. Winn C.D. (S.I.S.) C.M.H.Q.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B102659	Trooper	Earl Oscar GRAVELLE	22 Cdn Spec Emp Coy

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced to court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.
INSTRUCTION.—If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months		* Since Enlistment.	
For	AA Sec 15(1)	three times	Five	times
For	AA Sec 19-15 Jun 44	one times	two	times
For	AA Sec 40	two times	two	times
For		times		times
For		times		times

[illegible] N/A

*

[illegible]

2. [illegible] N/A

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [illegible] N/A

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 10 days in military custody, making a total of 10 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 2 years, 9 months [illegible] N/A

6. The date of his attestation N/A specified in his record of service is 2nd August, 1941 [illegible] N/A

7. [illegible] N/A

8. The accused is entitled to deferred pay or gratuity in respect of 3 years, 6 months service.

9. [illegible] N/A [illegible] N/A

10. The accused is in possession of [illegible] N/A CVSM & Clasp and 1939 - 43 Star

11. [illegible] N/A

of [illegible]

12. [illegible] N/A [illegible] N/A

W.3782/1310 20M. 5/44. P. Ltd. T31-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No B102659 *Rank* Trooper *Name* Earl Oscar GRAVELLE of 22 C.S.E.C. ~~Regiment~~ (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
D.C.M.	5 May 42 Camp Bordon, Ont.	(1)AA Sec 15(1) (2) AA Sec 40	60 days detn	10 days
F.G.C.M.	22 Dec 43 Field	(1) AA Sec 15(1) (2) AA Sec 40	120 days detn & total pay foff 168 days	26 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of March 1945. [signature]

The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years, _____

In the rank of _____ years, _____

In the rank of _____ years, _____

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

I hereby request that Lieut D. O Tyrol

be appointed to defend me at my Court Martial.

Gravelle E

B102659 Tpr. E.A.Gravelle

W

LIST OF EXHIBITS

Exhibit A	Certified true copy of a Declaration of a Court of Inquiry.
Exhibit B	Certificate of apprehension.
Exhibit C	CMHQ 100:55 in the amount of six shillings sevenpence.
Exhibit D	Certificate of apprehension.
Exhibit E	CMHQ 100:55 in the amount of eight shillings ninepence.
Exhibit F	Certified true copy of Declaration of a Court of Inquiry.
Exhibit G	Certificate of apprehension.
Exhibit H	CMHQ 100:55 in the amount of eight shillings fivepence.
Exhibit I	Military Book M 1, Part 1 belonging to D4952 Private Arthur FRENETTE.
Exhibit J	C.F.A.24 (Military pass form) made out to D4952 Private Arthur FRENETTE.
APPENDIX K	Statement of B76252 Sgt. Winn, C.D., S.I.S. C.M.H.Q.

77

RECEIPT FOR DOCUMENTS

I have received the following documents:

(1) Copy of Charge Sheet

(2) Certified true copy Summary of Evidence

(3) Certified true copy of additional Summary of Evidence

(4) List of Exhibits

(5) List of Witnesses

"Graylands"
21 March, 1945

Gravelle E.O.
B102659 Tpr. Gravelle, E.O.

LIST OF WITNESSES

FOR THE PROSECUTION

1. Capt. E.R.Robertson on strength of 22 Canadian Special Employment Coy.

2. B51985 L/Cpl. Molnar, C. on strength 22 Canadian Special Employment Coy.

3. D130038 L/Cpl. Domofrio, J. on strength 22 Canadian Special Employment Coy.

4. B76252 Sgt. Winn, C.D. on strength SIS CMHQ.

FOR THE DEFENCE

NIL

No. B102659 Name Gravelle, E.O. Sqn, Battery, or Company C&C Corps | Date of enlistment 2 Aug41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet n/a | No. and date of last drunk n/a | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				PREVIOUS SHEET DESTROYED NOVEMBER 1944					
Camp Bordon	5May42	Tpr		AA 15(1) (1) AWL from 0600 hrs 5 May42 to 1800 hrs 7Aug42. (2)Losing by neglect his equipment and regtl necessaries	Documentayy	60 days det	4Sep42	DCM	10 dys remission.Cost of approx $19.98
Field	4Jun43	"		AA Sec 15(1) AWL from 2400 hrs 4Jun43 to 0830 hrs 5Jun43 (Absent 8 hrs, 30 mins)	Tpr.McDougall	14 days det	7Jun43	LT.Col.CM Morton	1 dys forf 149(1)(a)
Field	26Nov43	"		AA Sec 15(1) AWL 6 days,13hrs30min	RSM Meadcroft	5 days pay	3Dec43	Col.HC Young	7 dys pay

(PTO)

Sheet No. 3

No.102659 Name Gravelle, E.O. Sqn, Battery, or Company Corps CAC | Date of enlistment 2 Aug 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4Jun44	Tpr		AA Sec 15(1) AWL from 2230 hrs 4Jun44 until 2210 hrs 15Jun44 Absent 10 days,23 hrs,40 mins	Documentary Cpl.Hayman	28 days pay AA Sec46(2)(c)	17Jun44	Col.JHPerry	11 dys pay 149(1)(a) 28 dys pay 149(2)
Field	23Jun44	Tpr		AA Sec 40 Was out of bounds in that he was outside the area as specified by CRU 419/Leave/1 pers, d/9Apr44 and repeated in unit orders	Documentary CSM Raistrick	14 dys CB	27Jun44	Maj.RA Murdoch	Stoppage of pay 11 s FR&I 149(1)(a).

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22Dec43	Tpr		AA Sec 15(1) AWL from 1800 hrs 22Dec43 to 2330 hrs 3Jan44. 43 days,4 hrs,30 mins. AA Sec 40 in possession of a document purporting to be a genuine pass well knowing it was not. Close arrest 2330 hrs 3Feb44 to 1000 hrs 8Feb44. 10 hrs 39 mins.	Sgt.Jones RSM.Meadowcroft. Cpl.Singbell Capt.Grayson	120 days detn	8Feb44	FGCM	Forf 44 dys pay 149(1)(a) 120 dys pay 149(1)(b) 4 days pay 149(1)(c)
Field	11May44	"		Released from detn and granted 26 days remission of sentence			DO Y35,d/12May44		Remitted 26 dys pay.
Field	15Jun44	"	2nd	AA Sec 19 Drunkeness in that he at about 2210 hrs was found drunk and disorderly in a public place.	Documentary	Forf.$5.00 for 2nd charge of Drunkeness AA 46(3)	17Jun44	Col.JH Perry	Forf $5.00 FR&I 149(2)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1Jul44	Tpr		AWL while serving a sentence of 14 days CB from 1700 hrs 1Jul44 to 1600 hrs 10Jul44. Total 8 days,23 hrs AA 15(1)	CSM Raistrick	14 days FP forf 14 dys pay 149(1)(b) Assessed cost of escort11/	12Jul44	Major RAMurdoch	8 dys pay forf 149(1)(a) 14 days forf 149(1)(b)
Field	30Jul44	Tpr		AWL 1200 hrs 30Jul44 to 0045 hrs 4Aug44 (4 days,12hrs,45 mins) AA Sec 15(1) Conduct to the pred OFF OF BOUNDS AA Sec 40	Documentary	21 days FP 21 days pay FR&I149(1)(b) Escort 11/	4Aug44	Maj RA Murdoch	8 days pay 149(1)(a) 21 days forf 149(1)(b)

(CERTIFIED TRUE COPY) of original documents held in my possession.

(E.R.Robertson), Capt.
Officer having custody of Regimental Books

DATE 7 FEB 1945

4D 95

PR GRAVES AW

RECORDED AT CMHQ IN AB 160. 4D-95

RECEIVED
15 NOV 1944
JAG BRANCH
C.M.H.Q.

Correspondence to be addressed here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 12 day of Oct, 1944

Whereas it appears to me, the undersigned, an officer in Command of 1st Cdn Special Service Bn C.A.(2), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

PROCEEDINGS REVIEWED 17 Nov 44

J.C.C. W.W. Lawrence Major

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W.W. Mair, 1st Cdn Sp Sv Bn, HQ	1st Reg't FSSF

Members.

Rank.	Name.	Regiment.
Capt	M.M. Williams, 1st Cdn Sp Sv Bn, HQ	FSSF
Lieut	C. Legault, 1st Cdn Sp Sv Bn, 2nd Reg't	FSSF
Waiting Member Lieut	J.G. Simms, 1st Cdn Sp Sv Bn, HQ 2nd Reg't	FSSF
Lieut	W.W. Beckett, 1st Cdn Sp Sv Bn, HQ 3rd Reg't	FSSF

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.G. Akehurst Lt Col

Commanding 1 Cdn Spec Sv Bn

Convening Officer.

W.W. Mair

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K47613 Pte Albert Walter Graves 1st Cdn Sp Co R.C. 5th Cdn Inf Bde F.S.S.P.	1st Charge See 15(1) A.A.	guilty	guilty 3 months detention 1 Class Civilian Gaol 14 Days	Confirmed [illegible]

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— N/A.

(Signed) [illegible] (Signed) _____

Commanding 1 Cdn Sp Co R Cdn
Convening Officer (e) Promulgated.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of Oct 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 15 day of Oct 1944

[illegible]
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (h) on page 762 M.M.L. 1920.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this _____ day of _____ 19 .

_____
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders)~~

Signed this 21 day of Oct 1944.

J.R. Lakeland Lt Col
Confirming Officer.

Promulgated and extracts taken in the case of K47613 Pte Graves A.W.

(a) (Dated) 26 Oct 44 (Signed) [illegible]

Promulgated and extracts taken in the case of _____

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of _____

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23000) W1,20000/4/43 60,000 12/43 A.A. & Q.M.G. Gp. 698

CHARGE SHEET

The accused K47613 Pte. Graves, A.W., 1st Canadian Special Service Battalion C.A.(A), 5th Company 2nd Regiment, First Special Service Force, a soldier of the Canadian Army Overseas, on Active Service, is charged with:

Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

At Nice, France, on 29 Sept 44, absented himself without leave from 2300 hrs 29 Sept 44 until 1000 hrs on 9 Oct 44, when he voluntarily surrendered himself.
(Total Time absent 9 days 11 hours)
Close Arrest 13 Oct 44.

In the Field
France
13 Oct 44.

(S.C. Waters) Major.
1st Cdn Sp Sv Bn C.A.(A)
Commanding 2nd Bn, 2nd Regt
1st Special Service Force.

To be tried by Field General Court Martial.

In the Field
France
13 Oct 44.

(J.F.R. Akehurst) Lt.-col.,
Commanding,
1st Cdn Sp Sv Bn., C.A.(A).

App "B"

FIRST CANADIAN SPECIAL SERVICE BATTALION C.A.(A).

In my opinion, Officers other than those of the First Canadian Special Service Battalion C.A.(A) are not available to sit as members of the Field General Court Martial in the case of K47613 Pte. Graves, A,W.

J.F.R. Akehurst

(J.F.R. Akehurst) Lt.-col.,
Officer Commanding,
First Canadian Special Service Bn C.A.(A).

FIELD GENERAL COURT-MARTIAL

ACCUSED

Number.	(a) Permnt R	(b) Appmt, A/R or A/Appmt.	Full Name	Unit
K-47163	Pte.	Albert Walter	Graves	1st Cdn. Sp Sv Bn. 5th Coy 2nd Regt 1st Sp Sv Force.

CONVENING ORDER

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date)..13 Oct 44.....endorsed by me, (or by an officer of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) JRL

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. JRL

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereund

PRESIDENT

..Major.....	....W. W. Kair.....	1st Cdn SpSv Bn. H.Q. 1st Regt. F.S.S.F.
(Rank)	(Must be named, RP 106)	(Unit)

MEMBERS

..Capt.....	..M.W. Hillson.....	R.C.A.P.C. att 1st Cdn. Sp. Sv. Bn. F.S.S.F.
..Lieut.....	..C. Lesault.....	1st Cdn. Sp Sv Bn. 2nd Coy 3rd Regt. F.S.S.F.
(Rank)	(Named, or detailed)	(Unit)

WAITING MEMBER

..Lieut.....	....J. G. Sims.....	1st Cdn. Sp Sv Bn. H. Q. 2nd Regt. 1st Spec Sv. Force.....
(Rank)	(Named or detailed, if any)	(Unit)

JUDGE-ADVOCATE

..Lt.-Col.....	..R. W. Becket.....	1st Cdn. Sp. Sv. Bn. H.Q. 2nd Regt. F.S.S.F..
(Rank)	(Must be named, if any)	(Unit)

On Active Service in the Fd

in....France..... (Country) ..J.R. Akehurst..... (Signed personally) ..Lt.-Col.... (Rank)

Date..13 Oct 44..... Commanding..1st Cdn. Special Service Battalion C.A.(A).
Convening Officer.

CONVENING OFFICER WILL INITIAL ALL DELETIONS AND ALTERATIONS

MEDICAL OFFICERS
REPORT

I certify that K47613 Pte. Graves, A.W. 1st Canadian Special Service Bn., 5th Coy 2nd Regt, First Special Service Force is fit to undergo trial by Field General Court Martial.

14 Oct 44.

R. Kaye Capt MC
.....
Medical Officer
First Special Service Force

MEDICAL OFFICERS CERTIFICATE

I hereby certify that K47613 Pte. Graves, A.W., 1st Canadian Special Service Bn., is fit to undergo trial by Field General Court Martial.

Copy 28 Oct 44.

.....Capt.
Medical Officer
First Special Service Force.

app'd

The Court being composed of Combat Officers drawn from the front lines, it is considered necessary that the Court sit on Sunday 15 Oct 44 on case of K47613 Pte Albert Walter Grass.

15 Oct 44

In the Field

W Winston Mair Major
President of F.G.C.M.

Proceedings of a F. G. C. M. at Nice, France; on 14 Oct. 1944. by order of Lt. Col. J. F. R. Akehurst, Commanding 1st Cdn Sp. Sv. Bn.

President: Maj. W. W. Mair. 1st Cdn Sp. Sv. Bn Hq. 1st Reg't. F. S. S. F.

Members: Capt. M. M. Willison, Wm. RCAPC (att.) 1st Cdn Sp. Sv. Bn., ~~Hq. Co.~~ 1st Sp. Sv. F.

Lt. C. Tegault, 1st Cdn Sp. Sv. Bn 2nd Coy. 3rd Regt. F. S. S. F.

~~Waiting member~~ Wm. ~~Lt. J. G. Simms 1st Cdn Sp. Sv. Bn. Hq. 2nd Reg't. F. S. S. F.~~

Judge Advocate: Lt. Col. R. W. Beckett. 1st Cdn. Sp. Sv. Bn., Hq. 3rd Regt. F. S. S. F.

Trial of. No. K. 47613, Pte. Albert Walter Graves. 1st Cdn. Sp. Sv. Bn. 5th Coy. 2nd Reg't. F. S. S. F.

The order convening the Court, the charge sheet, and the summary of evidence, are laid before the court.

Wm. The Court satisfy themselves, as provided

by R.P. 22 and 23.

The accused is brought before the Court:

Prosecutor: Capt. S. F. Dy-mond, 1st Cdn Sp Sv. Bns. 4th Coy. 3rd Regt. S.S.F.

Defending officer: Lt. W.E. Brousseau, 1st Cdn Sp Sv. Bns. 1st Coy. 2nd Regt. S.S.F.

At 1315 hrs. the trial commences.

The order convening the Court is read by the J.A., signed, ~~and~~ marked, appendix "A" by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they answer severally to their names.

Q-1: R.P. 25. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over.

A-1: No Sir.

The President, members, and the J.A. are duly sworn.

At 1345 hrs. the Court adjourns until 1415 hrs. on the 15 Oct. 1944. On the 15 Oct. 1944. at 1415 hrs. Court reassemble pursuant to adjournment. present the same members as on the 14 Oct. 1944.

The charge sheet is signed by the President, marked appendix "B". and annexed to the proceedings.

The accused is arraigned on the charge (sec. 15-(1) A.A.) for the above mentioned charge sheet.

Q-2: Are you guilty or not guilty of the charge against you, which you have heard read.

A-2: Guilty Sir.

The accused, having pleaded guilty to the charge, provisions of R.P. 35(2) are here complied with, and plea of guilty is entered.

The accused No. K-47613 Pte. Albert Walter Graves, 1st Cdn Sp. Sv Bn, 5th Coy,

2nd Reg't. F.S.S.F., is found guilty of the charge (sec. 15-(1) A.A.). In accordance with R.P. 37 (B), the summary of evidence is read, marked app. "C", signed by the President, and attached to the proceedings.

By R.P. 37 (B) the Court calls B-80415 S/Sgt. O'Brien T.F., 1st Cdn. Sp. Sv. Bn. Cdn. Army active, 5th Coy. 2nd Reg't. F.S.S.F., to firmly establish the time of commencement of absence.

First Witness, having been duly sworn, states: I am, B-80415 S/Sgt. O'Brien T.F., 1st Cdn. Sp. Sv. Bn., 5th Coy. 2nd Reg't. F.S.S.F.

On the bed check at Imperial Hotel at 2300 hrs. 29 Sept. 1944, Pte Graves was absent. As he was still absent at 0800 the ~~[illegible]~~ 1st Oct. when I mustered platoon, prior to return into the line, I then marked him A.W.L. ~~[illegible]~~ — no cross examination.

Rule of procedure 83 B complied with.

Q-3: Do you wish to make any statement in mitigation of punishment.

A- 3: No Sir.

Q- 4: Do you wish to give evidence of yourself or to call any witness as to character?

A- 4: No Sir.

Second Witness: Major J. C. J. Biscoe, adm. officer, 1st Edn. Sp. Svc Bn, is now called and having been duly sworn, states, "I am Major J.C.J. Biscoe, adm. officer for 1st Edn. Sp. Svc Bn.

Q-5: Have you any evidence to produce as to the character and particulars of service of the accused?

A-5: Yes. I produce a statement as to character and particulars of service of the accused, and a certified true copy of his MFM-6.

The above statement (record schedule of convictions) and MFM-6 are read, marked appendix "D" and "E" respectively, signed by the President, and annexed to the proceedings.

W.W. Q-6 To the accused, the person named in the

statement, which you have heard?

A-6 : Yes Sir.

Q-7 : Have you compared the contents of the above statement with the Regimental books?

A-7 - Yes Sir.

Q-8 - Are they true extracts from the Regimental Books and is the Statement of entries in the conduct sheet, a fair and true summary of those entries?

A-8 - Yes Sir.

The defending officer declines to cross-examine.

In the opinion of the court and the J.A. it is not necessary to comply with R.P. 83-(3). witness withdrawn.

Q-9 - Do you wish to address the court.

A-9 - No Sir.

The court is closed for consideration of the sentence.

The Court sentence the accused K. 47613 Pte. Albert Walter Graves, 1st Cdn Sp. Sv. Bn. 5th Coy 2nd Regt. F. S. S. F.,

To undergo detention for 8 (eight) months

With automatic forfeitures of pay as follows;

10 (ten) days pay by F.R. & I. 149 (1A)
[illegible] 2 (two) days pay by F.R. & I. 149 (1C(1))

W. Winston Marr Major
President F.G.C.M.
15 Oct 44

Signed in the field, France, this 15th day of October 1944

R. W. Bennett Lt-Col.
Judge-Advocate.

List of Appendices:

App. "A" Convening Order.
" "B" Charge Sheet.
" "C" Summary of Evidence
" "D" Statement of Character and Particulars as to service of the accused.
" "E" M.F.M. 6.
" "F" Form of Application for Court Martial
" "G" & "G.1" Medical Certificates.
" "H" List of Witnesses.
" "I" Statement of the accused regarding defense.
" "J" Statement re Sunday Court.

SUMMARY OF EVIDENCE

In the case of K47613 Pte. Graves, A.W., 1st Canadian Special Service Battalion., 5th Company 2nd Regiment, First Special Service Force.

FIRST WITNESS: B80415 S/Sgt. O'Brien, T.F. 1st Canadian Special Service Bn., C.A.(A) 5th Company 2nd Regiment, First Special Service Force, having been duly sworn states:

I am B80415 S/Sgt. O'Brien, T.F. of 5th Coy, 2nd Bn, 2nd Regt, First Special Service Force. On the morning of 1 Oct 44 at approximately 0800 hrs I was acting in the capacity of Platoon Sgt of 1st Platoon, 5th Coy. I called the roll of the Platoon prior to our embussing to return to duty. Pte. Graves, A.W. was not present. He was absent until 1000 hrs 9 Oct 44.

T. F. O'Brien
.....

THE ACCUSED HAD NO QUESTIONS

SECOND WITNESS: Captain W.R. Bennett, 1st Canadian Special Service Battalion, 5th Company 2nd Regiment, First Special Service Force, having been duly sworn states:

I am Captain W.R. Bennett, Company Commander of 5th Coy, 2nd Bn, 2nd Regt, First Special Service Force. On the morning of 9 Oct 44 I was with the 1st Platoon of 5th Company at the 2nd Regiment Rest Centre, the Hotel Imperial. At approximately 1000 hrs Pte. Graves, A.W. of the 5th Company reported to me as returning from being A.W.L. I placed him under open arrest and sent him forward to the 5th Company C.P.

W.R. Bennett, Capt
.....

THE ACCUSED HAD NO QUESTIONS

The accused having been duly warned under the Provisions of R.P. 4(e) did not wish to make any statement.

A.R. Coyston Lieut
.....

App "C"

(A.R. Coyston) Lieut.
1st Cdn Sp Sv Bn C.A.(A)
5th Coy, 2nd Regt,
First Special Service Force
OFFICER DETAILED TO TAKE SUMMARY OF EVIDENCE

Appx "D"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or Unit)
K47613	Pte.	Graves, A.W.	1st Cdn Sp Sv Bn C.A. (A) 5th Coy. 2nd Regt. 1st Spec Serv Force.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within the last 12 months	Since Enlistment
For Sec 40	Nil times	6 times
For Sec 15(1)	1 times	3 times
For Sec 15(2)	Nil times	2 times
For Sec 11	Nil times	2 times
Sec 9(2)	Nil	1

2. Previous convictions of the accused by a Court-Martial or a Civil Court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused has been in confinement, awaiting trial, on the present charges for..Nil..days in civil custody, and..11..days in military custody, making a total of..11..days, of which..Nil..days were spent in hospital.

4. The accused is not under sentence at the present time,

5. The present age of the accused according to his record of service, is..30 Years and 53 days..

6. The date of his attestation specified in his record of service is ...28 June 40.....

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is...4 Years 109 days

8. The accused is entotled to deferred pay or gratuity in respect of.....Nil.....service.

9. The accused is entitled to reckon.....Nil...service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award.

11. (IF THE ACCUSED IS A WARRANT OFFICER) The accused before he was made a warrant officer last held the regimental rank of..N/A....

12. (IN THE CASE OF AN OFFICER) The accused holds in the army the rank of...N/A..dated.....and in his regiment (OR corps OR department) the rank of...N/A.....dated.....

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

NUMBER...K47613.....Rank.....Pte.....NAME.....Graves, A.N.....OF..1st Cdn Sp Sv Bn 5th Cav 2nd Regt 1st Spec Serv Force...REGIMENT (Or as the case may be)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with the trial.	Date and place of trial, or summary award under A.A. 47 or of order dispensing with trial	Charges upon which convicted or in respect of which trial was dispensed with.	Sentence of the court or authority of the charge, or order of the dispensing authority.	Punishment Remitted
F.G.C.M.	19 Feb 43 Westminster Regiment	AAA. Sec 15(1) ANL 27 days, 2 hrs, 25 minutes.	85 days detention	26 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this...13th day of...Oct 44...

(J.V.J. Biscoe) Major.
Administration Officer
1st Cdn Sp Sv Bn C.A.(A)

W Dearborn Main

No. K47613 Name GRAVES, A.W. Sqn., Battery, or Company } Corps 228/1 Date of enlistment } 28-6-40 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 2 Signature O.C. Company, etc. } Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (1498) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	16 JUN 43	PTE		AA SEC 11 Neglecting to obey standing orders (wearing attic while walking out)	Documentary	Forf 3 days pay FR1 (MK2) 19 Jun 43 3 DAYS PAY FR4 (MK2)			
FIELD	20 JUN 43	PTE		AA SEC 11 Neglecting to obey S.O. (wearing attic)	Documentary	7 days	14 Aug 43		
FIELD	30 JUN 44	"		AWL 1200 HRS 30 JUN 44 TO 2000 HRS 6 JUL 44 (Adjusts 6 days 3 hrs)		28 days pay forfeiture	8 July 44		FORF 7 DAYS PAY FR4 (MK2)

Jr. [illegible] Fisco - maj
Aife Admin.

[illegible signature]

(P.T.O.)

M.F.M. 6
(A.F.B. 122)
38836—11-41 (2408)
H.Q. 1772-39-1562

No. K47613 Name Pte GRAVES, A.W. Sqn., Battery, or Company — Corps C.I.C. Date of enlistment 28 JUNE 40 G.C. Badges — Tradesmen's Rates of Pay — Character

No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 25-12-40 FWL 42 LAST ENTRY 4 OCT 40 NO CASES OF DRUNKENNESS					
VANCOUVER BKS	3 MAR 41	PTE		NEGL TO REPT SEC 40 AA	CSM ABBOTT, P	2 DAYS CB	5-MAR-41		
VANCOUVER BKS	4 MAR 41	"		WITHOUT URGENT NECESSITY QUITTING RANKS SEC 15 (2) A.A.	28 CRANKS CPL WEST CPL BARTELL	2 DAYS CB	5-MAR 41		
WHITE ROCK	7 APR 41	"		ACT TO PREJ OF GOOD ORDER SEC 40 AA.	CSM ABBOTT, P PTE MCDONALD	3 DAYS CB	15 APR 41		
CAMP BORDEN	1 AUG 41	"		NEGL TO REPT OF GOOD ORDER SEC 40 AA	CSM ABBOTT, P	3 DAYS CB	1 AUG 41		
CAMP BORDEN	31 OCT 41	"		BREAKING BARRACKS SEC 40-4-AA	SGT MILLER	2 DAYS CB	4 NOV 41		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	3 NOV 41	PTE		FAILING TO APPEAR AT PLACE OF PARADE	PTE WEST	2 DAYS CB	4 NOV 41		
FIELD	5 DEC 41	"		DISOBEYING A LAWFUL COMMAND AA SEC 7(2)	CSM ABBOTT P PTE KERR	2 DAYS CB	3 DEC 41		
FIELD	2 MAR 42 3 MAR 42	" "		ABSENT 5 HRS AA SEC 15 (1) " 1 HRS AA SEC 15 (1)	SGT CLIFFORD	16 HRS DETENTION	4 MAR 42		FORF 7 DAYS PAY
FIELD	15 APR 42	"		NEGL TO PREF OF GOOD ORDER AA SEC 40	CSM ABBOTT P	7 DAYS CB	16 APR 42		
FIELD	14 OCT 42	"		NEGL TO OBEY AN ORDER	CSM ABBOTT P	FORF 3 DAYS PAY AA SEC (40) 2	16 APR 42		
FIELD	26 OCT 42	"		AWL (ABSENT FROM PARADE) AA SEC 15 (1)	CSM ABBOTT P	3 DAYS CB	27 OCT 42		HEADLY DOWN
FIELD	19 FEB 43	"		AA SEC 15(1) AWL FROM 1200 HRS 19 FEB 43 TILL HE RETURNED OF HIS OWN ACCORD AT 2025 HRS 18 MAR 43 (27 DAYS 2 HRS 25 MIN)	CSM ABBOTT P	45 days Detention	27 MAR 43	FGCM	FORF 21 DAYS PAY FR 1 (4)(A) FORF 4 DAYS PAY FR 1 (1) FORF 15 DAYS PAY FR 1 (4)(6)

[illegible]

App "7"

FORM OF APPLICATION FOR A COURT-MARTIAL

Station Nice, France — First Canadian Special Service Bn. — Regiment

Date 13 October 44 19

Application for a Field General Court-Martial

SIR,

I have the honour to submit 1 charge against

No. K47613 Pte. Graves, A.W.

of the 1st Cdn Sp Sv Bn C.A.(A). 5th Coy 2nd Regt 1st Spec Serv Force under my command, and request you will ~~xxxxxxx~~ sanction ~~xx~~ that a Field General Court-Martial may be assembled for his trial at In the Field (Nice, France)

The case was investigated by (a) Major S.C. Waters

A Court of Inquiry was held on (b) N/A (date) at (Station)

President		Ranks, names and corps.
Members		

The accused is now at Base Stockade His general character is (c) Fair

I enclose the following documents (d):—

1. 1 Charge Sheet (in duplicate) (e).
2. Summary of Evidence, original (f) and 1 copy
3. ~~Original Exhibits (g).~~
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. ~~List of Exhibits (h).~~
6. ~~Correspondence (i).~~
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (E)) (k).

Your obedient servant,

Signature of Commanding Officer

(S.C. Waters) Major.
1st Cdn Sp Sv Bn C.A.(A)
Off Commanding 2nd Bn 2nd Regt
First Special Service Force

To:

MEDICAL OFFICER'S CERTIFICATE

I certify that No K47613 Pte. Graves, A.W. Regiment,

is* FIT to undergo trial by Court-Martial.

R. Kaye Captain

Signature of the Medical Officer

First Special Service Force.

*Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(i) If the accused has elected to be tried under A.A. 86 (3), the fact should be recorded at the top of this form.)

M.F.B. 321
40/P & S/650

13 Oct 44.

STATEMENT OF THE ACCUSED:

"I desire to have an Officer assigned by the Convening Officer to represent me at my trial."

.....
K47613 Pte. Graves, A.W.
1st Cdn Sp Sv Bn, C.A.(A).

app "I"

LIST OF WITNESSES

For the Prosecution:

Major J.V.J. Biscoe
1st Cdn Spec Serv Bn C.A.(A)

app "H"

RECORDED AT CMHQ IN AB 160 4D-95

29 Aug 44
Clearance A.W.

Correspondence to be PINNED here.

RECEIVED
15 Nov 1944
JAG BRANCH
CMHQ

Army Form A.3.

10/GENERAL, A.W./1
Jul 44

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. 2F-47
Order convening the Court

On Active Service, this 12 day of Oct, 1944

Whereas it appears to me, the undersigned, an officer in Command of 1st Cdn Special Service Bn. C.A.(A). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~; JFRA

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*I am unable to appoint:—
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.)
*(3. Three Officers having more than one year's service.)
for the following reasons, namely:—] JFRA

Certified true copy of original proceedings herein.
J. Legault, Capt.
Jag Br. C.M.H.Q.
6 Dec 44.

PROCEEDINGS REVIEWED 17 Nov 44
JCAC "W.A.D. Gunn" Major
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

President.

Rank.	Name.	Regiment.
Major	W.W. Mair,	1st Cdn Sp Sv Bn, HQ 1st Regt FSSF

Members.

Rank.	Name.	Regiment.
	WWM RCAPC JFRA	
Capt.	M.M. Willison,	1st Cdn Sp Sv Bn, Hq, FSSF
Lieut.	C. Legault,	1st Cdn Sp Sv Bn, 2nd Coy, 3rd Regt FSSF
Waiting Member Lieut.	J.G. Simms	1st Cdn Sp Sv Bn, HQ 3nd Regt FSSF
Judge advocate	Lt-Col. R.W. Becket,	1st Cdn Sp Sv Bn, HQ 3rd Regt FSSF

*Signed "J.F.R. Akehurst" Lt.-Col.
Commanding 1 Cdn Spec Sv Bn.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

"W. Winston Mair"

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K.47613 Pte. Albert Walter Graves 1st Cdn Sp Sv Bn 5 Coy 2nd Regt F.S.S.F.	1st Charge Sec 15(1) AA.	guilty	guilty 8 months detention 10 dys automatic forfeiture pay 149(1)(a) 2 dys automatic forfeiture pay 149(1)(c)(ii) 15 Oct 44 "W. Winston Mair" Major President FSJM "R.M. Becket" Lt-Col. Judge-Advocate WWM	Confirmed JFRA

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— N/A

(Signed) "J.F.R. Akehurst" Lt-Col. (Signed) .....
Commanding 1 Cdn Spec Sv Bn. *President.*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the XXX 14 WWM day of Oct 1944 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~ -
*(4. ~~The officers under instruction~~ -
were duly sworn.

* Omit if not applicable.

Signed this 15 day of Oct 1944.

"W. Winston Mair" Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 379 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not dealt with~~ ~~further in respect of the charge on which he was sentenced to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 21 day of Oct 1944.

"J.F.R. Akehurst" Lt-Col.
Confirming Officer.

Promulgated and extracts taken in the case of K.47613 Pte. Graves, A.W.

(a) (Dated) 25 Oct 44 (Signed) "J.V.J. Biasse" Major.
A i/c Administration
1st Cdn Spec Serv Bn

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] No. 40113—[illegible] 100-11-[illegible] P. St. S. Co.

CHARGE SHEET

The accused K47613 Pte. Graves, A.W., 1st Canadian Special Service Battalion C.A.(A), 5th Company 2nd Regiment, First Special Service Force, a soldier of the Canadian Army Overseas, on Active Service, is charged with:

Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

At Nice, France, on 29 Sept 44, absented himself without leave from 2300 hrs 29 Sept 44 until 1000 hrs on 9 Oct 44, when he voluntarily surrendered himself.
(Total Time absent 9 days 11 hours)
Close Arrest 13 Oct 44.

In the Field
France
13 Oct 44.

"S.C. Waters"
(S.C. Waters) Major.
1st Cdn Sp Sv Bn C.A.(A).
Commanding 2nd Bn, 2nd Regt
1st Special Service Force.

To be tried by Field General Court Martial.

In the Field
France
13 Oct 44.

"J.F.R. Akehurst"
(J.F.R. Akehurst) lt.-col.,
Commanding,
1st Cdn Sp Sv Bn., C.A.(A).

App. "B"

"W. Winston Blair"

FIRST CANADIAN SPECIAL SERVICE BATTALION C.A.(A).

In my opinion, Officers other than those of the First Canadian Special Service Battalion C.A.(A), are not available to sit as members of the Field General Court Martial in the case of K47913 Pte. Graves, A.W.

"J.F.R. Akehurst"
(J.F.R. Akehurst) Lt.-Col.,
Officer Commanding,
First Canadian Special Service Bn C.A.(A).

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
I-47163	Pte.		Albert Walter	Graves	1st Cdn Sp Sv Bn 5th Coy 2nd Regt 1st Sp Sv Force.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 12 Oct 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) JFRA
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ JFRA
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	M.N. Mair	1st Cdn Sp Sv Bn HQ 1st Regt FSSF

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	M.M. Williamson	R.C.A.P.C. att 1st Cdn Sp Sv Bn FSSF
Lieut.	C. Legault	1st Cdn Sp Sv Bn 2nd Coy 3rd Regt FSSF

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	J.G. Simms	1st Cdn Sp Sv Bn HQ 2nd Regt 1st Spec Sv Force

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt.-Col	R.W. Becket	1st Cdn Sp Sv Bn HQ 3rd Regt F.S.S.F.

On Active Service in the Fd

(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
in France	"J.F.R. Akehurst"	Lt.-Col

Date 13 Oct 44 Commanding 1st Cdn Special Service Battalion C.A.
Convening Officer (A)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPASS 1 (to item 6 of APA2) 40 P & C 1407 14651

(See overleaf for oaths and notes for use on trial.)

M E D I C A L O F F I C E R S
R E P O R T

I certify that K47613 Pte. Graves, A.W., 1st Canadian Special Service Bn., 5th Coy 2nd Regt, First Special Service Force is fit to undergo trial by Field General Court Martial.

14 Oct 44

App. "G"

"W. Winston Mair"

"R.J. Kaye" Capt.
Medical Officer
First Special Service Force.

M E D I C A L O F F I C E R S C E R T I F I C A T E

I hereby certify that K47613 Pte. Graves, A.W., 1st Canadian Special Service Bn., is fit to undergo trial by Field General General Court Martial.

15 Oct 44.

"R.J. Kaye" Capt.
Medical Officer
First Special Service Force.

App. "G 1"

"W. Winston Mair"

App. "J"

The Court being composed of Combat Officers drawn from the front lines, it is considered necessary that the Court sit on Sunday, 15 Oct 44, on case of R47613 Pte. Albert Walter Graves.

15 Oct 44 ——————— "W. Winston Mair" Major
In the Field President of F.G.C.M.

Proceedings of a F.G.C.M. at Nice, France, on 14 Oct 1944, by order of Lt.-Col., J.F.R. Akehurst, Commanding 1st Cdn Sp Sv Bn.

President: Maj. W.W. Mair, 1st Cdn Sp Sv Bn, HQ 1st Regt, FSSF
WWM RCAPC(Att) JFRA

Members: Capt. M.M. Willison/ 1st Cdn Sp Sv Bn, 1st Sp Sv F
Lt. C. Legault, 1st Cdn Sp Sv Bn, 2nd Coy, 3rd Regt, FSSF

WWM xxxx

At 1345 hrs the Court adjourns until 1415 hrs on the 15 Oct 1944. On the 15 Oct 1944 at 1415 hrs Court re-assembles, pursuant to adjournment, present the same members as on the 14 Oct 1944.

The Charge Sheet is signed by the President, marked appendix "B" and annexed to the proceedings.

The Accused is arraigned on the charge (Sec 15(1) A.A.) in the above mentioned charge sheet.

Q2 Are you guilty or not guilty of the charge against you, which you have heard read.
A2 Guilty, sir.

The accused, having pleaded guilty to the charge, provisions of R.P. 35(B) are here complied with, and plea of guilty is entered.

The accused No. K.47615 Pte. Albert Walter Graves, 1st Cdn Sp Sv Bn, 5th Coy,

WWM

2nd Regt, F.S.S.F., is found guilty of the charge (Sec. 15(1) A.A.). In accordance with R.P. 37(B) the summary of evidence is read, marked App. "C", signed by the President, and attached to the proceedings.

By R.P. 37(B) the Court calls B-80415 S/Sgt. O'Brien, T.F., 1st Cdn Sp Sv Bn, CA Army Active, 5th Coy, 2nd Regt, F.S.S.F., to firmly establish the time of commencement of absence.

First witness, having been duly sworn, states: I am B.80415 S/Sgt. O'Brien, T.F., 1st Cdn Sp Sv Bn, 5th Coy, 2nd Regt, F.S.S.F. On the bed check at Imperial Hotel, at 2300 hrs, 29 Sept 1944, Pte. Graves was absent. As he was still absent at 0800 the 1st Oct. when I mustered platoon, prior to return into the line, I then marked him AWL xxxxxxx xxxxx WWM

No cross-examination.

Rule of Procedure 35(B) complied with.

Q.3 Do you wish to make any statement in mitigation of punishment?

WWM

A3 No sir.

Q4 Do you wish to give evidence yourself or to call any witnesses as to character?
A4 No sir.

Second Witness: Major J.V.J. Biscoe, adm. officer, 1st Cdn Sp Sv Bn is now called, and having been duly sworn, states: "I am Major J.V.J. Biscoe, adm. officer for 1st Cdn Sp Sv Bn.

Q5 Have you any evidence to produce as to the character and particulars of service of the accused?
A5 Yes, I produce a statement as to character and particulars of service of the accused, and a certified true copy of his MFM 6.
The above statement (with schedule of convictions) and MFM 6 are read, marked appendix "D" and "E" respectively, signed by the President, and annexed to the proceedings.

Q6 Is the accused, the person named in the

WWM

---

statement which you have heard?
A6 Yes sir.

Q7 Have you compared the contents of the above statement with the Regimental books?
A7 Yes sir.

Q8 Are they true extracts from the Regimental Books, and is the statement of entries in the conduct sheets, a fair and true summary of those entries?
A8 Yes sir.

The Defending Officer declines to cross-examine.

In the opinion of the court and the J.A. it is not necessary to comply with R.P. 83(B) witness withdrews.

Q9 Do you wish to address the Court?
A9 No sir.

The Court is closed for consideration of the sentence.

WWM

The Court sentence the accused K.47013 Pte. Albert Walter Graves, 1st Cdn Sp Sv Bn, 5th Coy, 2nd Regt, F.S.S.F. to undergo detention for 8 (eight) months with automatic forfeitures of pay as follows:

10(ten) days pay by FR&I 149(1)(e)
WWM 2(two) days pay by FR&I 149(1)(c)(1)
WWM

"W. Winston Weir" Major
President F.G.C.M.
15 Oct 44.

Signed in the field, France, this 15th day of October 1944.

"R.W. Becket" Lt-Col.,
Judge Advocate.

List of Appendices:

App. "A" Convening Order
"B" Charge Sheet
"C" Summary of Evidence
"D" Statement of Character and Particulars as to service of the accused.
"E" M.F.M. 6.
"F" Form of Application for Court Martial.
"G" & "G1" Medical Certificates.
"H" List of Witnesses
"I" Statement of the Accused regarding defence.
"J" Statement re Sunday Court.

SUMMARY OF EVIDENCE

In the case of K47613 Pte. Graves, A.W. 1st Canadian Special Service Battalion., 5th Company 2nd Regiment, First Special Service Force.

FIRST WITNESS: B80415 S/Sgt. O'Brien, T.F. 1st Canadian Special Service Bn., C.A.(A) 5th Company 2nd Regiment, First Special Service Force, having been duly sworn states:

I am B80415 S/Sgt. O'Brien, T.F. of 5th Coy, 2nd Bn, 2nd Regt, First Special Service Force. On the morning of 1 Oct 44 at approximately 0800 hrs I was acting in the capacity of Platoon Sgt of 1st Platoon, 5th Coy. I called the roll of the Platoon prior to our embussing to return to duty. Pte. Graves, A.W. was not present. He was absent until 1000 hrs 9 Oct 44.

"T.F. O'Brien"

THE ACCUSED HAD NO QUESTIONS

SECOND WITNESS: Captain W.R. Bennett, 1st Canadian Special Service Battalion, 5th Company 2nd Regiment, First Special Service Force, having been duly sworn states:

I am Captain W.R. Bennett, Company Commander of 5th Coy, 2nd Bn, 2nd Regt, First Special Service Force. On the morning of 9 Oct 44 I was with the 1st Platoon of 5th Company at the 2nd Regiment Rest Centre, the Hotel Imperial. At approximately 1000 hrs Pte. Graves, A.W. of the 5th Company reported to me as returning from being A.W.L. I placed him under open arrest and sent him forward to the 5th Company C.P.

"W.R. Bennett" Capt.

THE ACCUSED HAD NO QUESTIONS

The accused having been duly warned under the provisions of R.P. 4(e) did not wish to make any statement.

"A.R. Coyston" Lieut.

App. "G"
"W. Winston Blair"

(A.R. Coyston) Lieut.
1st Can Sp Sv Bn C.A.(A)
5th Coy, 2nd Regt,
First Special Service Force
OFFICER DETAILED TO TAKE SUMMARY OF EVIDENCE.

App. "D"
"W. Winston Mair"

ARMY FORM B 2195.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K47613	Pte.	Graves, A.W.	1st Cdn Sp Sv Bn C.A.(A) 5th Coy 2nd Regt 1st Spec Serv Force.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) envisaged should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The numbers hereby stated should correspond with the numbers as given in the conduct sheet, the latter being given in the most recent case where misdemeanours, and in each recognised period of service, are numbered consecutively.

Instructions.—If the charge is for disobedience, the entries for misdemeanours must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec. 40	Nil times	6 times
For Sec. 15(1)	1 times	3 times
For Sec. 15(2)	Nil times	2 times
For Sec. 11	Nil times	2 times
For Sec. 9(2)	Nil times	1 times

*Number of instances of gallantry or distinguished conduct

~~xxx~~ JVJB

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~ ~~xxx~~ JVJB

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~The accused at the present date under sentence~~ ~~x imposed on the xxxxxx day of~~ ~~xxx~~ JVJB

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~xx~~ JVJB 2 days in military custody, making a total of ~~xx~~ JVJB 2 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ is 30 years and 55 days

6. The date of his ~~enlistment~~ ~~attestation~~ specified in his ~~record of service~~ ~~attestation paper~~ is 28 June 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 109 days

8. The accused is entitled to deferred pay or gratuity in respect of Nil service

9. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(a) is in possession of, or entitled to, (state which)~~ JVJB

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated ..... and in his regiment (or corps or department) the rank of N/A dated .....

(7)18230 Wt.14887/1247 375,000 6/41 A.&E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K47913 Rank Pte Name Graves, A.W. of 5th Cdy 2nd Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	19 Feb 43 Westminster Regiment	AA Sec 15(1) AWL 27 days 2 hrs 25 mins.	85 days detention	26 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of Oct 44.

"W. Winston Blair"

"J.V.J. Biscoe"
(J.V.J. Biscoe)
Administration Officer
1st Cdn Sp Sv Bn C.A.(A)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion

In the rank of ..... years. .....

In the rank of ..... years ....

In the rank of ..... years. .....

(Instruction—If any matter on any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph(s) concerned amended accordingly.)

MFM 6
(AFB 122)
40/P&S/126 (3488)

No K.47613 Name Pte. Graves, A.W. Sqn, Battery, or Company

Corps C.I.C.

Date of enlistment 28 June 40 GC Badges

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No 2

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Sheet	destroyed 28-12-40 Last Entry 4 Oct 40 No cases of drunkeness						
Vancouver Bks	3Mar41	Pte		Negl to Prej Sec 40 AA	CSM Abbott, P	2 days CB	5 Mar 41		
Vancouver Bks	4Mar41	"		Without Urgent Necessity quitting ranks. Sec 15(2) A.A.	SS Cranks Cpl West Cpl Bartell	2 days CB	5 Mat 41	App.	"E"
White Rock	7Apr 41	"		Act to Prej of Good Order Sec 40 AA	CSM Abbott Pte.McDonald	3 days CB	18 Apr 41		
Camp Borden	1 Aug 41	"		Negl to Prej of good order Sec 40 AA	CSM Abbott	3 days CB	1 Aug 41		
Camp Borden	31Nov41	"		Breaking Barracks Sec 40 AA	Sgt Miller	2 days CB	4 Nov 41		"W. Winston Meir"

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of Award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Nov 41	Pte		Failing to appear at place of parade	Pte. West	2 days CB	4 Nov 41		
Field	5 Dec 41	"		Disobeying a lawful command AA Sec 9(2)	CSM Abbott,P	2 days CB	3 Dec 41		
Field	2 Mar 42			Absent 5 hrs AA Sec 15(1)	Lte. Kerr Sgt.Clifford	168 hrs Detention	14 Mar 42		Forf 7 days pay
Field	3 Mar 42	"		" 1 hrs AA Sec 15(1)					
Field	15 Apr 42	"		Negl to prej of good order AA Sec 40	CSM Abbott,P.	7 days CB	16 Apr 42		
Field	14 Oct 42	"		Negl to obey an order	CSM Abbott,P	Forf 3 days pay AA Sec 40(2)	16 Apr 42		
Field	26 Oct 42	"		AWL (Absent from Parade) AA Sec 15(1)	CSM Abbott,P	3 days CB	27 Oct 42		Headly Down
Field	19 Feb 43	-		AA Sec 15(1) AWL from 1200 hrs 19 Feb 43 till he returned of his own accord at 2025 hrs 18 Mar 43 (27 days 2 hrs 25 min)	CSM Abbott,P	85 days Detn	23 Mar 43	FGCM	Forf 28 days Pay FRAI 149(a)
									Forf 4 days pay FRI 1 1 (c)
									Forf 15 days pay FRI 149(1)(b)

"W. Winston Muir"

No K.47613 Name Graves, A.W. Sqn, Battery, or Company 228/1 Corps Date of enlistment 28-6-40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Nature of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Jun	43 Pte		AA Sec 11 Neglecting to obey standing orders (wearing a tie while walking out)	Documentary	Forf 3 days pay FRI 149(2) 3 days pay FRI 149(2)	19 Jun 43		
Field	27 Jun	43 Pte.		AA Sec 11 Neglecting to obey S.O. (wearing a tie)	Documentary	7 days	14 Aug 43		
Field	30 Jun	44 Pte		AWL 1700 hrs 30 Jun 44 to 2000 hrs 6 Jul 44 (Absent 6 days 3 hrs)		25 days pay forfeiture	8 July 44		Forf 7 days pa FRAI 149(1)(a)
				"J.V.J. Biscoe" Maj. A i/c Admin.			"W. Winston Mair"		

(PTO)

App. "F"
"W. Winston Weir"

FORM OF APPLICATION FOR A COURT-MARTIAL

First Canadian Special Service Bn Regiment

Station Nice, France Date 13 October 44 19

Application for a Field General **Court-Martial**

SIR,

I have the honour to submit 1 charge against

No. K47613 Pte. Graves, A.W.
1st Cdn Sp Sv Bn C.A.(A).
of the 5th Coy 2nd Regt under my command, and request you will obtain the sanction of
1st Spec Serv Force
that a Field General Court-Martial may be assembled for his trial

at In the Field (Nice, France)

The case was investigated by (*a*) Major S.C. Waters

A Court of Inquiry was held on (*b*) N/A (date)

at (Station).

President } Ranks,
Members } names and corps.

The accused is now at Base Stockade His general character is (*c*) Fair

I enclose the following documents (*d*):—

1. 1 Charge Sheet (in duplicate) (*e*).
2. Summary of Evidence, original (*f*) and 1 copy.
SCW ~~3. Original Exhibits (g).~~
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (*g*).
SCW ~~5. List of Exhibits (g).~~
SCW ~~6. Correspondence (g).~~
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (*g*).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (*h*).

Your obedient servant,

Signature of Commanding Officer "S.C. Waters"
(S.C. Waters) Major.
1st Cdn Sp Sv Bn C.A.(A).
Off Commanding 2nd Bn 2nd Regt
First Special Service Force.

To:

MEDICAL OFFICER'S CERTIFICATE

I certify that No K47613 Pte. Graves, A.W. Regiment,

is* FIT to undergo trial by Court-Martial.

"R.J. Kaye" Captain
Signature of the Medical Officer.

*Insert "fit" or "unfit." First Special Service Force

(*a*) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(*b*) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (ii)).
(*c*) To be filled in by the Commanding Officer.
(*d*) Any items not applicable to be struck out.
(*e*) One copy to be sent to the President: one copy to be filed with the application for trial.
(*f*) Original summary of evidence to be sent to the President.
(*g*) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(*h*) 5 and 8 to be sent to the President.
(If the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

M.F.B. 321
40/F & S/C80

13 Oct 44

STATEMENT OF THE ACCUSED:

"I desire to have an Officer assigned by the Convening Officer to represent me at my trial."

"Graves, A.W." Pte.
K.47613 Pte. Graves, A.W.
1st Cdn Sp Sv Bn, C.A.(A).

App. "I"
"W. Winston Mair"

LIST OF WITNESSES

For the Prosecution: B.80415 S/Sgt. O'Brien, T.F.
1st Cdn Spec Serv Bn C.A.(A).

Capt. W.R. Bennet
1st Cdn Spec Serv Bn C.A.(A).

Major J.V.J. Biscoe
1st Cdn Spec Serv Bn C.A.(A)

App. "H"
"W. Winston Mair"

For the Accused:

BB-88
PTE GRAVES, AW

Correspondence to be PINNED here.

53-88

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this twenty-second day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 5th Canadian Armoured Brigade, C.A., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

Proceedings received [illegible] 19 Apr 43

President.

Rank.	Name.	Regiment.
Major	F M Nash	2 Armd Regt (LdSH)

Members.

Rank.	Name.	Regiment.
Captain	R B Morrison	HQ 5 Cdn Armd Bde
Captain	H R J Thornton	5 Armd Regt (8MBH)
Lieutenant	S B Henderson	5 Armd Regt (8MBH) (waiting member)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (G R Bradbrooke) Brig.
Commanding 5th Canadian Armoured Brigade, C.A.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K.47613 Pte GRAVES, A.W. Westmr R (Motor)	Sec. 15 (1) A.A.	Guilty.	Guilty Awarded 90 days. Detention less time held under close Arrest 23-3-43. [illegible]	Confirmed [illegible]
			To undergo detention for a period of 85 days. 23-3-43.	Confirmed [illegible] Brig.

COMD. 5 CDN. ARMD. BDE.

MAR 27 1943

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] (G R Bradbrooke) Brig. (Signed) F.M. Nash Major

Commanding 5 Cdn Armd Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) [illegible]
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 23rd day of March 1943

F.M. Nash Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this N.A. day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 27th day of March 1943

[illegible] Brig.
Confirming Officer

COMD. 5 CDN. ARMD. BDE.

Promulgated and extracts taken in the case of K47613 Pte Graves A.W.

(a) (Dated) 27 March 1943 (Signed) J.C. Sager, Lieut-Col, O.C. Westmr R. 5

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt. [illegible] 100 m 1/40 P. St. G. Co.

CHARGE SHEET.

The accused No.K47618, Pte. Graves A. W. Westminster Regiment (Motor), a soldier of the Canadian Army Overseas, is charged with:

When on Active Service

Section 15 (1) A.A. Absenting Himself Without Leave

in that he

in the field on 19 February 43 absented himself without leave from his regiment, Westminster Regiment (M) from 1200 hours on said 19 February 43 until he surrendered himself at his Unit Orderly Room at 2020 hours, 18 March 43. Total time absent 27 days 8 hours 20 minutes.

In the Field
19 March 43.

J. E. Sager
(J. E. Sager Lt.-Col.
Commanding Officer
Westminster Regt. (M).)

To be tried by F.G.C.M.

[signature]
Comd. 5 Cdn Armd. Bde

22 March 1943.

[signature]
President

Exhibit "A" major
J. M. Nash
Pres.

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557.

I certify that I have this morning examined

No. K47613 Pte GRAVES, A.

of Westmr. R.

and in my opinion he is ~~unfit~~ fit to undergo trial

by court-martial.

State fit

Date 23 Mar 43

Medical Officer.

WESTMINSTER REGIMENT
GROERLY ROOM

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD ~~AT~~ IN THE FIELD
ON THE 23rd DAY OF MARCH 1945.

The accused K47613 Pte. Graves A. H. Unit Westmr. R. (Motor)

The order convening the Court and charge sheet are laid before the Court who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court, signed by the President and attached to the proceedings.
The order convening the Court is read by the President and the accused having no objection to the President or any member of the Court, the Court is duly sworn.

The following constitute the Court:

President Major F.M. Nash Unit 2 Armd. Regt. (Ld. S.A.)
Members Captain R.B. Morrison Unit H.Q. 5 Cdn. Armd. Bde.
Captain H.R.S. Thornton Unit 5 Armd. Regt. (S.A.)

The officers under instruction are duly sworn.

Prosecutor Captain C.F. Walton Unit Westmr. Regt. (M)

Defending Officer Lieut. E.B. Robertson Unit Westmr. Regt. (M)

The charge sheet is signed by the President and the accused is arraigned.

The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s).
The Summary of evidence is read, signed by the President and attached to the Proceedings.
The Prosecutor is sworn and produces AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED

(a) ~~makes a statement in mitigation of punishment~~ FMN
(b) ~~calls witnesses as to character or~~ FMN
(c) ~~calls witnesses in mitigation of punishment~~ FMN
(d) addresses the Court by his Defending Officer
(e) ~~or in person~~ FMN

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Defending Officer stated the accused gave himself up voluntarily, which should be considered a case for leniency.

F.M. Nash Major.
Pres.

(To be signed by the President and attached to A.F.A.3)

(over)

SUMMARY OF EVIDENCE IN THE CASE OF

K47613, Pte. Graves A. W. The Westminster Regiment (M).

By direction of the Commanding Officer the Summary of evidence is taken on oath.

1st. Witness; K47117 C.S.M. Abbott P. The Westminster Regiment (M).
For prosecution having been duly sworn states:-

I am K47117, C.S.M. Abbott P. Company Sergeant Major of "D" Company Westminster Regiment (M). I had a special pass issued to K47613 Pte. Graves A. W. who made application for same to go to London to see the American Consul in regards to his citizenship papers. Pte. Graves A. W. did not report in when his pass expired at 1200 hours on 19 February 43. At 2035 hours 18 March 43 I was notified by Acting L/Cpl. Walsh R. that K47613 Pte. Graves A. W. had reported in to the Company Orderly Room. I checked and found that he had been put under close arrest [illegible] I at once had the proper charges made out of A. W. L. The roll was regularly called and Pte.Graves was continuously absent during this period. The accused declines to cross examine this witness. [illegible]

P Abbot CSM
(Signature of witness).

2nd. Witness; K47268 Acting L/Cpl. Walsh R. Westminster Regiment (M)
For prosecution having been duly sworn states:-

Sir, on 18 March 43 I was Company Orderly Corporal on duty in the Orderly Room.
The accused reported to me at 2025 hours on the night of 18 March 43. I placed him under close arrest and had him escorted to the Guardhouse. I then reported to the Company Sergeant Major and made arrangements and saw that blankets were sent up.

The accused declines to cross examine this witness.

L/Cpl. Walsh R.
Signature of witness.

The accused was warned as follows:
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused stated, "I have nothing to say at this time."

The accused declined to call witnesses in his own behalf.

I certify that R.P.4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 19 March 43.

T. M. Nash Major
Pres.

[illegible] Kipp Lt.
Officer taking Summary.

LIST OF WITNESSES IN THE CASE OF K47613 PTE. GRAVES, A.W.

Prosecution.

K47117 C.S.M. Abbott, P.

K47268 L/Cpl. Walsh, R.

Defence

Nil.

Received 21st March, 1943 from the Adjutant of the Westminster Regiment - One Copy of the Charge Sheet and One Copy of the Summary of Evidence.

Pte A.W. Graves

K47613 Pte. Graves, A.W.

M.F.M. 6
A.F.B. 122
[illegible]
H.Q. 1772-39-1652

No. K47613 Name Pte Graves A. W. Sqn., Battery, or Company

Corps Westminster Regt. (M) Date of enlistment 28 June/40 G.C. Badges

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 2

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed				17 July 42 Last Entry 4 Oct. 40	No cases of Drunkedness				
Vancouver Bks	3 Mar/41	Pte.		Negl. to prej. Sec 40 A.A.	CSM Abbot P Sgt. Franks	2 days CB	5 Mar/41	Maj Pirie	
Vancouver Bks	4 Mar/41	"		Without urgent necessity quitting rentes sec. 15-2 A.A.	Sgt. Franks Cpl. West Pte. Bartell	2 days CB	5 Mar/41	Maj Pirie	
White Rock	7 Apl 41	Pte.		Act to prej. of Good Order Sec 40 AA	CSM Abbot P S/Cpl McDonald	3 days CB	18/Apr. 41	Maj Pirie	
Camp Borden	1 Aug/41	"		Negl. to prej. of Good Order Sec 40 A.A.	CSM Abbot P	3 days CB	1 Aug 41	Lt Wilford	
Camp Borden	31 Nov 41	"		Breaking Barracks Sec. 40-4 AA	Sgt. Miller	2 days CB	4 Nov 41	Cpl. Campbell	

Certified True Copy March 19/43

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Sussex	3 Nov/41	Pte.		Failing to appear at place of Parade AA Sec. 15(2)	Hcpl. West	2 days CB	4 Nov. 41	Capt. Campbell	
Aldershot Barracks	5 Dec/41	"		Disobeying a lawful command AA Sec. 9	CSM Abbot P Pte. Kerr	7 days CB	3 Dec. 41	Lt Col Sager	
Field	2 Mar/42 3 Mar/43	" "		Absent 5 hrs AA Sec. 15 (1) " 1 " 15 min. AA Sec 15 (1)	Sgt. Clifford	168 hrs detention	4 Mar. 42	Lt Col Sager	Inf. 7 days pay
Field	15 Apl 42			Negl. to prey of Land Order AA Sec 40	CSM Abbot P	7 days CB	16 Apr. 42	Lt Hoskin	
Field	14 Oct 42	"		Neglect to obey an Order	CSM Abbot P	Forfeit 3 days pay AA Sec. 40 (3d)	16 Oct. 42	Lt Col Sager	Inf. 3 days pay
Field	26 Oct 42			A.W.L. (absent from Parade) AA. Sec. 15 (1)	CSM Abbot P	3 days CB	27 Oct. 42	Capt. Hoskin	

CERTIFIED TRUE COPY

[signature] Capt & Adjt.

The Wellington Regiment

Re "B" Pack major
T.W.D. Pte.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number. K	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K 47613	Pte.	Graves, A.W.	Westminster Regt.(Motor)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	A.W.L.	one times	Three	times.
For	Neglect or Conduct to Prejudice	one times	Four	times.
For	Quitting Ranks	- times	One	times.
For	Failin to appear at place of parade	- times	One	times.
For	Disobeying lawful command	- times	One	times.
For	Neglect to obey an Order.	One time	One	time

Number of instances of gallantry or distinguished conduct. Nil

~~or~~

~~The accused has no entries in his conduct sheets.~~

2. The accused has not been previously convicted. ~~or~~

~~Previous convictions of the accused by [illegible] summary awards under section 47 of the Army Act, and dispensations with trial under section [illegible] of the Army Act are set out in the statement annexed to this certificate.~~

3. The accused is not under sentence at the present time. ~~or The sentence passed on the accused at the present time is under sentence but~~ beginning on the ~~[illegible]~~ day of ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~[illegible]~~ days in military custody, making a total of ~~[illegible]~~ days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 29 yrs, 7 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 28 June, 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N.A.

8. The accused is entitled to deferred pay or gratuity in respect of N.A. service.

9. The accused is entitled to reckon 2 yrs 9 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N.A.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A., dated and in his regiment (*or* corps *or* department) the rank of dated

(7*182-48) W1.20216/605 35,000 12/40 A & E. W. Ltd. Gp.686
(17625) W1.48498/1907 25,000 4/41

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or of summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of March, 1943

Capt. & Adjutant
Westminster Regiment (Motor)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	N.A.	
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph completed accordingly.)

48-101

Pt. Graves E. H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-53861 Pte Everett Henry Graves N Shore R

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd AA 40	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under R2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for 9 months

(Sgd) _____ Judge-Advocate, if any. 6 Jan 45 Date awarded. (Sgd) J.A. Roberts Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) Jas A Roberts Brig
Commanding 8 Cdn Inf Bde
Confirming Officer.

Date 8 Jan 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
G-53861 Pte Everett HX	10 Jan 45	B.A. Culton A /Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

45-101

FIELD GENERAL COURT-MARTIAL

CP456 (In lieu of AFA21) 40/P & D/1698 (6/43) 4/38B

Convened by Order of Brigadier J.A. Roberts Comd 8 Cdn Inf Bde dated 3 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 1a, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-53861	Pte	Everett Henry	Graves	N Shore R

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 19/53

A1. The President, Members, waiting Member, ~~Judge-Advocate, if any, and Offrs~~ under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation or procedure will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 485, for instrs and hints on how to record addresses, evidence, etc, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 72, 74, 94, 103, 119, 123.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans _____

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans _____
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge-Advocate, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	R de Chaud
Member	Capt	J.B. McLean	G.G.H. of C
Member	Capt	A.C. MacCallum	N Shore R
Judge-Advocate			
Prosecutor	Capt	N.T. Gorman	N Shore R
Defending Offr	Lieut	J.C. Sutton	N Shore R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G-53861 Pte Everett Henry Graves before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 1b, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form R&P

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exempt III
P 15

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on N/A charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(2)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B6 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C); 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

Do you intend to call witnesses on your behalf? Ans .....

Are they witnesses as to character only? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 7, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (c). RP 45, 120(A). 2. AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex b and Ex c respectively.(3)
(1. MFB 355 or MFB 296. 2. MFB 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes Defending officer.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6). RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 132, RP 46-50, 69, 118, 119(A), KR Can 303, 330, 563-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused C-83861 Pte. Everett Henry GRAVES, North Shore (New Brunswick) Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0830 hrs 11 Nov 44 until apprehended by Cdn Provos t in GHENT, BELGIUM at 0030 hrs 25 Nov 44. (Absent 13 days, 16 hours).

Second charge
AA Sec 40

WHILE ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND

MILITARY DISCIPLINE

in that he

in the field at 1830 hrs 30 Dec 44 was in GHENT, when his duty required him to be with his unit.

J.W.N. Rowley Lt Col
(J.W.N. Rowley) Lt Col
Cond North Shore (NB) Regiment

In the Field
29 Dec 1944

To be tried by Field General Court Martial.

Jas A Roberts
(J.A. Roberts) Brig.
Commanding 8 Cdn Inf Bde

In the Field
3 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-53861	Pte		Everett Henry	GRAVES	N Shore R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and dated (date) 3 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". JAR JAR JAR

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~. JAR JAR

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. JAR

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ JAR

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ JAR

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	J.A. Ross (Must be named. RP 106.)	R de Chaud (Unit.)

MEMBERS.

Capt	J.D. McLean	QOR of C
Capt (Rank.)	A.C. MacCallum (Named or detailed. RP 106.)	N Shore R (Unit.)

WAITING MEMBER.

Capt (Rank.)	D.J.A. Pare (Named or detailed, if any. RP 106.)	R de Chaud (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.) Jas A Roberts (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 3 Jan 45 Commanding 8 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 2) 40/P & S/1697 (8143)

MEDICAL CERTIFICATE FOR
COURT-MARTIAL

MOUNT SHORE (NEW BRUNSWICK) REGIMENT G.A. (C/S)

I certify that I have this morning examined

C-53961 Pte Everett Henry GRAVES MOUNT SHORE (NB) REGIMENT

and in my opinion he is fit to undergo trial by Court Martial.

J. McCabe Capt
(J.McCabe) Capt R.C.A.M.C.
M.O. North Shore (NB) Regiment.

In the Field
6 Jan 45

SUMMARY OF EVIDENCE

28 Dec 44

Case of C-53861 Pte Fraves E.N. "C" Coy North Shore (MR) Regt.

The Commanding officer directs that the evidence be taken under oath.

FIRST WITNESS FOR PROSECUTION — C-32713 Sgt Payne A.J. being duly sworn states:-

I am platoon sergeant of No 6 platoon "C" Coy North Shore (MR) Regt. Pte Graves is a member of the platoon. At about 0830 hrs 11 Nov 44 when I was calling the roll of my platoon, C-53861 Pte Graves E.N. did not answer his name. I searched for him. He could not be found in the Bn area. I then reported his absence to the Company sergeant Major. He did not report to his platoon since that time and date mentioned above.

The accused declines to cross-examine this witness.

A.J. Payne

SECOND WITNESS FOR PROSECUTION — A/Capt B.A. Colton, Adj North Shore (MR) Regt being duly sworn states:-

I produce two Certificates of Apprehension relating to the accused as Exhibits A & B.

B.A. Colton A/Capt

The accused having been duly cautioned in accordance with Rules of Procedure 4(e) reserves his defence.

Certified that the Rules of Procedure 4 (a) and (d) and (e) have complied with.

I certify that the foregoing Summary of Evidence consisting of two pages has taken down by me in writing in the presence and hearing of the accused this 28 Day of December 1944

E.T. Garman Capt

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (J)

Certifie d that No C-52861 Rank Pte Name Graves R.H.
Of the North Shore Regt 3 Cdn Inf Div Regt No 150214
Rank Cpl Name Sanguster M.A. of the 2 Cdn L of C Prov Coy
Ghent Detach at Ghent Belgium at 0030 Hrs, on the
23 day of Nov 44 was an absentee without leave.
He was wearing Military Uniform at the time of his Arrest.

Place Ghent Belgium

Date 25 Nov 44

R. Sheeman Sgt I/C
Ghent Detach
2 Cdn L of C Prov Coy.
21 Army Grp.

This is Exhibit A referred to
Summary of Evidence in the case
of C52861 Pte Graves R.H. taken
before me this 26 Dec 44

H.T. Gorman Capt

CERTIFICATE UNDER ARMY ACT SECTION 140 (1) (3)

Certified that No C-13861 Rank Pte Name Graves E.H.

of the N.S.H. Regt, surrendered to No 122849

Rank Sgt Name Francis V.R. of the 10 Bn

& C.B.H.C. at Ghent at 1830 hrs, on the 20th

day of Dec 44 as an absentee without leave.

He was wearing Military Uniform at time of his Surrender.

Place Leopold Barracks

Date 20 Dec 44

F.M. Mitchell
(F.M. Mitchell) Lt Col
O.C. 10 C.B.H.Bn

This is Exhibits B referred to in the Summary of Evidence in the case of C-13861 Pte Graves E.H. taken before me this 29 day of December 1944

E.C. Norman Capt

No G-53861 Name Graves E.M. Sqn, Battery or Company Corps CIC Date of enlistment 26-3-42 GC Badges Service or Proficiency Pay N/A

Company Conduct Sheet Date of last entry in N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc

MFM 6 (AFB 122) 40/P&[illegible] (3438)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"SHEET NO 1 DESTROYED- 26 IN THE FIELD 31-10-44Pte				Sep 42" DATE OF LAST ENTRY- 16 May 42" AA Sec 15(1) WOAS "AWL from 1900 hrs 31 Oct 44 to 1845 hrs 6 Nov 44. (ABsent 5 days 23 hrs 45 mins).	"NO OF DRUNKENNESS- Nil" Documentary	Forf 18 days Pay	8 Nov 44	(????????) Major	

CERTIFIED TRUE COPY
B.A. Oulton A/Capt & Adjt
28 Dec 44

OPTO

PLEA IN MITIGATION

In view of the fact that the accused has no character witnesses, I would like to state that his conduct for the better part of four months with the unit was good and merits consideration and the Promise that the Accused will do his best in the future to avoid recurrence of actions contrary to military discipline.

Ex "B"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G/53861	Pte.	Graves, E H	NORTH SHORE (NB) REGIMENT

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL (AA SEC 15 (1)) 2 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 16 May 42

Date of last entry in Field Conduct Sheet 16 May 42

2. [illegible] BAO

[illegible] BAO

[illegible] BAO

4. The accused has been awaiting trial on the present charges [illegible] BAO

[illegible] and for 9 days in military custody, [illegible] BAO

[illegible] BAO

[illegible]

5. The present age of the accused is 21 yrs 5 months

6. The date of his attestation is 26 Mar 42

7. The service which the accused is allowed to reckon is 2 years 9 months

8. [illegible] BAO

9. [illegible] BAO

*Strike out if not applicable.

‡State the military decorations (if any) held by accused.

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of N/A

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/3701 32,000 9.44 A.& E.W.Ltd. Gp.688

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 28th day of December 1944

J W H Rowley Lt-Col
(J.W.H.Row ley) Lt-Col
Comd North Shore (NB) Regiment

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G53861 Pte. Everett Henry Graves N.Shore R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA. 15 (1)	Guilty	Guilty	
2nd A.A. 40	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; Findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) .....(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
to be imprisoned without hard labour for 9 months

(Sgd) ..... Judge-Advocate, if any. 6 Jan 45 Date awarded. (Sgd) J.A. Ross major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) J.A. Roberts Brig
Date 8 Jan 45 Commanding 2 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G53861 Pte Everett He	10 Jan 45	B.A. Oulton Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ ON AUG 100 45-101

RECEIVED 23 FEB 1945 D.J.A.G. (O)

CPA88 (To take place of AFA21 40/P.N.S./1698 1943)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brigadier J.A. Roberts Comd 2 Cdn Inf Bde dated 3 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R, or A/Appmt.	Full Christian Names.	Surname.	Unit.
G53861	Pte	Everett Henry	Graves	N Shore R

PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
25 JAN 1945

PROCEEDINGS REVIEWED
Dft 30 Jan 45
Gdn. Sec. CMHQ 2 Feb 45
21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for CCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for verbs and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(2)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	R de Chaud
Member	Capt	I.D. McLean	Q.O.R. of C
Member	Capt	A.C. MacCallum	N Shore R
Judge-Advocate			
Prosecutor	Capt	E.I. Gorman	N Shore R
Defending Offr	Lieut	I.C. Sutton	N Shore R

Questions by Prosecut: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused G53861 Pte Everett Henry Graves before arraignment make(s) (no) (~~a~~) plea(s).(2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 21, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Copy p 15

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans *No* (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on *N/A* charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on *N/A* charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Large Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 86(A) (B), 90, 92(C) (2). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. SE A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans *No*
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 16(b)(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans *Nil - Def. Offr* (2)
(*1. RP 37(C), 46(D). 2. Address if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The Accused, G/53861 Pte. Everett Henry GRAVES, North Shore (New Brunswick) Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A A Sec 15(1)

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0830 hrs 11 Nov 44 until apprehended by Can Provost in GHENT, BELGIUM at 0030 hrs 25 Nov 44. (Absent 13 days, 16 hours).

SECOND CHARGE
A A Sec 40

WHILE ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at 1830 hrs 20 Dec 44 was in GHENT, when his duty required him to be with his unit.

In The Field.
29 Dec 1944.

(J.W.H. Rowley) Lt-Col.
Comd North Shore (NB) Regiment.

To be tried by Field General Court Martial.

In the Field
3 Jan 45

(J.A. ROBERTS) Brig.
Commanding 8 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V parts 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-53861	Pte		Everett Henry	GRAVES	N Shore R

CONVENING ORDER.

1. "Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Jan 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ". Jah

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) Jah

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. Jah

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Jah

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~ Jah.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	J.A. Ross	R de Chaud

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.D. McLean	QOR of C
Capt	A.C. MacCallum	N Shore R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D.A.J. Pare	R de Chaud

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Jas A Roberts (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 3 Jan 45

Commanding 8 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE FOR
COURT - MARTIAL

NORTH SHORE (NEW BRUNSWICK) REGIMENT C.A. (C/S)

I certify that I have this morning examined G/53861 Pte Everett Henry GRAVES, North Shore (NB) Regiment and in my opinion he is fit to undergo trial by Court Martial.

J. M. McCabe Capt.

(J. McCabe) Capt R.C.A.M.C.
M.O. North Shore (NB) Regiment.

In The Field
6 Jan 1945

Plea in Mitigation

In view of the fact that the accused has no character witnesses, I would like to state that his conduct for the better part of four months with the unit was good and merits consideration and the promise that the accused will do his best in the future to avoid recurrence of actions contrary to military discipline

EXHIBIT "A" [illegible]

Summary of Evidence [illegible] Dec 44

Case of G53861 Pte Graves E H

"C" Coy North Shore (N B) Regt

The Commanding officer directs that the evidence be taken under oath.

First witness for prosecution:- G22212 Sgt Payne A G

Being duly sworn states:- I am platoon sergeant of No 8 platoon "C" Coy North Shore (N B) Regt. Pte Graves is a member of the platoon. At about 0830 hrs 11 Nov 44 when I was calling the roll of my platoon, G53861 Pte Graves E H did not answer his name. I searched for him. He could not be found in the Bn area. I then reported his absence to the Company sergeant major. I did not see him again. He did not report to his platoon since that time & date mentioned above.

The accused declines to cross-examine this witness.

A G Payne

Summary of Evidence Cont'd [illegible]
Case of G 53861 Pte Grace E.H.

Second witness for Prosecution

A/capt B.A. Oulton, Adj. North Shore (N.B.) Regt.

Being duly sworn states:-

I produce two certificates of apprehension relating to the accused as Exhibits A & B.

B.A. Oulton Capt

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that the Rules of Procedure 4 (E) (D) and (C) have been complied with

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in writing in the presence and hearing of the accused, this 28 day of December 1944.

E J Gorman capt

CERTIFICATE UNDER ARMY ACT, SECTION 103 (1) (1)

Certified that No. G52961 ..... Rank. Pte. .... Name GRAVES, E.H. .....

of the North Shore Regt. 3 Cdn. Inf. Div. Regt., XXXXXXXXXXXXXXXX No. L 55214 .....

was apprehended by

Rank. Cpl. ..... Name. Sangster N.A. ..... of the 2 Cdn. L. of C. Prov. Coy.

Ghent Detach ..... at Ghent Belgium ..... at [illegible] ..... hrs, on the ...

28 ..... day of Nov. 44 ..... as an absentee without leave.

He was wearing Military Uniform at the time of his Arrest.

XXXXXXXXXXXXXXXXXXXX

Place Ghent Belgium ..... Sgt. I/C

Date 28 Nov. 44 ..... Ghent Detach

This is Exhibit A. referred to in the Guardian of Guardian Grave E.H. Lateral Case of G5386, Ate ..... XXXXXXXXXXXXXXXXXXXX, XXXXXXXXXXXXXXXXXXXX

2 Cdn L of C Prov Coy.

21 Army Grp.

29 Day of December 1944 E J Garman Capt

CERTIFICATE UNDER ARMY ACT SECTION 163 (i) (j)

Certified that No. G 53861 Rank PTE Name GRAVES E.H. [illegible]

of the N.S.R. Regt, surrendered to No. L22849

~~was apprehended by~~

Rank SGT Name FRANCIS VR of the 10 BR

2 C.B.R.G. at GHENT at 1830 hrs, on the 20th

day of DEC 44 as an absentee without leave.

He was wearing Military Uniform at time of his Surrender.

~~Arrest.~~

Place LEOPOLD BARRACKS.

Date 20 DEC 44

F.H. Mitchell

(F.H. MITCHELL) Lt-Col
O.C., 10 C.B.R. Bn.

This is Exhibit B referred to in the Summary of Evidence in the case of G53861 Ote Graves E.H. taken before me this 29 day of December 1944

E.J. German Capt

EXHIBIT "E"

No G53861 Name Graves, E H | Sqn, Battery or Company | Corps CIC | Date of enlistment 26/3/42 | OC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Dispensing with trial	By whom awarded	Remarks
"SHEET NO 1 DESTROYED - 26 Sep 42" DATE OF LAST ENTRY - 16 May 42" "NO OF CASES OF DRUNKENNESS - NIL"									
IN THE FIELD	31/10 44	Pte		A A SEC 15 (1) WOAS: "AWL from 1900 hrs 31 Oct 44 to 1845 hrs 6 Nov 44.)Absent 5 days 23 hrs 45 mins)"	Documentary	Forf 16 days' Pay	8 Nov 44	(????????) Major	

CERTIFIED TRUE COPY
B.A. Quilton A/Capt & Adjt
26 Dec 44

(FTO)

EXHIBIT "B"

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G/53861	Pte.	Graves, E H	NORTH SHORE (NB) REGIMENT

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AWL (AA SEC 15 (1)) 2 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 16 May 42

Date of last entry in Field Conduct Sheet 16 May 42

~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 28th day of December 1944.

J.W.H. Rowley

(J.W.H. Rowley) Lt-Col.
Comd North Shore (NB) Regiment.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-53861 Pte Everett Henry Graves N Shore R

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	
2nd	AA 40	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for 9 months

(Sgd) ..... 6 Jan 45 (Sgd) J.A. Ross Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) Jas A Roberts Brig
Date 8 Jan 45 Commanding 8 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G-53861 Pte Everett HE	10 Jan 45	B.A. Oulton A/Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

45-101

FIELD GENERAL COURT-MARTIAL

CFA105 (To Lieut. or A/Capt.) 4/38B

Convened by Order of Brigadier J.A. Roberts Comd 8 Cdn Inf Bde dated 3 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G-53861	Pte	Everett Henry	Graves	N Shore R

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland at Ch 27 Army Gp on (date) 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Jrs, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. For oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1346 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans .....
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(2). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any, are sworn.~~ (1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	8 Cdn Inf Bde
Member	Capt	J.B. McLean	C.O.S. of C
Member	Capt	A.C. MacCallum	N Shore R
Judge-Advocate			
Prosecutor	Capt	E.T. Gorman	N Shore R
Defending Offr	Lieut	J.C. Sutton	N Shore R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Qs p 2.)

A8. The accused G-53861 Pte Everett Henry Graves before arraignment make(s) (no) (~~a~~) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court, (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B&E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3.

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *see of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(1. *RP* 37(*I*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on N/A charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with Para D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. .....
Do you intend to call witnesses on your behalf ? Ans. .....
Are they witnesses as to character only ? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF AES. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 60(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(7) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, *117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 556. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. The Defending officer.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2303, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused C-53861 Pte. Everett Henry GRAVES, North Shore (New Brunswick) Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0830 hrs 11 Nov 44 until apprehended by Cdn Provos t in GHENT, BELGIUM at 0030 hrs 25 Nov 44. (Absent 13 days, 15 hours).

Second Charge
AA Sec 40

WHILE ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND

MILITARY DISCIPLINE

in that he

in the field at 1830 hrs 20 Dec 44 was in GHENT, when his duty required him to be with his unit.

In the Field
29 Dec 1944

J.W.H. Rowley Lt Col
(J.W.H. Rowley) Lt Col
Comd North Shore (NB) Regiment

To be tried by Field General Court Martial.

In the Field
3 Jan 45

Jas A Roberts
(J.A. Roberts) Brig.
Commanding 8 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-53861	Pte		Everett Henry	GRAVES	H Shore R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and dated (date) 3 Jan 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	J.A. Ross (Must be named. RP 106.)	R de Chaud (Unit.)

MEMBERS.

Capt	J.D. Nelson	QOR of C
Capt (Rank.)	A.G. McCullum (Named or detailed. RP 106.)	H Shore R (Unit.)

WAITING MEMBER.

Capt (Rank.)	D.J.A. Pare (Named or detailed, if any. RP 106.)	R de Chaud (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.) Jas A Roberts (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat: 3 Jan 45 Commanding 8 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 60 (In lieu of AFA 3) 40/P & E/1597 (6143) (See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE FOR
COURT-MARTIAL

MONCT SHORE (NEW BRUNSWICK) REGIMENT C.A. (O/S)

I certify that I hve this morning examined

C-53861 Pte Everett Henry GRAVES MONCT SHORE (NB) REGIMENT

and in my opinion he is fit to undergo trial by Court Martial.

In the Field
6 Jan 40

J. McCabe Capt
(J.McCabe) Capt R.C.A.M.C.
M.O. North Shore (NB) Regiment.

Ex "A"

SUMMARY OF EVIDENCE 28 Dec 44

Case of G-53861 Pte Fraves E.H. "C" Coy North Shore (NB) Regt.

The Commanding officer directs that the evidence be taken under oath.

FIRST WITNESS FOR PROSECUTION G-22212 Sgt Payne A.J. being duly sworn states:-

I am platoon sergeant of No 8 platoon "C" Coy North Shore (NB) Regt. Pte Graves is a member of the platoon. At about 0830 hrs 11 Nov 44 when I was calling the roll of my platoon, G-53861 Pte Graves E.H. did not answer his name. I searched for him. He could not be found in the Bn area. I then reported his absence to the Company sergeant Major. He did not report to his platoon since that time and date mentioned above.

The accused declines to cross-examine this witness.

A.J. Payne

SECOND WITNESS FOR PROSECUTION A/Capt B.A. Oulton, Adj North Shore (NB) Regt being duly sworn states:-

I produce two Certificates of Apprehention relating to the accused as Exhibits A & B.

B.A. Oulton A/Capt

The accused having been duly cautioned in accordance with Rules of Procedure 4(e) reserves his defence.

Certified that the Rules of Procedure 4 (c) and (d) and (e) have complied with.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in writing in the presence and hearing of the accused this 28 Day of December 1944

E'T. Garman Capt

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (J)

Certifie d that No C-53861 Rank Pte Name Graves E.H.

Of the North Shore Regt 3 Cdn Inf Div Regt No 155214

Rank Cpl Name Sangster H.A. of the 2 Cdn L of C Prov Coy

Ghent Detach at Ghent Belgium at 0030 hrs, on the

23 day of Nov 44 as an absentee without leave.

He was wearing Military Uniform at the time of his Arrest.

Place Ghent Belgium

Date 25 Nov 44

R. Sheeman Sgt I/C
Ghent Detach
2 Cdn Lof C Prov Coy.
21 Army Grp.

This is Exhibit A referred to
Summary of Evidence in the case
of C53861 Pte Graves E.H. taken
before me this 29 Dec 44

E.T. Germain Capt

CERTIFICATE UNDER ARMY ACT SECTION 163 (i) (j)

Certified that No C-53861 Rank Pte Name Graves E.H.

of the N.S.R. Regt, surrendered to No L22849

Rank Sgt Name Francis V.R. of the 10 Bn

S.C.B.R.C. at Ghent at 1830 hrs, on the 20th

day of Dec 44 as an absentee without leave.

He was wearing Military Uniform at time of his Surrender.

Place Leopold Barracks

Date 20 Dec 44

F.M.. Mitchell
(F.M. Mitchell) Lt Col
O.C. 10 C.B.R.Bn

This is Exhibits B referred to in the Summary of Evidence in the case of C-53861 Pte Graves E.H. taken before me this 29 day of December 1944

E.F. German Capt

Ex "C"
gal

MFM 6
(AFB 122)
40/P&S (3438)

No G-53861 Name Graves E.H. Sqn. Battery or Company Corps CIC Date of enlistment 26-3-42 GC Badges Service or Proficiency Pay N/A

Company Conduct Sheet Date of last entry in N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"Sheet No 1 Destroyed 26 Sep 42" DATE OF LAST ENTRY 16 May 42" No of cases of Drunkness- Nil"									
In the Field	31-10-44	Pte		AA Sec 15(1) WOAS: "AWL from 1900 hrs 31 Oct 44 to 1845 hrs 6 Nov 44.)Absent 5 days 23 hrs 45 mins)"	Documentary	Forf 18 days Pay	8 Nov 44	(?????????) Major	
				CERTIFIED TRUE COPY B.A. Oulton A/Capt & Adjt 28 Dec 44					

(PTO

Ex "B"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G/53861	Pte.	Graves, E H	NORTH SHORE (NB) REGIMENT

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL (AA SEC 15 (1)) 2 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 16 May 42

Date of last entry in Field Conduct Sheet 16 May 42

2. [redacted] BAO

[redacted] BAO

[redacted] BAO

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges [redacted] BAO

[redacted] and for 9 days in military custody, [redacted] BAO

[redacted] BAO

5. The present age of the accused is 21 yrs 5 months

6. The date of his attestation is 26 Mar 42 BAO

7. The service which the accused is allowed to reckon is 2 years 9 months

8. [redacted] BAO

‡State the military decorations (if any) held by accused.

9. [redacted] BAO

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of N/A

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*08072) Wt.20721/3701 32,000 9/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 28th day of December 1944

J W H Rowley Lt-Col
(J.W.H.Row ley) Lt-Col
Comd North Shore (NB) Regiment

PLEA IN MITIGATION

In view of the fact that the accused has no character witnesses, I would like to state that his conduct for the better part of four months with the unit was good and merits consideration and the Promise that the Accused will do his best in the future to avoid recurrence of actions contrary to military discipline.

5-I-71

Rfn. Travnic R. M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-2843 Rfmn GRAVNIC RN -

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 8 (2)	Not Guilty	Guilty	
2nd	AA 40	Not Guilty	Guilty	
3rd	AA 17	Guilty	Guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B353 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 1V1 L days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One (1) year

(Sgd) ..... Judge-Advocate, if any. 30 Apl/45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(7), RP 120(G). If confirmation and promulgation: RP 53, MML p [illegible]. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

I confirm the findings of the court on the second and third charges. I do not confirm the finding on the first charge. I commute the sentence so that it shall read, "to undergo detention for a period of six months", and I confirm the sentence as so commuted.

(Sgd) E.L.S.

Date ..... Commanding ..... 3 MAY 1945 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K-2843 - Rfm - Gravnic R.N	5 May 45	(A/CORMER) Capt. Staff Capt. A. Cdn Sec HQ Brussels Gen

attached in C.R. No 125 d/d 5 May 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

DISPOSAL

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.

RECORDED AT CMHQ IN AB 160 55-71

CPA66 (To Dups of AFA21) 40/P/W/S/1945 (6762)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of HQ 6 Gp. R.C.A.F. Cmd HQ 21 A Gp dated 28 Apr 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-2843	Rfmn	RUDOLF HEAVIN	GRAVNIC	RNR att Cdn Sec HQ Brussels Gen

PROCEEDINGS REVIEWED J McCrodan Capt 26 May 45 REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 30 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30.'73

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to MLLE YVETTE LEROY as interpreter? Ans NO-SIR

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO-SIR(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	M. Col.	D.L. FREDMAN VD	C1C att Cdn Sec HQ 21 A Gp
Member	Capt.	C.B. VANDINE	1 CAN DISC CENTRE
Member	Lt.	J.B. METRAKOS	10 Fd Amb 2 CBRG
~~Judge-Advocate~~	—	—	—
Prosecutor	Lt.	J.J.H. CONNORS	Cdn Sec HQ Brussels Gen
Defending Offr	Lt.	E.P. JAQUES	10 Fd Amb - 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 25(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses, results in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF5 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed until) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form O B 1 E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 105 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NU-STM (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NU-STM (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans TO give evidence Do you intend to call witnesses on your behalf ? Ans NU-STM are they witnesses as to character only ? Ans .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later (1) and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith.~~

(*1. AA 54(7) (a), RP 45, 120(A). 2. AA 54(3), RP 40, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. B above CONTINUED

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans NE-ITHER

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses can be sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~a statement~~ as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or MFB 292. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Beg Refers NOTE-ATT (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 562-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-2843	Rfmn		Rudolph Mervin	GRAVNIC	Royal Winnipeg Rifles att Cdn Section HQ Brussels Garrison

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Apr 45 endorsed by me, ~~or in the charge sheet to me,~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not possible to convene a Court for the trial of the accused person(s) without detriment to the public service.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint an officer to the Court to be the Judge-Advocate, or the officer I have appointed could not be~~.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Subject to points of objection to any officer hereby appointed.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman, V.D.	CIC att Cdn Sec 1 Ech HQ 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	E.B. Van Dine	1 Cdn Disc Centre
Capt or Lieut	(To be detailed by Comd 2 CBRG)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 28 Apr 45

(Signed personally. RP 105 fn 2.)
(ELM Burns) Maj-Gen
Commanding Cdn Sec 1 Ech HQ 21 A Gp
Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (1st Rev of AFAS 40/P & S/1807 (40/31))

(See overleaf for oaths and notes for use on trial.)

Approved:
DJA

CHARGE SHEET

The Accused, No K-2843 Rfmn Rudolph Mervin GRAVNIC, Royal Winnipeg Rifles, att Canadian Section HQ Brussels Garrison, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 8(2)
ARMY ACT

WOAS, offering violence to his superior officer

in that he

in the FIELD at approx 2230 hrs on 18 Apr 45 did offer violence to 1227248 Cpl DAVIS G, RAF Police, by pointing a pistol at him.

SECOND CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the FIELD at approx 2220 hrs on 18 Apr 45 did create a disturbance by firing a pistol in the Gaiety Cabaret, BRUSSELS.

THIRD CHARGE
SEC 19
ARMY ACT

WOAS, drunkenness

in that he

in the FIELD at approx 2230 hrs on 18 Apr 45 was drunk.

(L.P.Payan) Lt-Col
Commanding Officer
Canadian Section HQ Brussels Grn.

BRUSSELS
26 Apr 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(ELM Burns) Maj-Gen
GO i/c
Can Sec 1 Echn - HQ 21 Army Gp

In the Field
19 Apr 45

SUMMARY OF EVIDENCE

Summary of Evidence in the case of K-2843 Rfn GRAVNIC, Rudolph Mervin, Royal Winnipeg Rifles att Cdn Sec HQ Brussels Garrison, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

FIRST WITNESS: Mr. Louis Dominique GHIGA, 39 Place du Grand Sablon, Brussels, having been duly sworn states:

"I am acting as the Head Waiter at the Gaiety Cabaret and late one evening a few days ago, I don't remember the date or the time exactly, two soldiers came into the Cabaret. I don't know what Army they belonged to and I could not recognize them again, I don't remember. They had quite a lot to drink and the taller one started going around the customers and was pushing them around and saying things to them. The smaller one was much quieter but I saw him at the table with a revolver which looked similar to this one here (indicating Exhibit "A"). I heard the sound of a shot and I saw the small one with the revolver in his hand. I went then for the police, and when I returned with them they were most diplomatic and tried to handsthe two soldiers gently. They were like a father to them. The taller one had his hand in his blouse, I don't remember which hand, but I thought he had a weapon there. I cannot say whether the short one had the revolver in his hand or not, because I was so excited I cannot remember. The police then took the soldiers away."

Accused declines to cross examine.

(SGD) Louis GHIGA

SECOND WITNESS: 1227248 Cpl DAVIS, G., RAF Police having been duly sworn states:

"In Brussels on 18 Apr 45 at approx 2230 hrs I was on duty with Cpl PIGOTT in the Rue Fosse when I received a call to go to the Gaiety Cabaret from the Manager, Monsieur Ghiga. On entering the cafe I saw two Canadian soldiers there and these two soldiers whom I see here now and recognize are the ones. The L/Cpl (indicating ZIEMSKI) on seeing me said 'I will kill you you cock sucking bastards' or words to that effect and tried to pull my revolver from its holster, but I was able to prevent him doing this. Just before this he had his right hand in his blouse as if he were holding a pistol. In the meantime this small one (indicating GRAVNIC) had a pistol in his hand which he was pointing at me. This is the pistol I see here and recognize (indicating Automatic Pistol Browning 9 MM Canadian Mk I). He made some abusive remarks, but when Cpl PIGOTT went to him he quietened down. L/Cpl ZIEMSKI left the cafe but a few minutes later tried to re-enter again. I followed L/Cpl ZIEMSKI out and when he tried to regain admission to the cafe he had his right hand inside his blouse, and I went forward to place him under close arrest. When he saw this he said 'If you come any nearer, I will shoot you you cock-sucking bastards'. I closed with him then and he fell to the ground and from that position he kicked me near my right eye (indicating eye showing evidence of recent abrasion). I managed to keep him under control, until the arrival of the Canadian Provost. After handing L/Cpl ZIEMSKI over to the Canadian Provost, I re-entered the cafe, and saw Pte GRAVNIC sleeping. Cpl PIGOTT handed me this pistol (indicating Exhibit "A"). Something I forgot to say before, is that an American soldier handed me this clip (indicating clip of Exhibit "A") containing 12 rounds of 9 MM Amn, which he said that he had taken from this pistol when it was lying on the table. This was handed to

. . . "2"

The Automatic Pistol Browning 9 MM Canadian Mk 1 referred to in the evidence of the above witness is attached hereto as Exhibit "A".

me before I left the cafe the first time. The two soldiers were then handed over to the Canadian Provost Corps in close arrest. They were drunk. Before I left the cafe Mr. GHIGA indicated a hole to me in the ceiling which had the appearance of being made recently and which I assumed to be a bullet hole. L/Cpl ZIEMSKI did not have a weapon as I found out after I had arrested him."

Accused declines to cross examine.

(SGD) G. DAVIS - Cpl

THIRD WITNESS 1218892 Cpl PIGOTT, T., RAF Police having been duly sworn states:

"Sir, in BRUSSELS at approximately 2230 hrs on the 18 Apr 45, I was on duty with Cpl DAVIS in the rue Fosse when the manager of the Gaiety Cabaret asked for assistance. We entered the cafe and I saw two Canadian soldiers there, and I recognize these two soldiers here (indicating L/Cpl ZIEMSKI and Pte GRAVNIC) as being the two. The first thing I remember seeing, was the L/Cpl here (indicating ZIEMSKI) with his right hand in his blouse, as if he were holding a weapon, and his saying 'I have killed fucking Germans, and I will kill you you cock sucking bastards' or words to that effect. In the meantime the little one (indicating GRAVNIC) tried to passify ZIEMSKI a bit. I also remember him holding this pistol I see here now and recognize (indicating Exhibit "A") by the barrel, and waving it around as if he would use it as a club on Cpl DAVIS. He then went in the annex and I followed him, he sat down on a chair, and apparently passed out. I removed this pistol from his possession, and found the clip to be missing. I remained here with GRAVNIC until the Canadian Provost arrived. I did notice that Cpl DAVIS had a mark near his right eye when he re-entered the cafe with the Provost, as if he had just been struck by something. I handed this pistol to Cpl DAVIS. Later the manager Mr. GHIGA indicated to me a hole in the ceiling, which had the appearance of a bullet hole and looked as if it had been made recently. Both soldiers were very much under the influence of drink."

Cross examined by the accused:

Q. "Did you ever see me pointing the barrel of the pistol at Cpl DAVIS?"

A. "No I don't remember seeing you do this."

(SGD) T. PIGOTT - Cpl

FOURTH WITNESS: B.122196 L/Cpl CALDER, R.G., 2 Cdn L of C Provost Coy, having been duly sworn states:

"Sir, in BRUSSELS at approximately 2235 hrs on 18 Apr 45, accompanied by Pte POLSON, I responded to a call from the Gaiety Cafe on rue Fosse. On arrival there I contacted Cpl DAVIS of the RAF Police who was outside the cafe with L/Cpl ZIEMSKI whom I see here now and recognize (indicating ZIEMSKI). I placed ZIEMSKI under arrest, and entered the cafe where I found Pte GRAVNIC whom I see here now and recognize, apparently asleep. Both men were drunk. Before I left the cafe I saw a hole in the ceiling which had the appearance of a bullet hole. While conducting these two men to our Guard Room, L/Cpl ZIEMSKI kicked Pte POLSON who was driving, on the right ear. He was controlled and both accused were turned over to our Coy HQ Guard Room."

Accused declines to cross examine.

(SGD) R.G. CALDER . . . . "3"

FIFTH WITNESS: F.10385 Pte POLSON, D.B., 2 Cdn L of C Provost Coy, having been duly sworn states:

"Sir, in BRUSSELS on the 18 Apr 45 at approximately 2235 hrs I accompanied L/Cpl CALDER to the Gaiety Cafe on rue Fosse. On arrival there I saw this soldier (indicating L/Cpl ZIEMSKI) outside the cafe in the custody of an RAF Policeman. On entering the cafe I saw this other one (indicating GRAVNIC), also in the custody of the RAF Police. I saw Cpl CALDER handed this pistol (indicating Exhibit "A") by the RAF Police, and I saw him draw the action back and eject a spent casing. We took both men to our jeep and started out for Coy HQ. I drove and on the way there L/Cpl ZIEMSKI kicked me with his foot behind my right ear (indicating dressed right ear). This caused me to lose control of the vehicle for a few moments. When we arrived in Coy HQ we turned the accused over to our Guard Room, and I reported to the Medical Inspection Room to have my wound examined and dressed. Both the accused were drunk.

Accused declines to cross examine.

(SGD) D.B. POLSON

SIXTH WITNESS: Capt R.R.W. SMITH, RCAMC, Cdn Sec HQ Brussels Garrison, having been duly sworn states:

"On the 18 Apr 45 at approximately 2230 hrs I saw Pte POLSON of the Cdn Provost Coy in the MIR in BRUSSELS. I examined him and found him to have a cut on the posterior edge of the right ear extending about $\frac{3}{8}$ of an inch from the periphery. He was also suffering from a headache, and faintness. The wound was probably caused by a blow from a moderately sharp instrument. He has been receiving medical attention now since that night and will require further medical attention for at least another week."

Accused declines to cross examine.

(SGD) R.R.W. SMITH - Capt

The accused was cautioned as follows:

Q. "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A. "No Sir, I don't remember anything, because I as under the influence of liquor, and I don't remember what occurred."

(SGD) R.M. GRAVNIC

The accused does not wish to call witnesses.

I certify that the foregoing Summary of Evidence consisting of 4 pages was taken down by me, in the presence of the accused, and that RP 4 (c) (d) (e) and (f) have been complied with.

(J F H CONRAD) LT - RCAMC
Officer Detailed to take the Summary.

In the Field
25 Apr 45

REQUEST FOR A DEFENDING OFFICER

I would like an Officer to defend me. I would like the Convening Authority to appoint one.

In the Field
25 Apr 45

(SGD) R.M. GRAVNIC

MEDICAL OFFICER'S CERTIFICATE

I certify that No. K-2643, Pte. GRAVNIC, R.N.
"C" Coy, ROYAL WINNIPEG RIFLES, Regiment
is FIT to undergo trial by Court Martial.

Field
30 Apr 45

Signature of the Medical Offr

Trial of K-2843 Rfmn RM. GRAUNIC R.W.R on the first two charges.

D-3 1st Witness for the Prosecution

M. Louis Dominique GHIGA, 29 Place du Grand Sablon, Brussels, having been duly sworn states:

I am head waiter at Gaiety ~~Cabaret~~ SHO. Cabaret in Brussels. A few nights ago, the date I can't remember, two soldiers came in to have a drink. They had 2 glasses of champagne and then they drank a bottle of gin brought by them. They drank the whole bottle. I ~~recognize~~ SHO. do not recognize the accused now, except that I have seen him at the Summary. I was too excited at the time. I usually stand at the door and have not much chance to see people. Afterwards I saw them go to the cloakroom. Then they came back again. They asked me for 2 more glasses. I could not refuse because they drank a lot. I had them served. I saw a man with a pistol; one of these soldiers. He was examining it. I went through the room to see what to do about it. A soldier, the little one, I think the accused had a pistol examining it. The taller soldier was going around the room.

TM

talking and pushing people. I reached the door and I heard a shot of a revolver and saw the flame. It was straight up towards the ceiling. I saw the revolver. The little one had it. The flame was going from the little one to the ceiling. It was not directed to anybody. I went to fetch the Police. I met 2 Military Police outside in blue uniforms. When the Police came in they went directly to the room and I stayed outside. When I came in the Police were treating them very gently. They tried to convince the 2 soldiers to go out quietly. I did not see the revolver then. The little soldier had fallen asleep. The Police took both away. There were many people in the Cafe and they were frightened.

No Cross examination.

By The Court.

It seemed to me that perhaps the revolver might have gone off accidently.

RP 83(1) complied with.

8th Witness for the Prosecution.

122748 Cpl Davis G. RAF Police, having been duly sworn states:

On Wed 18 Apr 45 at 2210 hrs. I was on duty in Rue Torse. I was called to Gaiety Cabaret. On entering I saw Pte the accused whom I recognise and another UK soldier. The other soldier made certain obscene remarks to me and the accused had his hand in his blouse. He was the taller one. I thought he had a revolver in his hand in his blouse. The smaller one, the accused, had a revolver, automatic pistol, in his hand. He pointed it at me from a distance of 1 foot. The accused was also using very abusive language to me.

I produce the Pistol.

Defending Offr has no objection to admission.

Pistol marked Ex 1.

I pushed the revolver away with my hand and with assistance of Cpl Pigott we pinioned him down. We went out into the hallway. While there a U.S. Soldier came to me and gave me a clip with 12 rds of ammn.

Prosecutor hands witness a clip. Witness says this is similar to the clip handed to me. MFJ

I cannot positively identify this clip.
Clip not admitted in evidence.

I had a tussle with the larger soldier. I got hit in the eye by him. Soon afterwards I returned to the Cafe and found the accused in a drunken sleep. Before this at all times he appeared very drunk. Cpl Pigott handed me the pistol. I examined it and found 1 empty casing in it. With M. Shiga, the headwaiter, I saw a hole in the ceiling that looked like a bullet hole. It was over the table at which I had seen the accused sitting. Eventually I handed them to the C Pro C.

Cross examination:

Cpl ~~Pigott~~ Pigott came into the Cafe with me. When the accused had the pistol pointing at me Cpl Pigott came up

RP 63(B) complied with.

My

USBV

3rd Witness for the Prosecution.

EPP ✗ 1218892 Cpl Pigott, T. RAF ~~Regt~~ Police EPW

having been duly sworn states:

On 18 Apr 45 — night — at 2230 hrs, on duty in Rue Foise. We were called to Gaiety Cabaret. On entering saw 2 can. Soldiers. The accused the smaller one was one of them. The taller had his hand in his blouse simulating a pistol. In the hall I saw that people were upset. Cpl Davis went in before me. I was "on his heels". I saw the accused remonstrating with Cpl. Davis. He said to Davis "I want my magazine back." He had nothing in his hands at that time. Later I saw the accused & Cpl Davis in the ~~annex~~ and I saw the accused holding the pistol by the barrel and talking to Cpl Davis in a threatening way. At no time did I see the accused point a pistol at Davis. Exhibit 1 appears to be the one I saw in the accused's hand that night. I then tried to pacify the accused. He was definitely under the influence of drink. I don't think he knew what he was doing: definitely not. He then sat down on a chair with pistol held by the barrel still in his hand. He fell asleep. I

removed the pistol from his hand and awaited the C Pro C. They took him away.

No cross examination

By the Const

I did not prove the ~~witness~~ EXH pistol when I took it from the accused. I handed the pistol to Cpl Davis.

RP 83 (B) complied with.

Const adjourned and reassembled at 1400 hours. Same members present.

MM

KDN

4. Witness for the Prosecution

B-132196 A/Cpl Calder R.G., 2 Coln H of C
Pro. Coy having been duly sworn states:

On night of 18 Apr 45 I was called to Gaiety Cabaret. I saw Cpl Davis of RAF Police. I placed L/Cpl Ziemski under arrest. I entered the Cafe and found the accused, whom I recognize, on a chair, drunk. I saw what appeared to be a bullet hole in the ceiling. Cpl Davis had a pistol in his hand. The mag was out. He pulled the action back and an empty casing flew out. It definitely flew out when the action was pulled back. Exhibit 1 is the pistol. I know because the number has been rubbed off. I escorted the accused and Ziemski to Coy HQ.

Cross examination.

I am quite sure that an empty casing came out. I picked up the empty casing off the floor.

RP 83(B) complied with.

MM

EMW

5th Witness for the Prosecution

F. 10385 Pte Polson D B, 2 Cdn L of C Pro. Coy having been duly sworn states:

I was in Gaiety Cabaret on 18 Apr 45 around 2230 hours.

Cross examination:

I saw the RAF Police hand L/Cpl Calder a pistol. The RAF Police pulled the action back and a spent casing flew out.

Q.1. In the Summary you said it was L/Cpl Calder who drew the action back. How about this?

A.1. I had thought it was Calder who pulled the action back. But later Calder told me it was the RAF Police who did this.

Q.2. Was it a spent casing that flew out?

A.2. Yes. Definitely.

RP 83(B) Complied with

MY

GM

6th Witness for the Prosecution

By the Prosecution: I am not calling Capt RR W Smith RCAMC as his evidence is not relevant to this case.

The Defending Offr does not require this witness for cross examination.

The Prosecution is closed.

1st Witness for the Defence.

The accused, K-2843 Rfmn. R. M. Gravnic having been duly sworn states:

On 18 Apr. 45 arrived in Brussels on 72 hr. pass. Went to Beaver Club with L/Cpl Zeimski. Then downtown. Bought a bottle of Cognac and bottle of gin for 350 Francs and 500 Francs. Went to Cafe and drank the Cognac together. Went from there to Gaiety Cafe and drank a glass of Champagne each at ~~[illegible]~~ 140 Francs ~~or 45 Francs~~ 360 or 70 Francs per glass. Then we drank the gin. We drank all the gin and I went out and came back in and I can't remember anything else. I am 27 years old. In civilian life was a Shipper in Toronto and worked in Boeings My

Aircraft in Vancouver. Am category C-1 and grit school at 13 to go to work Came to Europe in Nov. and have been with Reg't since Dec 44.

Cross examination:

I haven't been drinking since I left Canada in Oct 44. I remember no trouble in the cafe before I "passed out." Exhibit 1 I have seen before. I had it in the Cafe with me.

By the Court

Q.1 Anything more you have to say?
A.1 Yes. I want to get this over so I can get back to my Reg't.

RP 83(B) complied with.

The Defence is closed

Prosecutor's Closing address, written out, read to the Court is attached.

Defending Offrs' Closing address, written out, read to the Court is attached.

E-3 — Plea in Mitigation, writtn out, read to the court is attached.

Rfm. Gravnic

Prosecutor's Closing Address

Sirs, the prosecution submits that the following points have been proven as follows:

First Charge: The approx time & date, that Cpl. Davis was the recipient of the alleged offered violence & that he was in fact the superior officer of the accused. The evidence to support that part of the charge which reads "by pointing a pistol at him" is as follows.

First witness (Mr. Ghiza): Too excited to notice just what was happening & was therefor unable to offer much useful evidence on this point.

Second Witness (Cpl Davis): This witness has sworn that the accused pointed a pistol which closely resembles Exhibit I at him from a distance of approx 1 foot. He also swore that the accused used highly abusive language while doing so.

Third Witness (Cpl Pigott): Stated he did not see the pistol pointed at Cpl. Davis but he did state this: "He saw the accused & Cpl. Davis in the hall, he saw no weapon in the accused's hands, he left the hall then, & after a short time lapse he next saw the accused & Cpl. Davis in the annex. This time he saw the accused hold a pistol which closely resembles Exh. I, by the barrel & not pointing at Cpl. Davis. He did see the accused at that time adopting a threatening attitude toward Cpl Davis by making a motion which might infer, the pistol might be used as a club on Cpl. Davis. However the accused is not charged o that, ~~there is a time interval~~ but I mention this to show that evidently the intentions of the accused at this point were not friendly. There is a time interval

to be considered also when the accused may or may not have had an opportunity to commit the alleged offence without anyone seeing it other than the complainant. The court has heard the evidence in relation to this charge ~~& I feel~~ & have only heard one witness offering direct evidence to support it, true enough.

Second Charge: Again the time, date & place have been sworn to by four witnesses. The first witness swore that the shorter soldier actually held a similar pistol to Exh I in hands, pointing toward the ceiling, that he heard a shot & saw the flame shoot up & that a hole ~~[illegible]~~ appeared in the ceiling. True enough he could not identify the witness because he said, he was excited. ~~Two other~~ Cpl. Pigott swore that he removed Ex I (pistol) from the accused's hand when "he fell asleep" & handed it to Cpl. Davis. Cpl. Davis swore that when he pulled the action back a spent casing was ejected. This was supported by two other witnesses. As for the mystery caused by the spent casing being there in the first place, I can offer no explanation, it may be a faulty ejector in the weapon, or it may be anything.

Finally the accused himself admitted having the pistol in his possession that night.

[signature] H. [signature]
Rosme

30 April 1945.

The statement in defence of
K 2843 Rfmn Rudolph Mervin Gravnic
charged with

FIRST CHARGE, SEC 8(2) A.A. W.O.A.S. offering violence to his superior officer
in that he
in the field at approx 2230 hrs on 18 April 45
did offer violence to 1227248 Cpl Davis G.
R.A.F. Police, by pointing a pistol at him.

Second CHARGE SEC 40. ARMY ACT W.O.A.S. conduct to the prejudice of good order and
military discipline
in that he
in the Field at approximately 2230 hrs on 18 April 45
did create a disturbance by firing a pistol in the
Gaulty Cabaret, Brussels.

In respect to the first charge it is stated
in the evidence that the only one who states
that the accused pointed a pistol at Cpl Davis
is Cpl Davis himself.

Cpl Davis also states that at the
time it is alleged that the pistol was
being pointed at himself, Cpl Pigott came up
and tried to pacify the accused.

At no time does Cpl Pigott say he
saw the pistol being waved at anyone.

In the second charge of causing a disturbance
by firing a pistol the only witness of the
prosecution, M.G. states that he did not actually
see the pistol fired, and he also states he
could not say what army the two soldiers
in question belonged to and the witness also
states he could not recognize the two
soldiers if he saw them.

[signature] Lieut
Defending Officer.

17 In the Field
30 April 1943

Plea of Mitigation on behalf of
H 2843 Rfmn Rudolph Hermin Grevais.
Royal Winnipeg Rifles.

Sir.

On behalf of the accused I wish to say that while the accused was undoubtedly at the Variety Cabaret and while under the influence of liquor he did not cause the military police undue trouble as the evidence states the accused went to sleep soon after the arrival of the military police.

The accused realizes that legally drunkenness is not legally an excuse for creating a disturbance he wishes to the court to take into consideration that he was on a seventy two hour pass from his unit the Royal Winnipeg Rifles and was trying to forget it all in drink.

The accused states that he has not been in serious trouble previously either in the army or in civil life.

The accused was born at Yorkton Saskatchewan on 13 February 1918.
He left school at the end of Grade six and after that worked on farms.
Immediately prior to the accused's enlistment he was employed by the Boeing aircraft Co.

The accused states that at the outbreak of war he attempted to enlist in one of the services but was rejected on medical grounds.

In 1940 and again in 1942 the accused states he was called up for military training but was rejected on medical grounds.

The accused enlisted on the 20 March 1944 arrived in the United Kingdom in October 1944 and in N.W. Europe in November 1944. He joined the Royal Winnipeg Rifles in the field early in December 1944 and fought with them continuously until his arrival in Brussels.

Due to the fact that his unit was in the line, the defence was unable to secure a character witness.

E.P. Jaques
Lieut

Defending Officer

LIST OF WITNESSES FOR THE PROSECUTION

1. Mr. Louis Dominique GHIGA, 39 Place du Grand Sablon, BRUSSELS.
2. 1227248 Cpl DAVIS, G., RAF Police
3. 1218892 Cpl PIGOTT, T., RAF Police
4. B.132196 L/Cpl CALDER, R.G., 2 Cdn L of C Provost Coy
5. F.10385 Pte POLSON, D.B., 2 Cdn L of C Provost Coy
6. Capt R.R.W. SMITH, RCAMC, Cdn Sec HQ Brussels Grn.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - Automatic pistol Browning 9 MM Cdn Mk 1.

(J J H CONNORS) LT - RCAMC
~~Officer Detailed to take the Summary~~.

In the Field
25 Apr 45

30 Apr 45

This is to state that the documents of K-2843 Rfmn GRAVNIC R M were requested from 2 Ech. We received MFM 6 but NO particulars of service, etc. This accused has been held in close arrest awaiting this F G C M since 18 Apr 45. ~~Time 10 dys (NO dys in hospital)~~ Total time spent in close arrest 10 dys (NO dys spent in hospital).

(J.J.H.Connors) Lieut: RCAMC
Prosecutor

Ex B
Opened on time by
MFB 35-5 MW

K.2843 No. GRAVNIC, Rudolph Mervin. Name | Sqn., Battery, or Company | Corps CIC | Date of enlistment 21 MAR 44 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /35136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Canada		Pte		AWL		10 days CB & 28 days pay.	8JUN44		
Canada		Pte		AWL		5 days CB & forf 1 days pay	28SEP44		

Duplicate created from MFM 4 24[illegible] ; Record of conduct in Canada prior to TOS Canadian Army Overseas [illegible] not available.

J. Knight Lt
Officer i/c Records "C"
Cdn. Sec. 2 Lab. HQ. 21 A Gp

(P.T.O.)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of [redacted] K-2843 Rflmn GRAVNIC Rudolph Mervin, Royal Winnipeg Rifles, att Cdn Sec HQ Brussels Garrison, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

SECOND WITNESS 1227248 Cpl DAVIS G, RAF Police having been duly sworn states:

"In Brussels on 18 Apr 45 at approx 2230 hrs I was on duty with Cpl PIGOTT in the Rue Fossé when I received a call to go to the Gaiety Cabaret from the Manager Monsieur Ghiga. On entering the café I saw two Canadian soldiers there and these two soldiers whom I see here now and recognize are the ones. The L/Cpl (indicating ZIMSKI) on seeing me said "I will kill you you cock sucking bastards" or words to that effect and tried to pull my revolver from its holster but I was able to prevent him doing this. Just before this he had his right hand in his blouse as if he were holding a pistol. In the meantime this small one (indicating GRAVNIC) had a pistol in his hand which he was pointing at me. This is the pistol I see here and recognize (indicating Automatic Pistol Browning 9 MM Canadian Mk 1). He made some abusive remarks, but when Cpl PIGOTT went to him he quietened down. L/Cpl ZIMSKI left the café but a few minutes later tried to reenter again. I followed L/Cpl ZIMSKI out and when he tried to regain admission to the café, he had his right hand inside his blouse, and I went forward to place him under close arrest. When he saw this he said "If you come any nearer, I will shoot you you cock sucking bastards". I closed with him then and he fell to the ground and from that position he kicked me near my right eye (indicating eye showing evidence of recent [redacted]). I managed to keep him under control, until the arrival of the Canadian Provost. After handing L/Cpl ZIMSKI over to the Canadian Provost I re-entered the café, and saw Pte GRAVNIC sleeping. Cpl PIGOTT Handed me this pistol (indicating Exhibit "A"). Something I forgot to say before, is that an American soldier handed me this clip (indicating clip of Exhibit "A") containing 12 round of 9 MM Amm. which he said that he had taken from this pistol when it was lying on the table. This was handed to me before I left the café the first time. The two soldiers were then handed over to the Canadian Provost Corps in close arrest. They were drunk. Before I left the café Mr GHIGA indicated a hole to me in the ceiling which had the appearance of being made recently and which I assumed to be a bullet hole." L/Cpl ZIMSKI did not have a weapon, as I found out after I had arrested him."

Accused declines to cross examine.

G. Davis Cpl

The Atomatic Pistol Browning 9 MM Canadian Mk 1 is attached hereto as Exhibit "A".

THIRD WITNESS 1218892 Cpl PIGOTT T, RAF Police having been duly sworn states :

"Sir, in Brussels at approw 2230 hrs on the 18 Apr 45, I was on duty with Cpl DAVIS in the rue Fossé when the manager of the Gaiety Cabaret Mr asked for assistance. We entered the Cafe and I saw two Canadian soldiers there, and I recognise these two soldiers here (indicating L/Cpl GRAVNIC AND ZIMSKI) as being the two. The first thing I remember seeing, was the L/Cpl here (indicating ZIMSKI) with his right hand in his blouse, as if he were holding a weapon, and his saying "I will have killed fucking Germans, and I will kill you you cock sucking bastards" or words to that effect. In the meantime the little one (indicating GRAVNIC) tried to passify ZIMSKI a bit. I also remember him holding this pistol I see here now and recognise (indicating Exhibit "A") by the barrel, and waving it around as if he would use it as a club on Cpl DAVIS. He then went in the annex and I followed him, he sat down on a chair, and apparently passed out. I removed this pistol from his possession, and found the clip to be missing. I remained here with GRAVNIC until the Canadian Provost arrived. I did not notice that Cpl DAVIS had a mark near his right eye when he re-entered the café with the Provost, as if he had just been struck by something. I handed this pistol to Cpl DAVIS. Later the manager Mr GHIGA indicated to me a hole in the ceiling, which had the appearance of a bullet hole and looked if it had been made recently. Both soldiers were very much under the influence of drink."

Cross examined by the accused.

Q. "Did you ever see me pointing the barrel of the pistol at Cpl DAVIS?

A. "No I don't remember seeing you do this."

FOURTH WITNESS B-132196 L/Cpl CALDER R G, 2 Can L of C Pro Co having been duly sworn states:

"Sir, in Brussels at approx 2235 hrs on 18 Apr 45, accompagnied by Pte POLSON I responded to a call from the Gaiety Café on rue Fossé. On arrival there I contacted Cpl DAVIS of the RAF Police who was outside the café with L/Cpl ZIMSKI whom I see here now and recognize (indicating ZIMSKI). I placed him under arrest, and entered the café where I found Pte GRAVNIC whom I see here now and recognize, apparently asleep. Both men were drunk. Before I left the café I saw a hole in the ceiling when had the appearence of a bullet hole. While conducting these two men to our Guard Room, L/Cpl ZIMSKI kicked Pte POLSON who was driving, on the right ear. He was controled and both accused were turned over to our Coy HQ. Guard room."

Accused declines to cross examine.

FIFTH WITNESS F-10385 Pte POLSON D B, 2 Cdn L of C Pro Coy having been duly sworn states:

"Sir, in Brussels on the 18 Apr 45 at approx 2235 hrs I accompanied L/Cpl Calder to the Gaiety Café on rue Fosse. On arrival there I saw this soldier (indicating L/Cpl ZIEMSKI) outside the café in the custody of a RAF Policeman . On entering the café I saw this other one (indicating GRAVNIC), also in the custody of the RAF police. I saw Cpl CALDER handed this pistol (indicating Exhibit # "A") by the RAF Police, and I saw him draw the action back and eject a spent casing. We took both men to our jeep and started out for Coy's HQ. I drove and on the way there L/Cpl ZIEMSKI kicked me with his foot behind my right ear (indicating dressed right ear). This caused me to loose control of the vehicle for a few moments. When we arrived in Coy's HQ we turned the accused over to our Guard Room, and I reported to the Medical Inspection room to have my wound examined and dressed. Both the accused were drunk."

Accused declines to cross examine.

D B Polson.

SIXTH WITNESS Capt R R W SMITH, RCAMC Cdn Sec HQ Brussels Garrison, having been duly sworn states:

"On the 18 Apr 45 at approx 2230 hrs I saw Pte POLSON of the Cdn Pro Coy in the MIR in Brussels. I examined him and found him to have a cut on the posterior edge of the right ear extending about 3/8 of a inch/periphery . He was also suffering from a head-ache, and faintness. The wound was probably caused by a blow from a moderately sharp instrument. He has been receiving medical attention now since that night and will require further medical attention for at least another week."

Accused declines to cross examine.

R R Smith Capt

FIRST WITNESS Mr Louis Dominique GHIGA, 39 Place du Grand Sablon, Brussels, having been duly sworn states:

"I am acting as the Head Waiter at the Gaiety Cabaret and late one evening a few days ago, I don't remember the date or the time exactly two soldiers came into the Cabaret. I don't know what Army they belonged to and I could not recognize them again, I don't remember. They had quite a lot to drink and the taller one started going around the customers and was pushing them around and saying things to them. The smaller one was much quieter but I saw him at the table with a revolver which looked similiar to this one here (indicating Exhibit "A"). I heard the sound of a shot and I saw the small one with the revolver in his hand. I went then for the police, and when I returned with them they were most diplomatic and tried to hand the two soldiers gently. They were like a father to them. The taller one had his hand in his blouse, I don't remember which hand, but I thought he had a weapon there. I cannot say whether the short one had the revolver in his hand or not, because I was so excited I cannot remember. The police then took the soldiers away."

Accused declines to cross examine.

Louis Ghiga

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

"No Sir, I don't remember anything," because I was under the influence of liquor, and I don't remember what occurred."

R M Graves

Accused does not wish to call witnesses.

I certify that the foregoing Summary of Evidence consisting of 4 pages was taken down by me, in the presence of the accused, and that RP 4 (c) (d) (e) and (f) have been complied with.

(J.J.H.Connors)Lieut RCAMC
Officer detailed to take the Summary

In the Field
25 Apr 45

REQUEST FOR A DEFENDING OFFICER

I would like an Officer to defend me. I would like the Convening Authority to appoint one.

In the Field
25 Apr 45

R M Graves

LIST OF WITNESSES FOR THE PROSECUTION

1. Mr Louis Dominique GHICA, 39 Place du Grand Sablon, Brussels.
2. 1227248 Cpl DAVIS G, RAF Police
3. 1218892 Cpl PIGOTT T, RAF Police
4. B-132196 L/Cpl CALDER R G, 2 Cdn L of C Pro Coy
5. F-10385 Pte POLSON D B, 2 Cdn L of C Pro Coy
6. Capt R R W SMITH, RCAMC Cdn Sec HQ Brussels Grn.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - Automatic pistol Browning 9 MM Cdn Mk 1.

(J.J.H.Connors)Lieut RCAMC

In the Field
25 Feb 45.

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

00-139

A/L/BDR GRAY A.R.

Correspondence to be PINNED here.

Lt Savage, Major

00-139

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this ------- Thirty-first ----- day of ------ August ---------- , 1943 .

Whereas it appears to me, the undersigned, an officer in Command of --------Royal Canadian Artillery, Second Canadian Division ----------, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial ; ~~[illegible]~~ PCT

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

PCT.

* Omit if not applicable.

Proceedings Reviewed

S.W. McDougall Capt

Reviewing Officer

2 Oct 43

135

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	S.C. Savage	4 Cdn Fd Regt

Members.

Rank.	Name.	Regiment.
Captain	G.K. Henderson	5 Cdn Fd Regt
Lieut	K.L. Murray	2 Cdn A tk Regt
Waiting Member - Lieut	D.G. Innes	5 Cdn Fd Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed PCTees

(P C Tees) Brigadier

Commanding RCA 2 Cdn Div

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C646 Gunner. (A/L/Bdr) Alfred Robert GRAY. 5 Cdn Fd Regt	FIRST CHARGE AA Sec 40. (see Charge Sheet Att)	Not Guilty	Charge dismissed and the accused is to be released. Lt/Sergt. Major.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) (P C Tees) Brigadier RCA 2 Cdn Div
Commanding Convening Officer (e)

(Signed) Lt/Sergt. Major RCA
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the First day of September, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter.~~
*(4. The officers under instruction) .

* Omit if not applicable.

were duly sworn.

Signed this First day of September 1943.

Lt/Sergt. Major RCA
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

~~I certify that the terms of A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~ Lt/Sergt. Major RCA

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[84] Wt. 38092/116 70m 1/41 W. & Co., Ltd. Gp. 346/2

B2.

CHARGE SHEET

The accused C-646 A/LBdr. ALFRED ROBERT GRAY of 73 Battery, 5 Cdn Fd Regt., R.C.A. of the Canadian Army overseas is charged with:

FIRST CHARGE
A.A.Sec 40

W.O.A.S. Negle ct to the prejudice of good order and military discipline in that he, in the field, on 13 Aug 43, when in charge of vehicle W.D. No CH 4207215 so negligently performed his duties as to cause 25 pr gun, which was being towed, to turn over thereby causing damages to the gun costing an undetermined amount.

11 Day of Aug 43
In the Field

(H.D. HEINSWANDER) LT-COL R.C.A.
Comd. 5 Cdn Field Regt., R.C.A.

31 day of Aug 43
In the Field

To be tried by F.G.C.M.

Brigadier
C.R.A. 2 Cdn Div

Statement of accused as to whether he desires to have an officer assigned by the convening Officer to represent him at trail (R.P.14 (B)

"I wish a defending officer"
"I desire the services of - A/Capt W.C. Newman if he is available"

In the Field

Date: 29 Jul 43

A.R. Gray
(C646 A/L/Bdr Gray, A.R.)

MEDICAL OFFICER'S REPORT

I certify that No. C646 A/L/Bdr Gray, A. R.

of 5 Cdn Fd Regt., is in a Good state of health,

and fit to undergo Trial by Court martial.

this day

Examined this day.

Jim Fleming Capt.

Medical Officer

(J. M. FLEMING) Capt. R.C.A.M.C.

M.O. 5 Cdn Fd Regt., R.C.A.

Station Field

Date 5/9/43

M. F. B. 246

25M—6-41 (792)

H.Q. 1773-39 480

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 1st day of September 1943 by order of Brigadier R.C. Tees Commanding R.C.A. 2 Cdn Div. dated the 31st day of August 1943

Major B.C. Savage, 4th Cdn Fd Regt President.

Capt G.K. Henderson. 5 Cdn Fd. Regt.
Members
Lieut K.L. Murray 2 Cdn A Tk Regt.

~~Judge Advocate~~ GAL

Trial of *C646 Gnr (A/Lddr) Robert GRAY 5 Cdn Fd Regt.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~ GAL

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt W.A. Martin 5 Cdn Fd Regt.

Counsel‡ or defending officer† A/Capt. W.C. Newman, 5 Cdn. Fd. Regt.

At ~~1100~~ GAL 1130 o'clock the Trial commences.

The order convening the Court is read, ~~and is marked~~ signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9676)
H.Q. 1773-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Lieut D.G. Innes 5 Cdn Fd. Regt.

Charge-Sheet

Instruction. *If the accused has elected to be tried under Army Act, sec. 48 (8) the fact should be here recorded.*

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ ~~Not~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ ~~Not~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ ~~Not~~ *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~ ~~Not~~

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

C

Proceedings on Plea of Not Guilty

*Instruction. (See R. P. 39 (A))

Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

~~The prosecutor makes an opening address [hands in a written address, which is read, marked ———, signed by the President, and attached to the proceedings].~~ Ins.

The prosecutor proceeds to call witnesses.

First witness for prosecution. Capt C.F. Harrington. 5 Cdn Fd. Regt

being duly sworn, is examined by the prosecutor.

C2 Col Savage. Major.

Evidence of first Witness for Prosecution. Capt. EF Harrington 5 Edn Fd Regt.

Q Will you tell the Court what you know about this accident

A On Friday 13 Aug 43 I was returning from Exercise PICKAXE at about 1900 hrs leading A echelon vehicles when I came upon a 25 pdr gun overturned lying on the right hand side of the track at m.r. 508317. I had the gun righted, tested, and sent back to camp. I took the following measurements. The track was 16 feet wide, the distance from where the gun overturned, digging shield into the ground, to point where gun stopped - 40 yards. For a distance of ~~440~~ 25 yds yards back of where the shield marked the road there were marks where the gun had shuddled to and fro. There were small bumps in the road about six inches high the road surface was dirt and shale in good condition and dry. I do not know how fast the gun was travelling.

Cross-examination.

Q What was the shape of the mark made by the shield

A An L shaped mark in the dirt.

Q What was your speed over the same piece of road.

A Twenty to ~~2~~ twenty five miles per hour.

Q How were ~~gun~~ vehicles and trailer placed after accident.

A About ten yards away in prolongation. I did not notice their position especially.

Q What was the ~~condition~~ condition of the tires

A They were in good condition with the correct pressure

2nd Witness for Prosecution. Major F. Morland. 5 Edn Fd Regt.

Q Will you tell the Court where you were riding in the convoy when the accident occurred.

A I was in the leading vehicle moving down the road to the Div S.P.

Q Tell how the convoy moved off and at what speed.

A The convoy moved from gun area, B440 leading at 8 to 10 mph

Q What was condition of road at place of accident

A Examined day after accident it was a smooth chalk and dirt track with slight ~~re~~ mounds and depressions running across giving a rolling effect

Q How far could you see back

A 350 yards

Q Was it a first class road

A No it was a track.

Q What orders regarding speed were given out.

A CPO's were told that move would be normal

Q What is normal

A 30 m.p.h.

Cross-examination

Q You examined ~~convoy~~ road a day following accident

A Yes.

Colbaugh, Major

Q It rained during night of 13 Aug.
A Do not recall. Going across downs it did.
Q Did you look back and see dust being raised
A Yes all trucks were raising dust.
Q Did you see accident
A No
Q Could tire rolls have been caused by water.
A Yes
Q Did they extend back 350 yds.
A Yes, all the way across the downs
Q Were all the vehicles concentrated ready to move off.
A Yes.
Q How many vehicles went over route before the accident
A About two complete batteries.
Q Is the road an indifferent road
A No.

Re-examination.
Q Was it a good or indifferent road
A It was a track, as shown on the map
Q Is it like a first class highway
A No.

Question by Court.
Q How far was it from right forming up place to scene of accident
A About 1 mile.

C4. Lt Savage, Major.

3rd Witness for Prosecution. D 6145 Sgt Forth, G.

Prosecution Q Tell in your own words what happened

A I was looking back saw rear vehicle behind so I waited and saw first gun

Q What speed ~~[illegible]~~

A Nearly stopped

Q What speed ~~[illegible]~~ was given out.

A No speed given, not over 20 miles [illegible]

~~Defending~~ Cross examination

Q. Going slowly past accident

A yes

Q What speed at scene of accident

A 18 to 20 m an hour

Q Quad involved was first behind T.L.E

A yes

Q How far behind

A 100 yds

Q. How long ~~[illegible]~~ have you been a No. 1

A ½ year

Q. Do you think it was safe to drive at that speed. Having been one for 1½ to 2 years ~~[illegible]~~

A yes

Q Was it dusty

A yes

Q Dry clayey dust

A ~~[illegible]~~ Yes.

Q How long before accident has they been ~~#1~~ #1

A Do not know

Q Has he acted before

A Do not know only acting for sadness first time

~~[illegible]~~ Examination

Q You say 18-20 mph was a safe speed, what was condition of road.

A. There were small bumps, sort of like a [illegible] board.

H Witness ~~G Roy~~ C5 D13623 Gwr. Roy, JH. Ed Savage, Major

Prosecutor. Q. Tell in own words ~~[illegible]~~ what you know about the case

A. Coming down downs in E-1, Quad in ~~[illegible]~~ accident

Bd. Gray said stop, ~~[illegible]~~ driver slowed down and second time he said stop the gun is turned over.

Q. How fast were you going

A. 20 M. 1. Hr.

Q. How do you know.

A. Saw Speedometer

Q. How far in front ~~[illegible]~~ was next vehicle

A. Could not see it. Dust.

Q. Was Road Bad

A. Bumpy

Q. When Dvr slowed did you ~~[illegible]~~ feel a tug.

A. Second time he ordered stop he put one brakes.

Defending off. Cross-examination

Q. When looking at speedometer what ~~[illegible]~~ did you see.

A. Between 18 and 20 mph.

Q. Where was Gray (GRAY)

A. Standing in hatch all the time.

Q. Where ~~[illegible]~~ was he doing.

A. On the ~~[illegible]~~ alert.

Q. Your job in gun crew.

A. ~~#~~ #2 in crew

Q. What was shape of Gun

A. Good.

Q. Tire Pressures?

A. Gray checked. I was satisfied they were OK

Q. You did not feel anything when ordered to stop

A. No.

C.6. W.Savage, Major

5th Witness for Prosecution. D13645 Gun Ward, GAF

Q. ~~What~~ What was your position in battery

A. I am Driver of E2.

Q. Where were you in the convoy.

A. Behind E1

Q. How far.

A. About ~~100 to~~ 150 to 175 yards at time of accident.

Q. Did you see the gun turn over.

A. No.

Q. What was condition of road.

A. It was a rough road.

Cross examination

Q. How fast had you been going for the last mile or so.

A. About 15-18.

Q. When going 15-18 you were following 100x behind E1.

A. Yes.

Q. Going same speed as E1

A. Yes.

Q. You had to shift on hill, lost distance and speeded up to 20.

A. Yes

Q. Can you tell how accident occurred.

A. No.

Q. How was it you did not see accident.

A. I was on other side of hill.

Q. When you had come over hill did you see gun

A. Yes.

6th Witness for Prosecution. #8005 L Cdr Strang, AE

Q. What were you doing a time of accident

A. Point duty.

Q. Tell what you saw.

A. Did not see accident.

Q. What vehicles had passed you

A. Only the carrier

Q. What was the road like.

A. The hill down to the main road was rough and dusty.

No cross examination.

7th Witness for Prosecution. G 3042. A/L sgt. Wort D.K.

Q. Did you check tire pressure

A. No.

Q. What should it be.

A. 45 lbs.

No cross examination.

C7

8th Witness for Prosecution. Capt. G.D. Powis. [illegible]

Q. Tell what you know about the accident.

A. I was second vehicle in bty. convoy. A DR. told me a gun had overturned.

Q. How fast were you travelling

A. 20 mph.

Cross-examination.

Q. Were you passing vehicles

A. No. I was travelling in regimental convoy.

D.

The prosecution is closed.

Motion for Dismissal is made for reasons on attached sheets marked D1, D2.

Prosecution reply. Sheets marked D3, D4, D5.

Court is closed to consider motion.

Court is opened and announces that the Motion for Dismissal is allowed.

The Court orders the accused to be released.

D1 Col Savage, Major

Motion of Dismissal

~~[illegible]~~

Dvr who has been driving for F.A.T.
G.T. since reg't received same. The previous
accidents.

All Evidence before Court is that he
drove at a speed not exceeding 20 M.P.H.
Not one witness before the court ~~stated~~
who saw the road that day stated that
it was an unsafe speed to drive upon
it. This is shown [illegible] by the own
conduct in driving at that speed themselves

People of intelligence and experience and
whom we can safely presume have not only
read the books the prosecution has referred
to but read same

When the driver was told to stop coming down
hill by his #1 he pulled up gradually
I submit to the court it was a reasonable
thing to do, nothing in front to avoid
and nothing in the way of the vehicle behoved
to expect anything in rear. When told
you had turned over he jammed on
brakes.

If no evidence before court that car did not stop immediately, the gauge being caused as he was slowing vah to a halt.

The unique point of person is that the gun turned over, the point being that if a gun turns over that the accused is guilty unless he can prove expert witness to the contrary.

I submit to the court that only an expert could tell us what caused the gun to turn over in these circumstances. My knowledge of physics is limited to things like this. On a child swing in a series of pushes at the right time I can build up that swing till it turns me over. I also know that if a small body of men marched in step over a well constructed bridge the rythme not of their feet would cause bridge to collapse.

D2 Ed Savage, Maj

3. What would happen when a huge hog
rubber ball begins to bounce on roller
across the road is something I can't
predict or even understand.

I submit to the court that if I can
feat it is too much to ask a Gun who
has had no more education or experience
in dynamics than I have had. That it
was precisely so surrounded by the fact that
on a hill and a half on a similar road
neither his gun nor any other gun was turned
over.

I submit to the court that there is a
very real doubt that the accused
at the time he was driving the veh should
have been aware that he should have driven
his veh any more careful than any other
person.

I submit to the court that this
case must be looked at through the eyes
of the driver at the time and not with
hindsight many of us have stepped on a floor
to find ourselves in our book and [illegible]

4 that that floor is receptive and [illegible]
treated more carefully in the future and
what I submit to the Council is not negligent
to use that floor in the first [illegible] on
[illegible] have used similar floors in
the past

D 3 Col Savage, Major

D. Case for Prosecution

First I would like to point out the condition of the road as brought out in the evidence. Capt Harrington has testified that the road was rough, full of pot holes & ruts running transversely across the road. He also stated that it was dusty & visibility poor. He stated that he inspected & tested the gun & that the wheels contained the correct tire pressure. The measurements he took at the time showed that the gun had been dragged 40' before it finally broke clear of the trailer & came to rest. This certainly proves that the speed of the vehicle was excessive. Evidence also has been submitted ~~to~~ that the gun was slewing back & forth on the wrong side of the road. This also indicated an excessive rate of speed.

The evidence of Major Morlock who inspected the road bears out the evidence that the road was rough, rolling & with ruts running transversely across the road. Gnr Ward has stated that near the spot where the gun overturned ~~that~~ there had been a washout on the road & that he himself drove his

D4 Cl Savage, Major

quad over it at 7 m. p.h.

Major Marlock who was in the leading vehicle has proved that the column was not being led at an excessive rate of speed but in fact at 8 m. p.h.

The M.T. drivers Regulations for Cdn Army Overseas which has been issued to all drivers definitely states that On roads with poor surfaces speeds will not exceed 15 m. p. h. It also states that the fixing of maximum speeds does not absolve the driver from his duty at all times to drive with due care & with regard to safety.

The handbook for 25 pdr Equipment lays down that the maximum speed limit for carriages & trailers fitted with pneumatic tires is 20 m. p.h. for good roads
10 m. p. h. for indifferent roads.

The fact that the gun dragged for 40 ft brake free & the Quad went an additional 10 yds before stopping proves that the driver was driving too fast & could not get stopped before.

Gnr Ray testified that the quad was travelling 20 m.p.h. at this time.

D 5 Col Savage, Major.

Gen. Roy has testified that the gun was in good condition & had correct tire pressure. Thus ruling out any mechanical ~~difficulties~~ breakdown in its structure.

The fact that one gun out of 24 (all of them travelled over the same road) turned over on a road that was in poor condition proves that the vehicles was being driven at an excessive rate of speed.

Pvt Gray was in charge of this vehicle & in permitting the vehicle to be driven in excess of the speed laid down in MT Drivers' Regulations was guilty of the charge preferred against him.

SUMMARY OF EVIDENCE

in the case of

C646 A/L/Bdr ALFRED ROBERT GRAY, 5 Cdn Fd Regt., R.C.A.

a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence to be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Capt. C.F. Harrington 73rd Fd Bty, 5 Cdn Fd Regt., R.C.A.
sworn, states:

"On Friday 13 Aug 43 returning from Exercise "PICKAXE" at approx. 1900 hrs. I was travelling at the head of "A" Echelon and came upon above mentioned 25Pdr. turned completely over, lying on the right hand side of the track at approx. Map Ref. 508317 (o.s. Sheet 153). There were 10 or 12 vehicles between me and the gun. I thereupon took charge and on arrival of L.A.D. had the gun righted. The brakes and wheels were then inspected and tested to make sure they would run and the gun was taken back to camp at 15 mph. The N.C.O. i/c and gun crew could give no explaination as to why the gun had overturned. I took the following measurements with Lieut. J. Field, 73rd Battery, 5 Cdn Fd Regt., R.C.A. Width of Track - 16 feet, distance from point where gun overturned digging shield into road to point where gun finally halted - 40 yards.
For a distance of 25 yds. previous to where shield marked the road there were definite indications that the gun had been skidding to and fro on the right hand or wrong side of the road and at the extreme right hand edge of the road there were small bumps and ruts which were not more than 6" deep. The track was dirt and chalk in good condition and dry. There was no traffic coming in the opposite direction. There was a very slight down-hill grade. I do not know at what speed the gun was travelling."

The accused declines to cross-examine

C F Harrington Capt RCA
(Capt. C.F. Harrington) R.C.A.

SECOND WITNESS FOR THE PROSECUTION

D6145 Sgt. Firth, G. 73rd Fd Bty, 5 Cdn Fd Regt., R.C.A.
sworn, states:

"On Friday 13 Aug 1943, I was in vehicle (Troop Leader E Troop) returning from exercise "PICKAXE". As we approached a paved road leading off the Downs, I stood on the running board of my vehicle and saw vehicle (Gun Tractor, "A" Sub E Troop) about 100 yards behind me. Because of the dust I could only see the one vehicle and it did not appear to be speeding. We were travelling between 18 and 20 mph. and remembering that there was a sharp turn at the bottom I ordered the driver to slow down. By the time we reached the bottom of the hill, we were travelling only 10 mph. I looked back once more and saw a vehicle coming around the bend ; presumed it to be vehicle (Gun Tractor, "A" Sub

E Troop) and ordered my driver to increase his speed.

The accused declines to cross-examine

THIRD WITNESS FOR THE PROSECUTION

D6145 Sgt Firth, G.

D13623 Gnr Roy, J.H. 73rd Fd Bty, 5 Cdn Fd Regt,. R.C.A. sworn, States:

"On Friday 13 Aug 1943, I was riding in back of vehicle (Gun Tractor, "A" Sub E Troop) and where the accident took place I heard Bdr. Gray tell the driver to stop. The driver slowed down and Bdr. Gray repeated the order and the driver jammed on his brakes. The second time Bdr. Gray told the driver to stop I could feel a tug on the vehicle. The vehicle was going about 20 mph. and was in the centre of the road.

Examined by Officer taking the Summary:-

Q.1 How do you know that the vehicle was travelling at about 20 mph?
A.1 Shortly before the accident, I noticed the speedometer reading 20 mph. and I noticed no increase in the speed of the vehicle prior to the accident.
Q.2. How far ahead of you was the vehicle in front?
A.2 About 100 yds, sir.

The accused declines to cross-examine.

J.H. Roy
(D13623 Gnr Roy, J.H.

FOURTH WITNESS FOR THE PROSECUTION

D6902 A/Bdr Epps, E.T. 73rd Fd Bty, 5 Cdn Fd Regt., R.C.A. sworn, states:-

"There is little that I know about the accident because I did not see it happen as I was watching my own gun. We were only travelling about 14 or 15 mph. about 100 yards behind vehicle (Gun Tractor, "A" Sub E Troop). I knew nothing about the accident until I was within 30 yds of the gun.

The road was dusty and there was a drizzle of rain. The road was bumpy but not slippery and my gun was bouncing but not enough to cause trouble.

Examined by Officer taking the Summary:-

Q.1 What pressure did you have in the tyres of the gun?
A.1 I do not know, sir.

The accused declines to cross-examine

E.T. Epps.
(D6902 A/Bdr Epps, E.T.)

FIFTH WITNESS FOR THE PROSECUTION

D13645 Gnr Ward, G.A.F. 73 Fd Bty., 5 Cdn Fd Regt., R.C.A.
Sworn, states:

"I am the driver of vehicle (Gun Tractor, "B" Sub E Troop) and on the day the accident occurred was following vehicle (Gun Tractor, "A" Sub E Troop) which was from 100 to 150 yards ahead. Owing to the dust it was difficult to see vehicle (Gun Tractor, "A" Sub E Troop), and I did not notice the gun over turn. I did not know that an accident had happened until I was within 50 to 75 yards of the gun. I slowed down almost to a stop but kept going under Bdr Epps' instructions.
The road was quite rough and when the gun tipped it was on a particularly dangerous spot as a washout had occurred there, When I passed over it at a very slow speed, having almost stopped, I could feel the vehicle roll.

The accused declines to cross-examine.

G A F Ward
(D13645 Gnr Ward, G.A.F.)

SIXTH WITNESS FOR THE PROSECUTION

G8005 L/Bdr Strang, A.E. 73 Fd Bty., 5 Cdn Fd Regt., R.C.A.
sworn, states:

"I was doing traffic control at the fork in the road below where the accident took place. I noticed that the vehicle that Gunner Hutchins was driving had stopped. The tractor hid the gun from view and I knew nothing of the accident until Bdr Pelkie 73rd Bty. shouted to me that a gun had upset. I rode over to the stopped vehicle; saw the gun and reported the accident to my Bty Commander.

Examined by the Officer taking the Summary

Q.1 Approx how fast were the vehicles in front of vehicle (Gun Tractor "A" Sub E Troop) travelling when they passed you?
A.1 About 20 mph. sir.
Q.2 Did any guns pass you before the accident occurred?
A.2 No, Sir.
Q.3 How fast were E Troop guns travelling when they passed you?
A.3 The tractor following vehicle (Gun Tractor "A" Sub E Troop) slowed down almost to a stop until I motioned it on. It and the others following it passed very slowly. None were travelling over 15 mph.
Q.4 Before the guns reached the paved road were they bouncing very much?
A.4 Not a great deal, sir.

Accused declines to cross-examine.

G8005 L/Bdr Strang A.E.
(G8005 L/Bdr Strang, A.E.)

SEVENTH WITNESS FOR THE PROSECUTION

Lieut. W.B. Moore, R.C.O.C. #22 L.A.D. attached to 5 Cdn Fd Regt., R.C.A. sworn, states:

" After the accident I examined Ordnance 25 Pdr. Mk II, L2054 Ca 5192 and found the damage to be as follows:-

1. Shield bent and torn.
2. Saddle twisted and cracked at elevating pinion.
3. Elevating arc and pinion damaged and teeth burred.
4. Shield stays twisted.
5. Cradle bent at rear and clamp bracket broken.
6. Oscillating bracket twisted and broken.
7. Tangent Elevation bracket twisted and broken.
8. Dial sight socket bent Forward.
9. Parallel motion link snapped.
10. L.B.M. twisted.
11. Field Clinometer - plane faces damaged.
12. Dial Sight - Micrometer head and worm spindle damaged.
13. Field Cline case and Dial Sight case damaged.
14. Brake Linkage seized.

Subsequently I obtained from 5 C.I.B. Workshops list of parts and re pairs which is attached as Appendix "A".

Examined by officer taking Summary

Q.1 Do you believe it possible for a gun to upset while travelling at 20 mph. with normal tyre pressure?
A.1 It is quite conceivably possible that it could happen depending on the nature of the ground over which it was travelling.

Accused declined to cross-examined.

(Lieut. W.B. Moore) R.C.O.C.

EIGHTH WITNESS FOR THE PROSECUTION

G3042 A/L/Sgt Wort, D.K. 73rd Fd Bty., 5 Cdn Fd Regt., R.C.A.
sworn states:

Pressure of gun tyres is normally kept at 45 lbs. per square inch.

Accused declines to cross-examine

(G3042 A/L/Sgt Wort, D.K.)

NINTH WITNESS FOR THE PROSECUTION

Capt G.D. Powis, 73rd Fd Bty, 5 Cdn Fd Regt., R.C.A.
sworn, states:

"I am troop commander E Troop and was moving along the top of the Downs in Battery Tactical order returning from exercise "PICKAXE". I was second vehicle in the Bty and proceeded home on route as laid down. We crossed the top of the Downs at 20 mph. When I was a half mile from camp it was reported to me by D.R. that a gun had turned over.

Accused declines to cross-examine

(Capt G.D. Powis) R.C.A.

The accused does not wish to call witness in his defence at this time.

The accused having been duly cautioned in accordance with R.P. 4(E) said:

" I do not wish to make a statement at this time."

C.W. Maundrell Lieut. R.C.A.

C.W. Maundrell Lieut.
Officer detailed to take the Summary.

APPENDIX "A"

1-5-1
5 Cdn Inf Bde Workshops, RCOC
16 Aug 43.

Report on damage to QF 25 pdr
On charge to 5th Field Regt RCA

Carriage Regd No 5192 Barrel Regd No 20434 Recuperator No R3186

Parts to be replaced

Gear elevating arc FL 2392
" " pinion arc FL 2393
" " wheel worm FL 2394
" " worm FL 2397
" " Spindle worm FL 2395

Cradle casing
Bracket, cradle , clamp - FL 2933

Shield
Arm supporting, dial sight case inner FL 3267
" " " " outer FL 3268
Angle stiffening top FL 4572
Plate, flap FL 3253
" main FL 3252
Hinge, Part I FL 3247

Carrier dial sight
Bracket oscillating FL 3161
Bracket tangent elevation FL 3158
Socket, dial sight, adjustable FL 1264
Link, parallel motion, screw adjusting FL 3143

Parts to Repaired

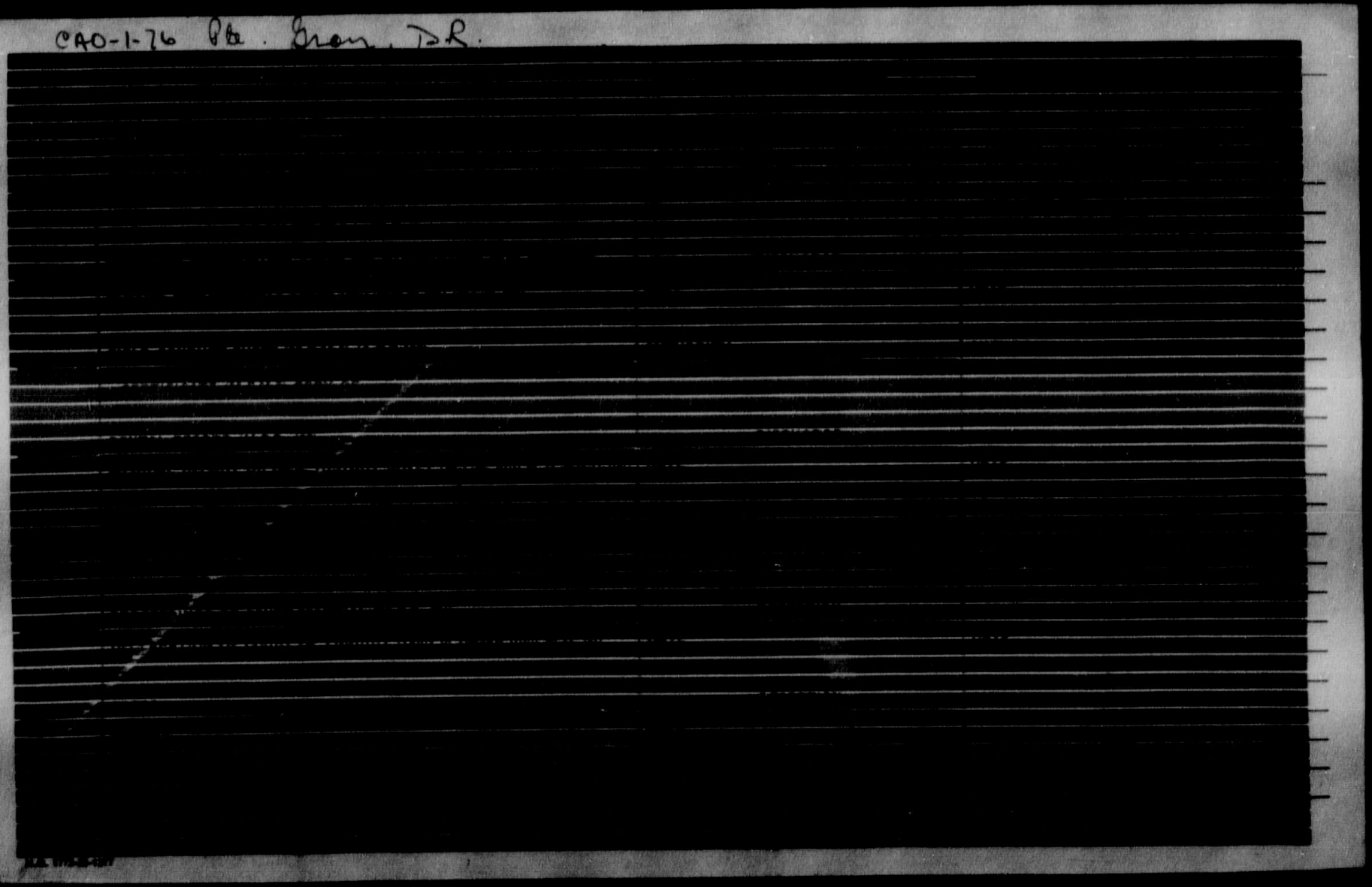
Sight cover -
Breech cover -
Field Clinometer case -
Telescope sighting no 22 C Regd No 1693 / Tent body
Clinometer Field Mk VI Regd No 1277 / Twisted frame
Clinometer Sight Mk IV Regd No 2978 / O K
Dial sight No 7 MkII Regd No 25483 / Worm spindle bent

Time required to repair: 4 men @ 24 hrs / 96 hrs.

Sgd J.R. Kendall Lieut.
O.C. Armament Section

Sgd S.D. Clarke Major
Officer Commanding
5 Cdn Inf Bde Wkshops, RCOC

CAO-1-76 Pkt. Exam. DR.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K.50120 Private Donald Robert GRAY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 16(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for: beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 119 days, of which NIL days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one hundred and twenty (120) days and to be put under stoppages of pay at the amount of £2=12=3 cost of return to duty units.

(Sgd) 3 Jul 46 (Sgd) C. [illegible] Colonel

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 562-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused A may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Accept finding. Promulgate the sentence is not to undergo detention for a period of [illegible] days [illegible] but to be put under stoppages of pay at the amount of £2=12=3 cost of return to his unit and I confirm the finding and the sentence promulgated.

He will not be committed to prison or detention barracks until further orders. (1.) Capt

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Colonel

Date 6 July 46. Commanding LRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K 50120 Pte GRAY, D.R.	17 Jul 46	[illegible] Lt. Col. [illegible] A/Officer Co. 1 Cdn Veh Coy

(Vide 1CVC Pt II Order #56 d/16 Jul 46)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 20 JUL 1946 CMHQ

RECORDED AT CMHQ IN AB 144 CAD-1-76

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40-P.S.R.-1868 (2894)

Convened by Convening Order of Lt-Col N.H.K. GORDON, DSO ED Comd C.R.U. dated 3 Jul 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.50120	Private	Donald Robert	GRAY	CIC 1 Cdn Veh Coy RCOC

PROCEEDINGS REVIEWED 20 Jul 46 C.H. [illegible] REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) on (date(s)) 3 Jul 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant from RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFS, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to [illegible] as interpreter? Ans

The interpreter is sworn.(1) Do you object to K.50120 Sgt Binsted, JA as shorthand writer? Ans NO OBJ

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO OBJ (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. WOODROW OBE ED	M. GRU
Member	Captain	C.G. [illegible]	1 Cdn Rep Depot
Member	Lieutenant	G.H. ROBERTS	1 Cdn Rep Depot
~~Judge-Advocate~~			
Prosecutor	CAPT	J.W. CORNELL	1 Cdn Veh Coy
Defending Offr	LIEUT	R.V. BISHOP	1 Cdn Veh Coy

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60*(*C*)*; powers and duties of JA see RP 103; duty of Prosecutor see RP 60*(*A*) (*b*)*; duty and privileges of accused and Defending Offr see RP 60*(*C*), *87*(*C*), *91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87*(*C*), *92*(*B*), *and of witnesses see RP 82-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17*(*E*) *fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President on ~~JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60*(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40*(*A*), *see 80*(*D*). *3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46*(*A*) *fn 1, 86*(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103*(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117*(*A*). *See Notes in Part I of Schedule. 2. RP 44*(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54*(*2*) (*c*), *RP 45, 120*(*A*). *2. AA 54*(*3*), *RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans TO SIR.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37*(*C*) *fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Defending Officer's plea in mitigation.
(*1. RP 37*(*C*), *46*(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37*(*F*) *fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54*(*B*), *RP 120*(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 70*(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119*(*A*), *KR Can 308, 330, 363-366. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41*(*3*), *MML p 130. When accused already under sentence of imprisonment or detention see AA 44*(*1B*), *68*(*1*), *KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Okd

CHARGE SHEET

The accused, K50120 Private Donald Robert GRAY, Canadian Infantry Corps, on strength of No.1 Canadian Vehicle Company (A) Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SECTION 15(1)
ARMY ACT.

WHILE ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

at BORDON, Hants., did absent himself without leave from 1 Cdn Veh Coy (A) RCOC from 2359 hours 22 Apr 46 until surrendering himself to the Civilian Police at MANCHESTER at 1745 hours 19 Jun 46 thereby incurring costs of returning him to the unit in the amount of £2-12-3. (Total time absent: 57 days, 17 hours and 46 minutes.)

(B. [illegible]) Lt-Col.,
Officer Commanding,
1 Cdn Veh Coy (A) RCOC

Bordon, Hants.,
28 Jun 46

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

M B K Gordon

Farnborough, Hants
3rd July, 1946

(M B K GORDON) Colonel
Temporary Commander
Cdn Repatriation Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap. V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-50120		Private	Donald Robert	GRAY	CIC 1 Cdn Veh Coy RCOC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Jul 46 endorsed by me, ([illegible]), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	C E WOODROW OBE ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC	1 Cdn Repat Depot
Lieutenant	to be detailed by OC	1 Cdn Repat Depot
	[illegible]	
	[illegible]	
	[illegible]	

On Active Service in the Fd

in England (Country.)

Date 3rd July, 1946

M B K Gordon (Signed personally. RP 105 fn 2.)

Colonel (Rank.)

(M B K GORDON)
Temporary Commander Cdn Repatriation Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Ord.

MEDICAL OFFICER'S REPORT

(KR (Can) 557)

This is to certify that I have this morning medically examined

No. K 50120 Rank Pte NAME Gray D.R.

and that in my opinion he is (fit) "N.F."

to undergo trial by court-martial.

Station Bordon

Date 3 Jul 46

[signature]
RCAMC
Medical Officer
1 Cdn Veh Coy, (A) RCOC

NOTE: All deletions and alterations will be initialled by the M.O.

Exhibit A

SUMMARY OF EVIDENCE

In the case of K50120 Private Donald Robert GRAY, Canadian Infantry Corps, on strength of No.1 Canadian Vehicle Company (A) Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas.

By direction of the Officer Commanding, the Summary of Evidence is taken on Oath.

FIRST WITNESS for the prosecution.

U1883 A/WOI (Sub-Conductor) DEER, F.G. Royal Canadian Ordnance Corps, on strength of No.1 Canadian Vehicle Company (A) Royal Canadian Ordnance Corps, a Warrent Officer of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am U1883 A/WOI (S/Condr) Deer, F.G. employed in the Orderly Room of 1 Cdn Veh Coy (A) RCOC as Chief Clerk. I produce the following documents pursuant to Overseas Routine Order No. 5352 which have been read over and shown to the accused and which are attached hereto as Exhibits:-

(A) 1 Cdn Veh Coy (A) RCOC Part II Order No. 34 dated 30 Apr 46 which shows Pte GRAY going absent without leave with effect 2359 hours 22 Apr 46.

(B) AFB 252 Offence Report showing that Pte GRAY surrendered to the Civil Police, MANCHESTER on 19 Jun 46.

(C) Certificate of Surrender from the MANCHESTER City Police showing that Pte GRAY surrendered at 1745 hrs 19 Jun 46.

(D) CMHQ 100:55 Certificate of Expense incurred in returning Pte GRAY to 1 Cdn Veh Coy (A) RCOC in the amount of two pounds, twelve shillings and three pence (£2-12-3).

The accused declines to cross-examine this witness.

F.G. Deer
(F.G. Deer) Sub-Conductor.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c),(d),(e) and (f) have been complied with.

J.W. Cornille
(J.W. CORNEILLE) Capt.,
Officer detailed to take the Summary of Evidence.

Bordon, Hants.,
28 Jun 46

PART II ORDERS
ISSUED BY
Lt Col B Lable
Officer Commanding
1 CANADIAN VEHICLE COMPANY (A), R.C.O.C.

Last Order No. 33
d/26 Apr 46

This Order No. 34
d/30 Apr 46

A

1 MARRIAGES, BIRTHS AND DEATHS

"A" OFFICERS

Spvr
(1) M I Liversidge (Cdn Aux Serv (UK) Daughter, Merrylin Bernadette Q-
born at Chollacott Nursing Home, Tavistock, Devon, England on 26 Mar 46. (Mrs
Kathleen Mary Liversidge (wife))

1 ENLISTMENTS

"B" OTHER RANKS

L 12016
(1) WOII(CSM) Smith B H

Accepted for Interim Force and allotted regt number as shown wef 16 Apr 46. All documents to be amended accordingly.

SL 12016 WOII(CSM) Smith B H
(Authority: CMHQ RSC/34/Interim Force/2
R-2 Admin d/26 Apr 46)

2 LEAVE OF ABSENCE

B 40878 Pte Beer E
G 45438 Sigmn Pillsworth G S G
(1)

Granted 14 days PL from 27 Apr 46 to 10 May 46 with money allowance in lieu of rations under FRAI(O/S) Art 789(3)&(4) (Auth: RACV #16 d/26 Apr 46)

Granted 7 days PL and 48 hour pass (total leave and entitlement 9 days) from 27 Apr 46 to 5 May 46 with money allowance in lieu of rations under FRAI(O/S) Art 789(3)&(4). (Auth: RACV #16 d/26 Apr 46)

G 50263 Cfn Cleveland W A
A 102792 A/Cpl Gossman G W
F 43967 L/Cpl Joudrey R L
L 74611 A/Cpl Lee R N
L 100588 A/S/Sgt Mitchell J
C 36799 A/Cpl Robb T V
A 55414 Sgt Watson J A
(2)

M 63034 Sgt Foster A J D
B 76694 WOII(CSM) Hope R F
M 66176 Pte Kopp A
C 121921 Pte Mayers G K
B 163066 Pte Ritchie W W
D 175591 A/Cpl St Amant R
H 20980 L/Cpl York J W

3 ABSENT WITHOUT LEAVE

K 50120 Pte Gray D R
(1)

Absent without leave from 2359 hrs 22 Apr 46. Still absent without leave 2359 hrs 23 Apr 46 (1st day)

(AMEND)

K 101922 Cfn Deschenes F
(2)

Part II DO #33 [illegible] d/26 Apr 46. In-
sofar as it [illegible] this soldier is
hereby am[illegible] for "wef 0100 hrs
24 Apr [illegible] 1000 hrs 24 Apr 46"

A

PART II ORDERS
ISSUED BY
Lt Col B Lable
Officer Commanding
1 CANADIAN VEHICLE COMPANY (A), R.C.O.C.

Last Order No. 33
d/26 Apr 46

This Order No. 34
d/30 Apr 46

OFFICERS

1 MARRIAGES, BIRTHS AND DEATHS

Spvr — Lt I Liversidge (CCm Aux Serv (UK)) Daughter, Merrylin Bernadette born at Chollacott Nursing Home, Tavistock, Devon, England on 26 Mar 46. (Mrs Kathleen Mary Liversidge (wife))
(1)

OTHER RANKS

1 ENLISTMENTS

L 12016 WOII(CSM) Smith B H — Accepted for Interim Force and allotted regt number as shown wef 16 Apr 46. All documents to be amended accordingly.
(1)

SL 12016 WOII(CSM) Smith B H

(Authority: CMHQ 480/34/Interim Force/2 R-2 Admin d/26 Apr 46)

2 LEAVE OF ABSENCE

D 40878 Pte Beer R
G 45438 Sigmn Pillsworth C S G — Granted 14 days PL from 27 Apr 46 to 10 May 46 with money allowance in lieu of rations under PARI(O/S) Art 739(3)&(4)
(1) (Auth: RLOV p16 d/26 Apr 46)

Granted 7 days PL and 48 hour pass (total leave and entitlement 9 days) from 27 Apr 46 to 5 May 46 with money allowance in lieu of rations under PARI(O/S) Art 739(3)&(4). (Auth: RLOV p16 d/26 Apr 46)

G 50263	Cfn	Cleveland W A	M 63034	Sgt	Foster A J D
A 102792	A/Cpl	Gossman G W	B 76694	WOII(CSM)	Hope A F
F 43967	L/Cpl	Joudrey R E	M 66176	Pte	Kopp A
L 74611	A/Cpl	Lee R N	C 121921	Pte	Layers G K
L 100588	A/S/Sgt	Mitchell J	B 165066	Pte	Ritchie W W
C 36799	A/Cpl	Robb T V	D 175591	A/Cpl	St Amant R
A 55414	Sgt	Watson J A	M 20980	L/Cpl	York J W

(2)

3 ABSENT WITHOUT LEAVE

K 50120 Pte Gray D R — Absent without leave from 2359 hrs 22 Apr 46. Still absent without leave 2359 hrs 23 Apr 46 (1st day)
(1)

(AMEND)

A 101922 Cfn Deschenes F — Part II DO p53 para 3(2) d/26 Apr 46. In so far as it refers to this soldier is hereby amended to read for "wef 0100 hrs 24 Apr 46" read "wef 1000 hrs 24 Apr 46"
(2)

(OVER)

1 CANADIAN VEHICLE COMPANY (A), R.C.O.C.

PART II ORDERS

This Order No. 34
d/30 Apr 46

Sheet No. 2

4 HOSPITALIZATION

D 651937 Pte Clement A (1) — Admitted to 22 Cdn Gen Hosp wef 24 Apr 46

H 230 Spr Gardner A F (2) — Admitted to 22 Cdn Gen Hosp wef 23 Apr 46

M 11397 Cpl Guerard R V (3) — Discharged from 22 Cdn Gen Hosp wef 18 Apr 46.

L 108199 Rfn Heather F W (4) — Admitted to 22 Cdn Gen Hospital wef 18 Apr 46.

B 147003 Pte Neilson J A (5) — Admitted to 22 Cdn Gen Hospital wef 22 Apr 46.

5 PUNISHMENTS

Z 101922 Cfn Deschenes F (1) — On 25 Apr 46 awd 14 days FP and forfs 14 days pay FRAI 149(1)(b) for an offence under Sec 15(1) ... AWL from 2359 hrs 14 Apr 46 to 1000 hrs 24 Apr 46 (Absent 9 days 13 hrs 1 min) forfs 10 days pay FRAI 149(1)(a) (Total forf 24 days pay)

M 106928 Pte Woyciehouski G S (2) — On 26 Apr 46 awd a forf of 5 days pay FRAI 149(2) for an offence under Sec 15 (1) ... AWL from 2359 hrs 6 Apr 46 to 2300 hrs 25 Apr 46 (Absent 18 days 23 hrs 1 min) Forfs 19 days pay FRAI 149(1)(a). Total forf 24 days pay)

6 CONFIRMATION OF RANK

C 36625 Sgt(A/WOII)(SQMS) Armstrong D H (1) — Confirmed in the rank of CQMS wef 19 Apr 46

Z 5616 Pte(A/Sgt) Dubois L (2) — Confirmed in the rank of Sgt wef 10 Dec 45

L 74348 Pte(A/Cpl) Krause A (3) — Confirmed in the rank of Cpl wef 2 Apr 46

7 APPOINTMENTS AND PROMOTIONS

A 111279 L/Cpl Grant W
A 113001 L/Cpl Guzi F
(1) — To be A/Cpls with Pay and A wef 15 Apr 46 (Auth: 408/Promotions/3 d/19 Apr 46)

8 QUALIFICATIONS

L 27052 A/S/Sgt Ashley-Pryce G (1) — Having been tested by S.T.T.B. is now shown as qualified as Storeman T&D Gp "C" wef 25 Apr 46 (Auth: Mon roll for TT No. 15029 d/23 Apr 46)

9 TRADESMEN'S RATES OF PAY

L 27052 A/S/Sgt Ashley-Pryce G (1) — Granted T/Pay as Storeman T&D "C" wef 25 Apr 46.

(OVER)

1 CANADIAN VEHICLE COMPANY (A), R.C.O.C.

PART II ORDERS

Sheet No. 3 — This Order No. 34 d/30 Apr 46

10 CHANGE OF ADDRESS NEXT OF KIN

L 100549 Cfn Ellison E R (1) — Change of address N-of-K to: Mrs Isabella Ellison (wife) 6 Thistle Quad, Airdrie, Scotland.

11 CHANGE OF NEXT OF KIN

L 19150 WOII(CSM) James H F (1) — Change of N-of-K from: Mr Henry E James (father) to: Mrs Marie Agnes James (wife) Milford Cottage, Bordon, Hants, England.

B 602103 Pte Osborne J G (2) — Change of N-of-K from: Mrs Gladys Irene Osborne (wife) (deceased) to: Mrs H E Osborne (mother) Aldershot, Ont., Canada.

M 8249 Gnr Phillips L W A (3) — Change of N-of-K from: Mrs Matilda Phillips (mother) to: Mrs Frances Olive Phillips (wife) 2 Isle Gate, Bicton, Shrewsbury, Salop, England.

D 95600 A/Cpl Pierotte F J (4) — Change of N-of-K from: Mrs Mary Pierotte (divorced wife) to: Mrs Eileen Pierotte (wife) 179 Harrow Rd., Paddington, London, W.2., Middx, England.

12 PERMISSION TO MARRY

B 620369 Pte Fisher C (1) — Granted permission to marry Miss Hannah Barbarasch on or after 27 Apr 46 (Auth: CMHQ/1000:110a d/26 Apr 46)

M 31750 Pte Robb J A (2) — Granted permission to marry Miss Elsie Marion Campbell on or after 27 Apr 46 (Auth: CMHQ/1000:110a d/26 Apr 46)

(AMEND)

M 8249 Gnr Phillips L W A (3) — Part II DO 25 para 13(2) d/29 Mar 46. Insofar as it refers to this soldier is hereby amended to read for "Miss Olive Williams" read "Miss Frances Olive Williams"

13 MARRIAGES, BIRTHS AND DEATHS

L 19150 WOII(CSM) James H F (1) — Married with permission to Miss Marie Agnes Beadows, at the Register Office, Alton, Southampton, England on the 26 Apr 46.

B 602103 Pte Osborne J G (2) — Wife, Mrs Gladys Irene Osborne died at Simcoe, Ont, Canada, on 17 Apr 46

M 8249 Gnr Phillips L W A (3) — Married with permission to Miss Frances Olive Williams at Holy Trinity Church, Bicton, Shrewsbury, Salop, England on 20 Apr 46

D 95600 A/Cpl Pierotte F J (4) — Married without permission to Miss Eileen Godsell at the Register Office, Paddington, London, Middx, England on the 10 Apr 46

(OVER)

1 CANADIAN VEHICLE COMPANY (A), R.C.O.C.

PART II ORDERS

Sheet No. 4 — This Order No. 34 d/30 Apr 46

14 GOOD CONDUCT BADGE

C 115518 Rfn Mercer W B (1) — Awd one Good Conduct Badge wef 16 Nov 45 (Auth: CA(O/S) RO 308/40)

/RJ

(B Lable) Lt Col
Officer Commanding,
No. 1 Cdn Veh Coy (A),
R.C.O.C.

Date..4/4/57....

Officer Commanding No.1 Cdn. Vehicle Coy.

Re: K-50120-Pte. Gray, D.R.

1. Forwarded for your information and necessary action, please, and disposal under C.A.M.O. No.389 d/29 Oct 40.

London.
23-June-46

L.A. Magee Capt.
.....
Officer Commanding (L.A. Magee)
No.6 (Area) Provost Company

B

CHARGE

Army Form B 252
(See King's Regulations)

No.1 Cdn. Vehicle Coy. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. K-50120 Rank Pte.

Name Gray, D.R.

Place Manchester Date of Offence 19-June-46

OFFENCE W.O.A.S. was A.W.L.

Surrendered to Civil Police

Names of Witnesses :—

P.C. "A 311" Backler, N. Jackson Street Police Station

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

2 3/44 C.H.Q.P.P. 20034

Date..4/7/57.....

Officer Commanding No.1 Cdn. Vehicle Coy.

Re: K-50120-Pte. Gray, D.R.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No.388 d/29 Oct 40.

London.
23-June-46

L A Magee Capt.
.....
Officer Commanding (L.A. Magee)
No.6 (Area) Provost Company

23 JUN 1946 No Complaints Hall.
24 JUN 1946 No Complaints Hall.
25 JUN 1946 No Complaints Hall.

B

Army Form B 252
(See King's Regulations)

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No.1 Cdn. Vehicle Coy. Regiment

Battery
Squadron
Troop or
Company

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By whom Awarded

Adjutant.

P.T.O.

5 2-46 GHQPP 30034

Statement of EVIDENCE in the case of
K-50120-Pte. Gray, D.R.
No.1 Cdn. Vehicle Coy.

Sir:-
Surrendered to Civil Police
Documentary Evidence Attached.

REMARKS

505

C

MANCHESTER CITY POLICE.

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1) (m)
OF THE ARMY ACT, 1881.

I certify that the person whose description is given below ~~was~~ ~~arrested (or~~ surrendered) at Manchester at 5.45 pm on the 19th day of June 1946

Regimental particulars of Officer or soldier referred to above.

(No. K 50120
(Rank Private
(Name Lomaia Robi GRAY
(Unit Canadian Vehicle Co RCOC Bordon Hants

Description.

(Age 23
(Height 5 ft
(Complexion Fresh
(Hair light brown
(Eyes blue
(Marks Tear right forearm

Signature of Officer of Police in charge of Police Station where the above-named person was taken or placed in custody on arrest or surrender.

9 b A 30 Maurick Backle
(In charge of Jackson
Street Police Station.

Date 19-6-46

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No K-50120 Rank Pte Name Gray, D.R. Unit 1 Cdn. Veh. Coy

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from Manchester

Date	Particulars	Amount		
22-6-46	Escorts return fare from LONDON To Manchester	—	28	2
22-6-46	Prisoners single fare to LONDON From Manchester	—	14	1
—	Prisoners fare from — to —	—	—	—
22-6-46	Escorts & Prisoners expenses for Bed, Meals, Bus fares	—	10	—
	Total £	2	12	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100/55
40/P & S/483 (6762)

LIST OF WITNESSES

For the Prosecution

In the case of K50120 Private Donald Robert GRAY, Canadian Infantry Corps, on strength of No.1 Canadian Vehicle Company (A) Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas.

FIRST U1883 A/WOI (Sub-Conductor) DEER, F.G., RCOC,1 Cdn Veh Coy (A) RCOC

LIST OF WITNESSES

For the Defence

In the case of K 50120 Private Donald Robert GRAY, Canadian Infantry Corps, on strength of No.1 Canadian Vehicle Company (A) Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas.

"NIL"

LIST OF EXHIBITS

In the case of K50120 Private Donald Robert GRAY, Canadian Infantry Corps, on strength of No.1 Canadian Vehicle Company (A) Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas.

"A" 1 Cdn Veh Coy (A) RCOC Part II Order No. 34 dated 30 Apr 46.

"B" AFB 252 Offence Report.

"C" Certificate of Surrender from the MANCHESTER City Police.

"D" CMHQ 100;55 Certificate of Expense in the amount of £2-12-3.

APPLICATION FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an officer to represent me at my forthcoming Court Martial.

Bordon, Hants.,
28 Jun 46

D R Gray
.....
ACCUSED

I hereby acknowledge that I have a true copy of the Summary of Evidence taken at Bordon, Hants., preliminary to my Court Martial and I furuher acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

D R Gray
.....
ACCUSED

Bordon, Hants.,
28 Jun 46

PLEA OF MITIGATION Plea attached at/E 3

IN THE CASE OF

K.80180 Private Donald Robert GRAY (CTC) - 1 Cdn Veh Coy RCOC

BY THE DEFENDING OFFICER

Pte Gray really has no plea in mitigation and gives no reason why he went absent without leave. He just got married in January of this year and went to see his wife and just didn't come back. That is about all the plea we can give sir.

Exhibit "C"

M.F.M. 6
A.F.B. 122
[illegible]

No. K 50120 Name GRAY, D.R. Sqn., Battery, or Company A Corps CIC Date of enlistment 4 Feb 43 G.C. Badges Service Pro[illegible] Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 22	Jun 44	Pte		AA15(1) AWL from 0530 hrs 22 Jun 44 until 1800 hrs 22 Jun 44 (Absent 12 hrs 30 mins)	L/Sgt McPherson	7 days CB 7 days pay	26 Jun 44	Lt-Col. HP Bell-Irving	Forf. 1 days pay FR&I 149(1)(a) total 8 days
Field 30	Sep 45	Pte		AA Sec 15(1) from 2359 hrs 30 Sep 45 until 1000 hrs 3 Oct 45 Absent 2 days 10 hrs 1 min.	Sgt. O'Toole JW	6 days pay FR&I 149(2)	4 Oct 45	Lt-Col. M. MacMillan	Forf 3 days pay FR&I 149(1)(a) Total 9 days pay

(OVER)

(P.T.O.)

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Feb 46	L/Cpl		AA Sec 15(1) WOAS AWL from 1200 hrs 4 Feb 46 until 1800 hrs 24 Feb 46 Total time absent: 20 days, 6 hrs.	Documentary (MFB 273) S/Sgt Avery Cpl Dobbie	Reduced to the perm. grade of Pte	26 Feb 46	Lt-Col. B. Labie	Forf. 21 days pay FRAI 149 (1)(a)

CERTIFIED TRUE COPY OF ORIGINAL

(J.W. CORNEILLE) Capt.,
Officer having custody of Regt. Books.

Exhibit "B"

M.F.B. 355
DM—5-41 (372-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K50120	Pte	GRAY, D.R.	1 Cdn Veh Coy (A) RCOC

1. The following is a fair and true summary of the entries in the MFM 6 Service and General Conduct sheets of the accused, convictions of summary awards under Section 47 of the Army Act with.

	Within last 12 months	Since enlistment or appointment
For	AA Sec 15(1) A.W.L. Two times	AA Sec 15(1) A.W.L. Three times
For	times	times
For	times	times
For	times	times

Previous convictions of the accused by summary awards under Section 47 of the Army Act are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~Nine (9)~~ FOURTEEN (14) days in military custody, making a total of ~~Nine (9)~~ FOURTEEN (14) days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 23 years, 2 months

6. The date of his attestation specified in his record of service is 4 Feb 43

7. The service which the accused is allowed to reckon towards discharge is 3 years, 4 months and 24 days.

8. The accused is entitled to reckon (3 yrs.,1 Mon.,) 24 dys service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to). State any military decoration or reward.

(1) 1939-45 Star
(2) Italy Star
(3) CVSM & Clasp

[illegible]

[illegible]

[illegible]

CAOF-1-147 Pte. Gray E.B.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F.36870 Pte Elmer Baxter GRAY

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1) AA	Guilty	Guilty	
2nd Sec 40 AA	Guilty	Guilty	
3rd Sec 18(4) AA	Guilty	Guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned without hard labour for one year

(Sgd) "H.S. BEARDEN" Judge-Advocate, if any. — 17 Apr 46 Date awarded. — (Sgd) "P H S PATERSON" Maj President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 40(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) "W.J. MEGILL" Brig
Commanding 2/9 Cdn Inf Bde CAOF
Confirming Officer.
Date 22 Apr 46

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F.36870 Pte Gray, EB	23 Apr 46	"H.M. Cashaback" Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AE 160 [illegible] 147

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/P.A.S./160-1-61441

Convened by Order of Brigadier W.J. Megill Comd 2/9 Cdn Inf Bde CAOF dated 13 Apr 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
F.36870	Pte		Elmer Baxter	GRAY	3 Nth NS Highrs CAOF

CERTIFIED TRUE COPY
J. Ruffingsteel Major,
D J A
HQ 3 Cdn Inf Div (CAOF)

PROCEEDINGS REVIEWED Date 25 APR 1946 D J A HQ 3 Cdn Inf Div (CAOF)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 17 Apr 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provision for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [are] amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to as interpreter ?~~ Ans

~~The Interpreter is sworn.~~(1) Do you object to F.6610 (QM) Crone, WJ as shorthand writer ? Ans No sir. The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 58(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	P.H.S. PATERSON	3 SD & G Highrs CAOF
Member	Captain	C.W. MacDONALD	3 Nth NS HIGHRS CAOF
Member	A/Captain	G.R. SULLIVAN	3 HLI of C CAOF
Judge-Advocate	Lieutenant	H.S. BEARDEN	3 Imr 'B' (CAOF) Cdn JAG Overseas
Prosecutor	Lieutenant	G.E. GRAHAM	3 Nth NS Highrs CAOF
Defending Offr	Lieutenant	J.L. MacLEAN	3 Nth NS Highrs CAOF

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused F.36870 Pte Elmer Baxter Gray before arraignment make(s) (no) (~~a~~) plea.(1)
(1. If a special plea is made for separate trial as one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 36, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

CAOF 13 B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *2 nstrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. ~~On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.~~(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any pleas is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making the appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statements or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 50(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 137(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1, Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes sir, through my Defending Officer.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas NO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"AAA"

"AAA"

CHARGE SHEET

THE ACCUSED, F.36870, PRIVATE ELMER BAXTER GRAY, 3/NORTH NOVA SCOTIA HIGHLANDERS, CANADIAN ARMY OCCUPATION FORCE, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Germany, absented himself without leave from 2000 hours, 16 Jan 46, till apprehended by CMP at about 1430 hours, 23 Mar 46. (Absent 66 days, 18 hrs, 30 mins)

SECOND CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in Germany, on or about 16 Jan 46, was improperly concerned with C.2748, Pte Corsiler, JA, in the improper possession of Chevrolet Sedan, Can Gov Vehicle CM 4284418, public property.

THIRD CHARGE
Sec 18(4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY

in that he

In the Field, in Belgium, on or about 20 Mar 46, stole a Humber Heavy Utility 4 x 4, No. RN 54854, public property.

"W.A. Milroy"

(W.A. Milroy)Major
A/OC
3/Nth NS Highrs CAOF

In the Field
10 Apr 46

Approved on behalf of the Judge Advocate General, pursuant to the provisions of KR(Can)540.

"J.R. Miquelon"
(J.R. Miquelon)Major
DJA
3 Lwer 'B' (CAOF) Cdn JAG Overseas

In the Field
10 Apr 46

TO BE TRIED BY F.G.C.M.

"W.J. Megill" Brig
Comd 2/9 Cdn Inf Bde CAOF

13 Apr 46

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
F.36870	Pte		Elmer Baxter	GRAY	3 Nth NS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Apr 46 endorsed by me, [illegible] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason(s) [illegible]

(AA 49, RP 104(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	F H S PATERSON	3 SD & G Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C M MacDONALD	3 Nth NS Highrs
A/Capt	G R SULLIVAN	3 HLI of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	T W STANLEY	3 SD & G Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	
Lt	H S BEARDEN	3 Imr 'B' (CAOF) Cdn JAG Overseas

On Active Service in the Fd

in GERMANY (Country.)	"N J MEGILL" (Signed personally. RP 105 fn 2.)	BRIGADIER (Rank.)

Date 13 Apr 46

Commanding 2/9 Cdn Inf Bde CAOF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Hdqs of AFAS) 40/P & S/1497 (6021)

(See overleaf for oaths and notes for use on trial.)

"DAAG"
"AASS"

MEDICAL OFFICER'S CERTIFICATE

KR(Cas) Para 557

I certify that I have this morning examined No. F.36870 Pte Gray, N.B. of 3/Nth NZ Highrs CASF and in my opinion he is fit to undergo trial by court-martial.

Station.. In the field

Date.. 17 Apr 46

"J.E. Lewis" Capt

(J.E. Lewis)Capt
RCAMC

"AB"

PLEA IN MITIGATION

Mister President and Members of the Court, Private Gray enlisted on the twenty-second of March 1944 and came overseas on the second of June 45. He was taken on strength Northwest Europe on the twenty-third of February 45 and later joined the West Nova Scotia Regiment. He joined CAOF on the sixteenth of August 45. He was been awarded the CVSM and Clasp and the France and Germany Star. This young man has had no previous crimes. In view of his excellent record I would draw to the attention of the Court that his misbehaviour is due- undoubtedly due to the influence of the other man, as the evidence contained in the Summary of Evidence indicates. In view of this I earnestly beg the Court to grant the accused every consideration in mitigation of sentence.

EXHIBIT A
"[illegible]"

SUMMARY OF EVIDENCE

In the case of F.36870 Pte Gray, E.B., 3/Nth NS Highrs, CAOF

The Commanding Officer directs that the evidence be taken on oath.

First witness:

F.58161, Cpl MacLean, DM, 3/NNSH, CAOF having been duly sworn, states:

On 16 Jan 46, I was duty corporal on the guard at Ordnance Field Park, Oldenburg. I went to look for Pte Gray to go on his shift at 2000 hrs and could not find him, so I reported his absence to Lieut A.S. Rutter, officer i/c the guard.

"Cpl D.M. MacLean"

Second Witness:

14256300 Sgt Broadbent, A.H., 90 Special Investigation Section, Corps of Military Police, BAOR.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and statements of his evidence, signed by him, have been read to the accused and are attached hereto as Exhibit A, A1, A2.

"G.H. Graham" Lt
3/NNSH CAOF

I do not require the attendance of Sgt Broadbent for the purpose of cross-examination.

"E.B. Gray"

Third witness:

1st Lieut R.A. Royce, 707 Coy, MP Bn, US Army, APO 228.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit 'B'.

"G.H. Graham" Lt
3/NNSH CAOF

I do not require the attendance of 1st Lieut R.A. Royce for the purpose of cross-examination.

"E.B. Gray"

Fourth witness:

38664428 PFC Diebl, GL, 707 MP Bn US Army APO 228.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit 'C'.

"G.H. Graham" Lt
3/NNSH CAOF

I do not require the attendance of PFC Diebla, GL, for the purpose of cross-examination.

"E.B. Gray"

"74"

Fifth Witness

Sauvage, Georges, Garage manager, Rue de Charleroi, Ives, Comines.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit 'D'.

"G.H. Graham" Lt
D/AMSN CAOF

I do not require the attendance of Sauvage Georges, for the purpose of cross-examination.

"L.B. Gray"

The accused was cautioned as follows:

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything, to give evidence unless you wish to do so, but whatever you say or your evidence may be given in writing and may be given in evidence.

A. I want to make a statement.

Q. On oath or not oath?

A. On oath.

The accused, sworn, states:

I have been absent from my unit from 10 Jan 46 until the 23rd March 46. When I went absent I was accompanied by Pte Cormier who had the unit Chevrolet staff car. We left Germany and went to Belgium where we stayed in Chaant for several days and then we left and went to Charleroi. There we made the acquaintance of a civilian who lives in Charleroi. He knew that we were absentees and he decided to give the money to us to go to France to buy cigarettes and bring it back to Belgium for sale. We made 7 or 8 trips to France and then one day he saw an English vehicle sitting by a garage and he went in and inquired about it. Then Cormier told me that the vehicle could be ready by the 20 March 46. On the 20 Mar 46 we went out to get the vehicle and while we were making the final adjustments a military Police jeep drove up. They called Cormier to the jeep and later called me to the jeep and asked me for my identification which I showed to them. Then there was a conference between the MP officer, in a British Army Captain uniform and the garageman. They he said we would have to go to Brussels with them. He told me to get in the jeep and we started for Brussels. Just outside Charleroi something happened to the car and a conference went on between Cormier and the Capt and then we were allowed to go. Cormier then showed me a piece of paper which the British officer gave him. We went to the US MPs at Charleroi and asked the officer in charge if he could send MPs with us to collect the vehicle. When we arrived at the garage Cormier and the two MPs spoke to the garageman. After a few minutes they came out, Cormier driving the British car, a Humber Navy staff car, and started toward Charleroi. I and one of the MPs was in the Chev car. When we got to MP HQ in Charleroi we waited for Cormier and the other MP. When they came in I saw they were accompanied by an English Sgt. When he and Cormier were talking one of the MPs told me the Sgt wanted to see my identifications. So I went in and showed it to him. I then knew that we were in trouble so I decided to escape and I managed to get away. Two days later when I was inquiring about Cormier I was approached.

"G.B. Gray"

I certify that the foregoing Summary of Evidence, consisting of 4 pages was taken down by me in the presence of the accused and that RP 4(c),(6),(7) and (8)(13) have been complied with.

In the field
8 April 46

"G.H. Graham" Lt
D/AMSN CAOF

Exhibit A "GHG"

"2446"

90 Special Investigation Section,
Corps of Military Police

STATEMENT OF: No. 14256300 Sgt BROADBENT, AH
90 Special Investigation Section,
Corps of Military Police
B.A.O.R.

Who states:

On Wednesday, 20th March, 1946, I seized a Chevrolet Saloon Car in connection with the case of No. G.2748 Pte CORMIER, AJ and No. F.36870 Pte GRAI [illegible]

I examined the vehicle and saw that it had been painted a khaki green colour, the front of the vehicle had been slightly damaged and also the offside of the vehicle was extensively marked, suggesting that it may have been in an accident. The vehicle was not in very good condition generally and the gear box did not appear to be in very good working order.

"A.H. Broadbent" Sergeant,

BRUSSELS,
1 Apr 46

90 Special Investigation Section,
Corps of Military Police

Original with Summary
in the case of G.2748 Pte Cormier, JA

"GHG"

Exhibit A1 "CHG"

90 Special Investigation Section,
Corps of Military Police.

"ABB"

STATEMENT OF: No.14256300 Sgt BROADBENT AH
90 Special Investigation Section,
Corps of Military Police.

WHO STATES:

I am a member of the Special Investigation Branch of the British Army.

At about 2030 hours on Wednesday, 20th March, 1946, I was travelling between Philippeville and Charleroi when I saw a Humber Heavy Utility Vehicle No RN 54854 travelling towards Charleroi. I caused the vehicle to stop and saw that the driver was a Canadian soldier who was wearing corporal's chevrons. I questioned him regarding his right to be in possession of the vehicle. He replied, "I am collecting it for Major Ambrose of the Royal Naval Transport Department, Brussels. If you want to know any more speak to the American MP who is escorting me." I then saw that a US Military Police jeep had stopped behind the British vehicle. I spoke to the driver who told me that the British vehicle had been recovered from a civilian garage in St Lambert and that it was being taken to the US Military Police Office at Charleroi where it was hoped to repair the lights so that the vehicle could continue the journey to Brussels. I then allowed the Humber to continue and followed in my own vehicle. When I arrived at the US Military Police Office at Charleroi, I questioned the Canadian Corporal as to his identity. He was not in possession of any identity documents but he told me that he was No. C.2748 Cpl Cormier, AJ and that he was attached to Brussels Garrison. At this point I saw a second Canadian who told me that he was in company with CORMIER and that he was F.38670 Pte GRAY EB also attached to Brussels Garrison. He also stated that the vehicle was on its way to the R.A.S.C. Brussels. I was not satisfied that everything was in order so I telephoned to Brussels with a view to verifying the statements made by the two Canadians. During the time that I was telephoning the two men made an attempt to escape. I ran after them and managed to catch CORMIER but GRAY avoided capture. I did not question CORMIER at this point but handed him over to the US Military Police to be detained pending the arrival of an escort to convey him to Brussels. At this point I learned that the two Canadians had arrived at the US Military Police Office, Charleroi in a Chevrolet Saloon Car. I examined the car and saw that it did not bear any identification marks on the bodywork, but that there was a CFN label attached to the windscreen. I took possession of the label which I now produce. I then left the two vehicles in the custody of the US Military Police to await collection. On Thursday 21 st March, 1946, CORMIER was brought to Brussels along with the Chevrolet vehicle, which I impounded. At about 1800 hours that day, I interviewed CORMIER. I told him who I was & cautioned him. I then said to him, "I have reason to believe that you were stealing that Humber car last night". He replied, "Yes, Sergeant, I will tell you the whole story". I again cautioned him and he elected to make a voluntary statement which I took down in writing and now produce. After reading the statement he signed it. As I commenced to take down the statement, I asked him for his number, rank and name. He then said that he was a private. I immediately ordered him to remove the badges of rank which he was wearing. I then handed him over to the Town Guard Room Brussels to be detained, charged with absence without leave. On Saturday 23rd March, 1946, accompanied by CORMIER, I visited the house 58 Bijlokewest, Ghent. I made a search of the house and found a quantity of army clothing which I took possession of. During the search I discovered 27 packages of perfume and as I was examining them, CORMIER then said to me, "Those are mine Sergeant, I bought

them in France". I took possession of the 17 packages of perfume. I returned CORMIER to the town Guard Room, Brussels where I handed the clothing over to the RCO i/c Guard. On Sunday, 24th March, 1946, I interviewed No. 10683036 L/Cpl KELSEY, G of 247 Provost Company, who made a statement to me. Later the same day I interviewed GRAY. I told him who I was and cautioned him. I said to him, "I have reason to believe that you were actively concerned in the stealing of the Humber car on Wednesday 20th March, 1946." He replied, "Yes, I guess you know it all Sergeant so I might as well admit it". I again cautioned him and he elected to make a voluntary statement which I took down in writing and now produce. After reading the statement he signed it.

BRUSSELS
24 Mar 46

"A.H. Bracegirdle" Sergeant,
90 Special Investion Section,
Corps of Military Police

Original with Summary
in the case of S.2748 Pte Cormier, JA.

"GHG"

Exhibit A2 "GHG"

"7 of 8"

90 Special Investigation Section,
Corps of Military Police.

STATEMENT OF: No. 14256300 Sgt BROADBENT AH
90 Special Investigation Section,
Corps of Military Police
BAOR

WHO STATES:

At about 1500 hours on Thursday, 28th March, 1946, I saw No. 2748 Pte CORMIER in the Town Guard Room, Brussels. I said to him, "It is my duty to serve you with a copy of the statement made to me by No. F.38670 Pte GRAY". I then handed to him a true copy of the statement made by GRAY . He accepted the document and made no reply.

Later the same day I saw No. F.38670 Pte GRAY in the Town Guard Room, Brussels. I said to him, "It is my duty to serve you with a copy of the statement made to me by No. G.2748 Pte CORMIER". I then handed to him a true copy of the statement made to me by No. G.2748 Pte CORMIER. He accepted the document and said, "Do I have to keep this?". I replied, "Yes, if you wish".

"A.H. Broadbent" Sergeant,

90 Special Investigation Section,

Corps of Military Police.

Brussels,
28 Mar 46.

Original with Summary
in the case of G.2748 Pte Cormier, JA

"GHG"

Original with Summary
in the case of G.2743
Pte Cormier, JA.

Exhibit B "CHC"

90 Special Investigation Section,
Corps of Military Police

STATEMENT OF:

1st Lt Robert A ROYCE,
707 Coy MP Bn,
US Army APO 228

WHO STATES:

At about 1700 hours on Wednesday, 20th March, 1946, two Canadian soldiers came to the US MP Office at Charleroi where I was in charge. One of the soldiers was wearing Corporal's chevrons, the other was a Private. The Corporal who gave his name as CORMIER made a statement to me that he was in Charleroi for the purpose of collecting a Humber 4x4 Heavy Utility No. RN 54854 which had been stolen from Antwerp about two months ago and had been recently located in a civilian garage at St LAMBERT. He requested that a US MP accompanied him to the garage for the purpose of assisting him to obtain the release of the vehicle.

I then detailed PFC DIEHL to accompany the Canadians as requested.

I have read over the above statement and it is true.

(Signed): Robert A ROYCE
1st Lieut.

The above statement taken down and signature witnessed by me at Charleroi on Thursday, 21st March, 1946.

(Signed): A.H. BROADBENT, Sgt
90 S.I.S., CMP

Exhibit C "GHG"

Original with summary
in case of G.2748 Pte Cormier JA

"7AB"

90 Special Investigation Section
Corps of Military Police

STATEMENT OF: No.38664418 PFC DIEHL GL
707 MP Bn
US Army APO 228

WHO STATES:-

At about 1815 hours on Wednesday, 20th, March, 1946, I was instructed by Lt ROYCE to accompany two Canadian soldiers to St Lambert where they were going to collect a British vehicle.

I went to St Lambert where I saw a British vehicle No. RN 54851 in a civilian garage. A conversation took place between the canadian Corporal and the garage proprietor, and the vehicle was then taken from the garage by the Canadian corporal.

The Canadians travelled down to St Lambert in a Chevrolet saloon car and on the return journey to Charleroi I drove the civilian vehicle at the request of the Corporal.

I can identify both of the Canadian soldiers again if necessary.

I have read over the above statement and it is true.

(Signed): PFC George L Diehl

The above statement taken down and signature witnessed by me at Charleroi on Thursday 21st March, 1946.

(Signed): A.H. Broadbent Sgt
90 S.I.S., C.M.P.

Exhibit D "GHG"

90 Special Investigation Section,
Corps of Military Police

TRANSLATION - COPY

"288"

STATEMENT OF: SAUVAGE Georges,
Garage Manager,
Rue de Charleroi, XVES- GOMEZEE

WHO STATES:

'I want to make my statement in French. About two months ago, I think it was on the 20th January, at about 1700 hours, one British Naval Officer accompanied by a lady came to my house. He was wearing a khaki greatcoat, and a leather jerkin, and had a navy blue peakcap. The lady told me:, "our car is broken down at the top of the hill, the back axle is broken." She asked me if it was possible to have a brake-down truck to repair their car and bring them back. I told them nobody had one in the district. She then asked what time was the next train to take them back to ANTWERP. They then went away. At about 2000 hours, an English soldier came to my house, he spoke French with great difficulty, but managed to make me understand that he had to spend the night in the car, and he asked me if I could go and bring the car back to the garage. I went to pick up the car and parked it outside of my garage. The soldier came into the house, where he spent the night. The next day, he telephoned the Metropole Hotel, Antwerp, on two occasions. He told me he could not get through. He left in the evening, with the 1800 hours bus going to Charleroi, and told me he was going back to Antwerp to get a brake-down truck to tow the vehicle back. I never heard anything more about the car, which was still parked outside my garage, until the 15th March, 1946. At about 1200 hours on that date, two Canadian soldiers accompanied by a civilian asked me what the car was, and how it happened to be at my house. They stated they were sent by their Colonel, who had noticed on several occasions that the car was parked at Ivez-Gomesee. I explained to them what I have just told you, and they said they would inform their Colonel and went away. On the 19th March, the same two Canadian soldiers, still driving the Chevrolet, arrived at the garage. They told me to dismantle the back axle and repair it, which I did, and they drove away in the car. They had gone about 100 yards when the back axle broke again. They brought the car back, and I again dismantled the back axle, which they took to a local turner's shop and asked for a new one to be made for the next day. The next day they again came to the garage with a new axle which I fitted on to the car. They then gave me 1 100 francs for my work, without my having fixed any price. I gave them a receipt. Whilst they were testing the vehicle on the main road, three Military Policemen (British) arrived in a jeep. They stopped and spoke to the two Canadian soldiers. The officer of the military police then told me not to let anybody take the car out of the garage, except against receipt from the Military Police. They took the two Canadian soldiers with them and went away towards Charleroi. The same day about 2000 hours, two members of the American Military Police, accompanied by the above mentioned Canadian Corporal came and took the car away, and gave me a receipt for it. This is all I know regarding this affair.

Statement read over and signed.

(Signed) Sauvage George

Original with Summary
in the case of G.2748 Pte Cormier, JA
"GHG"

90 Special Investiation Section
Corps of Military Police "GHG"

Statement of - No. F.36870
Pte GRAY, E.B.
3rd Battalion,
North Nova Scotial Highlanders,
C.A.O.F.

Who states

I have been cautioned by Sergt Broadbent, that I am not obliged to say anything unless I wish to do so, but anything that I do say will be taken down in writing and may be given in evidence. I understand the meaning of this caution.

"E.B. GRAY"

I have been absent from my unit since about the 16th January, 1946. When I went absent I was in company with Pte CORMIER of the same unit. Cormier was in possession of a Chevrolet saloon car which belonged to the unit. We travelled from Germany into Belgium and visited Ghent where we stayed several days at 58 Bijlokevest, Ghent, which is the home of Cormiers girl friend. After a few days we left there and went to Charleroi, after we had been there we made the acquaintance of a civilian named Joseph PIERRARD of Gosellies, nr Charleroi. I can't speak French so I could not say what conversation took place between Cormier and the civilian but Cormier later told me that the civilian had proposed that the Chevrolet car should be used for a trip into France. The arrangements were that some cloth was to be bought in Belgium and smuggled into France where it was to be sold at Black Market prices in Reims. The money obtained from the sale of the cloth was to be used to purchased a quantity of Champagne which was then to be smuggled into Belgium and disposed of by Pierrard. This proposal was agreed to and about seven or eight trips of this kind were made, the Belgian Customs authorities allowed us to enter Belgium with the champagne because they thought that it was for Military purposes. I did not understand what took place between the Customs and Cormier because it was in French. During the trips to France we had seen a British Staff Car parked at a garage in Saint Lambert nr Phillipeville. On Monday 18th March, 1946, we stopped at the garage and Cormier spoke to the garage man about the vehicle. After the conversation, Cormier told me that the car had been there for about two months and that he had told the garage man to repair it. Cormier then told me that the car would be ready for Wednesday, 20th March, 1946, and that his intention was to collect the car and use it for the trips into France. On Wednesday, 20th March, 1946, we went to the garage to collect the car. Whilst the final adjustments we e being made to the British car in front of the garage a Military Police jeep pulled up in front of the garage. Cormier went over and spoke to the men inthe jeep, but I did not hear the conversation. One of the MPs then called me over to the jeep and asked me for my service book which I produced to him. He examined it and returned it to me. The conversation then continued between Cormier and the MPs. One of the MPs then told me that I should have to go with him to Brussels. I was ordered to get into the jeep and one of the MPs got into the Chevrolet along with Coemir. We then travelled towards Brussels, but stopped at Charleroi to get petrol from the American Petrol station. We then resumed the journey towards Brussels. When we got just outside Charleroi something went wrong with the Chevrolet car and we stopped. A conversation then took place between Cormier and one of the MPs and we were allowed to go. Cormier then showed me a piece of paper that the MP had given him authorizing him to collect the British vehicle. We then returned to Charleroi in the Chevrolet car and the MP jeep went off in the direction of Brussels. When we reached Charleroi we went to the US Military Police office where Cormier spoke to the officer in charge. We had a meal at this place and then we returned to the civilian garage at Saint Lambert accompanied by two Military Policemen in a jeep. When we arrived at the garage, Cormier and the two US Military Policement went in and spoke to the garage man. After a few minutes they came out, Cormier was driving the British car. We then started off towards Charleroi one of the MPs rodex with me in the Chevrolet to the US Military Police office at Charleroi, where we waited for the other vehicles to arrive. When Cormier arrived at the office I saw that he was accompanied by a British Sergeant who started to question us and make enquiries regarding the British vehicle. I then saw that we were in danger of being arrested, so we attempted to escap I managed to get away and I went to the home of Pierrard at Gosellies where

Exhibit D "GHG"

90 Special Investigation Section,
Corps of Military Police

"288"

TRANSLATION - COPY

STATEMENT OF: SAUVAGE Georges,
Garage Manager,
Rue de Charleroi, XVES- GOMEZEE

WHO STATES:

'I want to make my statement in French. About two months ago, I think it was on the 20th January, at about 1700 hours, one British Naval Officer accompanied by a lady came to my house. He was wearing a khaki greatcoat, and a leather jerkin, and had a navy blue peakcap. The lady told me:, "our car is broken down at the top of the hill, the back axle is broken." She asked me if it was possible to have a brake-down truck to repair their car and bring them back. I told them nobody had one in the district. She then asked what time was the next train to take them back to ANTWERP. They then went away. At about 2000 hours, an English soldier came to my house, he spoke French with great difficulty, but managed to make me understand that he had to spend the night in the car, and he asked me if I could go and bring the car back to the garage. I went to pick up the car and parked it outside of my garage. The soldier came into the house, where he spent the night. The next day, he telephoned the Metropole Hotel, Antwerp, on two occasions. He told me he could not get through. He left in the evening, with the 1800 hours bus going to Charleroi, and told me he was going back to Antwerp to get a brake-down truck to tow the vehicle back. I never heard anything more about the car, which was still parked outside my garage, until the 15th March, 1946. At about 1200 hours on that date, two Canadian soldiers accompanied by a civilian asked me what the car was, and how it happened to be at my house. They stated they were sent by their Colonel, who had noticed on several occasions that the car was parked at Ives-Gomesee. I explained to them what I have just told you, and they said they would inform their Colonel and went away. On the 19th March, the same two Canadian soldiers, still driving the Chevrolet, arrived at the garage. They told me to dismantle the back axle and repair it, which I did, and they drove away in the car. They had gone about 100 hards when the back axle broke again. They brought the car back, and I again dismantled the back axle, which they took to a local turner's shop and asked for a new one to be made for the next day. The next day they again came to the garage with a new axle which I fitted on to the car. They then gave me 1 100 francs for my work, without my having fixed any price. I gave them a receipt. Whilst they were testing the vehicle on the main road, three Military Policemen (British) arrived in a jeep. They stopped and spoke to the two Canadian soldiers. The officer of the military police then told me not to let anybody take the car out of the garage, except against receipt from the Military Police. They took the two Canadian soldiers with them and went away towards Charleroi. The same day about 2000 hours, two members of the American Military Police, accompanied by the above mentioned Canadian Corporal came and took the car away, and gave me a receipt for it. This is all I know regarding this affair.

Statement read over and signed.

(Signed) Sauvage George

Original with Summary
in the case of G.2748 Pte Cormier, JA
"GHG"

Statement taken and signature witnessed by m.d.l. MARIN Vital, National Gendarmery, WALCOURT Brigade, and included in P.V. No. 555 dtd 22 Mar 46, at the request of Sgt BROADBENT, 90 Special Investigation Section.

(Signed) MARIN

Certified true translation from French into English

"S Moisy"

S. Moisy, Interpreter
Att. 90 S.I.S., C.M.P.

90 Special Investiation Section "GHG"
Corps of Military Police

"7/B"

Statement of - No. F.36870
Pte GRAY, E.B.
3rd Battalion,
North Nova Scotial Highlanders,
C.A.O.F.

Who states

I have been cautioned by Sergt Broadbent, that I am not obliged to say anything unless I wish to do so, but anything that I do say will be taken down in writing and may be given in evidence. I understand the meaning of this caution. "E.B. GRAY"

I have been absent from my unit since about the 16th January, 1946. When I went absent I was in company with Pte CORMIER of the same unit. Cormier was in possession of a Chevrolet saloon car which belonged to the unit. We travelled from Germany into Belgium and visited Ghent where we stayed several days at 58 Bijlokevest, Ghent, which is the home of Cormiers girl friend. After a few days we left there and went to Charleroi, after we had been there we made the acquaintance of a civilian named Joseph PIERRARD of Gosellies, nr Charleroi. I can't speak French so I could not say what conversation took place between Cormier and the civilian but Cormier later told me that the civilian had proposed that the Chevrolet car should be used for a trip into France. The arrangements were that some cloth was to be bought in Belgium and smuggled into France where it was to be sold at Black Market prices in Reims. The money obtained from the sale of the cloth was to be used to purchased a quantity of Champagne which was then to be smuggled into Belgium and disposed of by Pierrard. This proposal was agreed to and about seven or eight trips of this kind were made, the Belgian Customs authorities allowed us to enter Belgium with the champagne because they thought that it was for Military purposes. I did not understand what took place between the Customs and Cormier because it was in French.
During the trips to France we had seen a British Staff Car parked at a garage in Saint Lambert nr Phillipeville. On Monday 18th March, 1946, we stopped at the garage and Cormier spoke to the garage man about the vehicle. After the conversation, Cormier told me that the car had been there for about two months and that he had told the garage man to repair it. Cormier then told me that the car would be ready for Wednesday, 20th March, 1946, and that his intention was to collect the car and use it for the trips into France. On Wednesday, 20th March, 1946, we went to the garage to collect the car. Whilst the final adjustments were being made to the British car in front of the garage a Military Police jeep pulled up in front of the garage. Cormier went over and spoke to the men in the jeep, but I did not hear the conversation. One of the MPs then called me over to the jeep and asked me for my service book which I produced to him. He examined it and returned it to me. The conversation then continued between Cormier and the MPs. One of the MPs then told me that I should have to go with him to Brussels. I was ordered to get into the jeep and one of the MPs got into the Chevrolet along with Cormir. We then travelled towards Brussels, but stopped at Charleroi to get petrol from the American Petrol station. We then resumed the journey towards Brussels. When we got just outside Charleroi something went wrong with the Chevrolet car and we stopped. A conversation then took place between Cormier and one of the MPs and we were allowed to go. Cormier then showed me a piece of paper that the MP had given him authorizing him to collect the British vehicle. We then returned to Charleroi in the Chevrolet car and the MP jeep went off in the direction of Brussels. When we reached Charleroi we went to the US Military Police office where Cormier spoke to the officer in charge. We had a seal at this place and then we returned to the civilian garage at Saint Lambert accompanied by two Military Policemen in a jeep. When we arrived at the garage, Cormier and the two US Military Policemen went in and spoke to the garage man. After a few minutes they came out, Cormier was driving the British car. We then started off towards Charleroi one of the MPs rode with me in the Chevrolet to the US Military Police office at Charleroi, where we waited for the other vehicles to arrive. When Cormier arrived at the office I saw that he was accompanied by a British Sergeant who started to question us and make enquiries regarding the British vehicle. I then saw that we were in danger of being arrested, so we attempted to escape I managed to get away and I went to the home of Pierrard at Gosellies where

I stayed the night. The next day I started out for Ghent and reached there at about seven in the evening. I stayed the night there and the next day. On Saturday, 23rd March 1946, I accompanied Cormier's girl friend to Brussels as she wished to see him urgently. I went to 247 Provost Company and was told that they knew nothing about Cormier. I then went to the US Military Police office in Brussels and made enquiries there. I was told to go into a room and wait, after a few minutes some British Military Police arrived and I was arrested and taken to the Town Guard Room. During the time that I have been absent I have had nothing whatever to do with the stealing of any motor vehicles except the Chevrolet car and the British vehicle.

"E.B. GRAY"

I have read over the above statement it is true and has been made voluntarily by me.

"E.B. GRAY"

The above statement taken down and signature witnessed by me in the presence of No. 3886592, L/Cpl Marlow, J, attached 90 S.I.S., C.M. Police at Brussels on Sunday, 24th March 1946.

"A.N. Broadbent" Sgt
90 S.I.S., C.M. Police.

"248"

I stayed the night. The next day I started out for Ghent and reached there at about seven in the evening. I stayed the night there and the next day. On Saturday, 23rd March 1946, I accompanied Cormier's girl friend to Brussels as she wished to see him urgently. I went to 247 Provost Company and was told that they knew nothing about Cormier. I then went to the US Military Police office in Brussels and made enquiries there. I was told to go into a room and wait, after a few minutes some British Military Police arrived and I was arrested and taken to the Town Guard Room. During the time that I have been absent I have had nothing whatever to do with the stealing of any motor vehicles except the Chevrolet car and the British vehicle.

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"E.H. Broadbent" Sgt
90 S.I.S., C.M. Police.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED. 786-

F.46870 Pte E.B. GRAY 3/Nth NS Highrs CAOF

1. The following is a fair and true summary of the entries in the regimental conduct sheets of the accused, exclusive of conviction by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:

Within last 12 months	Since Enlistment
Nil	Nil

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time

4. The accused has been in confinement, awaiting trial on the present charges, for 18 days in military custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20.

6. The date of his attestation is 22 Mar 44.

7. The accused is in possession of, or entitled to, ~~xxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxx~~ France-Germany Star, CVSM & Clasp.

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED

F.36870 Pte GRAY E.B. 3/Nth NS Highrs

Nil

I HEREBY CERTIFY THAT THE FOREGOING SCHEDULE OF CONVICTIONS AND DISPENSATIONS WITH TRIAL IS A TRUE EXTRACT FROM THE REGIMENTAL BOOKS IN MY CUSTODY

Signed this 10th day of April 46.

"H.M. Cashaback"
(H.M. Cashaback) Capt& Adjt
Offr i/c Regtl Docs,
3 Nth NS Highrs CAOF

EXHIBIT B
"786-

SUPPLEMENTARY COPY

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2065)

NoF.36870 Name GRAY E.B. Sqn., Battery, or Company B Coy Corps C.I.C. Date of enlistment 22-3-44 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. J.H. Marchesse Chatter

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Exhibit 'C'

(P.T.O.)

OD-85
GNR, GRAY H.A.

00-85

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fourth day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of HQ RCA 2 Cdn Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~ SAT.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~[illegible]~~

~~[illegible]~~ SAT.

~~[illegible]~~

~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

*Omit if applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	H.C. FAIR	1 Cdn Svy Regt

Members.

Rank.	Name.	Regiment.
Capt	C. W. L. ESTEY ~~T. BOND~~ SAT.	HQ RCA 4 Cdn Armd Div
Capt	H.F. MOGEY	15 Cdn Fd Regt

*Signed SAT. Tremain

Commanding (A.E.D. Tremain) Brigadier C.C.R.A. 2 Cdn Corps

Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M.590 Gnr. GRAY H.A. 2 Cdn CBO Staff	Committing a Civil Offence, that is to say, Common Assault. A.A. Sec 41 (See Charge Sheet attached)	Not guilty	Not Guilty	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A).):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— No

(Signed) [signature] (Signed) [signature]
(A.E.D. Tremain) Brigadier
Commanding CCRA 2 Cdn Corps / Cdn Army, Regt RCA
Commanding Officer (e) President.

(a) Appointment acting; rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of Sept 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(3. ~~The Interpreter~~) H.C.F.

*(4. ~~The officers under instruction~~) H.C.F.

were duly sworn.

*Omit if not applicable.

Signed this 6th day of Sept 1943.

H.C. Fair
Maj. R.C.A.

President of the Court Martial.

C.

Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I ~~certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~ H.C.F.

President of the Court Martial.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) Wt.[illegible] 25,000 2/42 A.& E.W.Ltd. Gp.[illegible]
(21765) Wt.[illegible] 1550 40,000 7/42 " "

CHARGE SHEET

The accused, M.590 Gnr. Howard Alfred GRAY, 2 Canadian C.B.O. Staff, R.C.A., a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec. 41 A.A.

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT

In that he

in the field, at about 0040 hrs, on 31 Aug 43 assaulted W.R. 170 Constable Crosse by striking him in the neck with his fist.

In the Field,
4 Sep 43.

(J.H.D.ROSS) Lt- Col., R.C.A.,
Commanding,
2 Cdn C.B.O. Staff, R.C.A.

To be tried by Field General Court Martial.

In the Field
4 Sep 43

(A.E.D. Tremain) Brigadier
C.C.R.A. 2 Cdn Corps

6 Sept 43

MEDICAL OFFICER'S CERTIFICATE

6 Sept 43

I certify that I have this morning examined M-590 Gnr. Gray H.A. and find that he is fit to undergo trial by Court Martial.

Signature

PAGE I

Record of Proceedings of a Field General Court Martial

Held in the Field in ~~Eg Land~~ C Wales Bdy (Country) on 6 Sept 45 (Date) to try

Accused M590 (Number) Gm. (Rank) Howard Alfred (Christian Name) Gray (Surname) 2 Cdn Corps CBO Staff (Unit)

	Rank	Name	Unit
President	Major	H C Fair	1 Cdn Svy Rgt RCA
Member	Capt	Ch. B. Estey	HQ RCA 4 Cdn Arch Div.
Member	Capt.	K. L. Mogey	15 Cdn Fd Rgt RCA
Judge Advocate (if any)	N A		
Officers Under Instruction (if any)	N A		
Prosecuting Officer	Capt	J. E. Seybold	2 Cdn CBO Staff
	Lawyer? Ans No		
Defending Officer	Capt	S. Sheps	5 Cdn Mod Rgt.
	Lawyer? Ans Yes		

(The following procedure must be actually carried out)

1. The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P.17(E), 22(A)).

   (If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto). (For form of record see M.M.L. p.742 top).

2. The President, in closed court (R.P.22,fn 1) reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49;R.P.105) and constituted (A.A.49;Rs.P.106, 107), that the accused is (are) amenable to Military Law, and that each charge discloses an offence (Rs.P.23,108).

3. The accused is (are) brought before the Court and at 1020 hours the trial commences.

4. The Prosecuting Officer produces a Medical Certificate under K.R.(Can) 557 (See CMHQ Circular Letter 173) that the accused has (have) this day been examined and is (are) fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

(Over)

5. President to accused:

Q - Do you object to _____ as interpreter?
A - _____

The interpreter is duly sworn. (Form of oath on Page "D").

Q - Do you object to _____ as shorthand writer?
A - _____

The shorthand writer is duly sworn. (Form of oath on Page "D").

6. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P.25).

7. President to accused:

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A - No

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto. (R.P.25). (For form of record see M.M.L. p. 742 Variation).

8. The President, Members, Judge-Advocate and Officers under Instruction are duly sworn (Rs.P.26, 27). (Forms of oath on page "D").

9. The Charge Sheet(s) is (are) signed by the President.

10. The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P.62(2), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto). (For form of record see M.M.L. p. 744, 745, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Not guilty — Fifth Charge _____
Second Charge _____ — Sixth Charge _____
Third Charge _____ — Seventh Charge _____
Fourth Charge _____ — Eight Charge _____

(For procedure on alternative charges, see R.P 37(A) and fn.2). (For form of record see M.M.L. p. 744 Instructions).

Further proceedings are recorded on pages hereto attached.

PAGE "A"

(For use when accused pleads "Not Guilty" to all charges)

(All printed matter not applicable to be struck out on all alterations, erasures and additions to be initialled by the President).

1. The accused is asked the question set out below the Schedule on p.2 of A.F.A.3 and his answer there recorded. (R.P.39(A)).

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.

(See RECORD OF EVIDENCE on Page "B")

3. The Prosecution is closed.

(If submission is made by Defence, that no prima facie case has been established, such submission, Prosecutor's reply and decision of the Court are recorded on separate sheet, initialled by the President and attached hereto). (Rs.P.40, fn 1; 70, fn 1).

4. The accused is informed that he may, if he wishes give evidence but if he does so he will be liable to cross-examination (R.P.40,fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross-examined. (R.P.40(D) (ii) (a)).

5. President to accused:

Q - Do you apply to give evidence yourself as a witness?
A - Yes
Q - Do you intend to call any other witness in your defence?
A - Yes
Q - Is he a witness as to character only?
A - No

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of same see Rs.P.40,41,42).

8. The Court is closed to consider the finding(s). (Rs.P.43,44,117).

9. The finding(s) of the Court is (are) recorded on p.2 of A.F.A.3.

10. The Court being re-opened, the accused is again brought before it.

11.(A) (If finding(s) "Not Guilty" on all charges)

The finding(s) is (are) announced and the accused is released.

O R

(B) (If finding(s) "Not Guilty" on one or more charge(s) and finding(s) "Guilty" on one or more charge(s).

The finding(s) of "Not Guilty" are announced and the President states "The finding(s) of the Court on the ____, ____, ____, ____, ____, and ____ charge(s) being subject to confirmation, will be promulgated later".

O R

(C) (If finding(s) "Guilty" on all charges).

The President announces "The finding(s) of the Court being subject to confirmation, will be promulgated later".

(Over)

12. Statement of Character and Service (A.F.W.296 or W.F.W.3.3) and Field Conduct Sheet (W.F.W.6), signed in the manner required by A.A.143 (1) (h) purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, marked " " and " ", signed by the President and attached to the proceedings. (R.P.46; Overseas R.O. 3131).

13. President to accused:

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)).

A - _____

(Address (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

14. The President announces:

" The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

15. The Court is closed to consider the sentence.

16. The sentence is recorded, dated and signed by the President (R.P.50) on p.2 of A.F.A.3.

(Punishments, A.A.44; M.M.L. p.130-134;R.R.(Can)563-566; Overseas R.Os. 309,2325).
(One sentence is awarded in respect of all offences, R.P.48).
(For form of sentence see M.M.L. p. 756-759).

17. _____
(Signature of President)

First Witness for the Prosecution

WR 170 Constable E C CROSSE, Monmouth Police Sta, MONMOUTH, being sworn states:-

At 0040 hrs Tue morning 31 Aug I was in my house at Whitebrook, Monmouthshere when I heard the sound of smashing timber on the rd outside and men shouting. I put on my uniform and went down onto the rd where I saw a square of fencing 4'x4' smashed on the other side of the rd. About 20 or 30 yds up the rd there was a group of 4 soldiers. I shone my spotlight on them, they were still smashing something up the rd. One of them called out, "what do you want". I replied "I want you to come back here and see this damage". Two of the men then ran towards me, a third one laid down a few feet away. The fourth man remained further up the rd holding a white light. The two men who came towards me appeared to be hostile, so I shone my torch on my uniform so that they could see who it was accosting them. I then shone the light on them again and the man on the left shouted, "It is only a fucking policeman, we can knock his head off". The man on my left then wrestled with me for possession of my torch which he obtained. I then drew my staff and warned the men again that I was a police offr. The two men then took hold of the staff and my arm was twisted until I had to release it. The man on my left then raised the staff over my head with his right hand and said, "we can knock your head off and we will". He did not deliver a blow however, he closed with me and pinned my arms to my side. He then began to walk me backwards and the man on my right landed two blows on my neck. The man on my right then said, "take your bloody glasses off so that we can hit you properly". Neither of the two men had hats on. I noticed that the man on my left had hair which was brushed back, the man on my right had hair which was standing straight up. I eluded the men and went to phone for help from Monmouth . I also got another torch from my own house. When I got back to the rd the men had vanished. I immediately made enquiries at Whitebrook in compnay with two other police offrs as a result of which we went to a gravel quarry near Tidenham. The gd there took us to Capt J H Seybold and we told him what had happened. After making a search of the camp he infm us all men were present. The time was then 0230 hrs 31 Aug. Later in the day I returned to the quarry. I identified Pte Damard as the man who had been on my left and Gnr Gray as the man who had been on my right.

The Prosecution examined the above witness

Question 1
Answer

How did you identify the accused?
By an identification parade and again I saw the two accused late in the day not at an identification parade and I satisfied myself the accused were the two men in question.

Question 2
Answer

How far is it from "Pub" in Whitebrook to where the fight occurred?
About one mile, sir.

Question 3
Answer

Were there any other tps in the vicinity?
No to my knowledge.

Capt S Sheps, the def counsel cross-examined the witness.

Question 4 — Where is Whitebrook?
Answer — On the side of the valley between Monmouth and Chepstow.

Question 5 — How large is Whitebrook?
Answer — A scattered village ½ mile in length.

Question 6 — Where is your normal beat?
Answer — In Monmouth.

Question 7 — Do you perform duties in Monmouth?
Answer — Yes sir.

Question 8 — Were you on duty in Whitebrook on night of 30-31 Aug?
Answer — No sir, I was in bed.

Question 9 — Were you around Whitebrook evening of 30 Aug?
Answer — No sir.

Question 10 — Were you near the Crown Inn, Whitebrook during evening 30-31 Aug?
Answer — No sir.

Question 11 — What time did you return to your house from duty 30 Aug 43?
Answer — 30 Aug was my day off, I remained at home all day.

Question 12 — Were you in doors all evening of 30 Aug?
Answer — Yes sir.

Question 13 — What time did you go to bed 30 Aug 43?
Answer — 2345 hrs, sir.

Question 14 — Where is your house in relation to the Crown Inn and the quarry near [redacted]lech?
Answer — My house is one mile up the rd from the Crown Inn on the rd to [redacted]lech. A track to the quarry commences 100 yds from my house, the distance being about one mile.

Question 15 — Would it be necessary to pass your home to get from the quarry to the Crown Inn?
Answer — Yes, sir.

Question 16 — On evening 30 Aug between 1830 hrs and 2100 hrs did you notice soldiers passing your house?
Answer — Yes sir going down towards the Crown Inn.

Question 17 — Have you any idea of the identity of the soldiers who passed at 2100 hrs?
Answer — No, sir.

Question 18 — Can you identity the two accused whom you saw in the quarry as ones who passed your home?
Answer — No, sir.

Question 19 — Do you recall any noise of soldiers passing by your home after "pub" closing time?
Answer — No, sir.

Question 20 — Are there any other constables stationed in Whitebrook.
Answer — No, sir.

Question 21 — How do you know the time of your being disturbed on night 30-31 Aug?

Answer — I looked at the clock and it was 0040 hrs.

Question 22 — Is there any possibility of the clock being wrong?

Answer — No, sir.

Question 23 — What time did you reach the rd?

Answer — At approx 0045 hrs.

Question 24 — What would you estimate the lapse of time between your noticing the soldiers and coming in contact with them?

Answer — A matter of seconds or minutes.

Question 25 — How did you recognize the two accused?

Answer — By their hair mainly, also their build.

Question 26 — Did you notice anything about their dress?

Answer — I noticed they were wearing battledress undone at the neck.

Question 27 — You did not notice their dress lower down?

Answer — No, sir.

Question 28 — Did you notice anyone with a DRs crash helmet?

Answer — No, sir.

Question 29 — When you visited the quarry on morning 31 Aug with whom did you come?

Answer — With Supt J Lewis, Monmouth. We were followed in a car by 3 civilians. I did not see what these civilians were doing.

Question 30 — You returned to the quarry on the evening of 31 Aug?

Answer — Yes sir. I had a look around to try and identify the third man with whom I wanted to compare Gnr Gray. On comparison I was satisfied that my identification of Gnr Gray was correct.

Question 31 — Before you made enquiries on night 30/31 Aug did you know there were troops in the quarry?

Answer — No Sir.

Question 32 — Has you been informed officially of presence of tps in the quarry or vicinity?

Answer — No Sir.

R.P. 83(b) complied with.

Second witness for the prosecution — H24129 A/Sgt Brown; E J 2 Cdn CBO staff RCA sworn, states:

Sir I left Camp (the gravel quarry) at approximately 2000 hrs in compnay with Gnr Pyfe and proceeded to the pub at Whitebrook where I spent the evening. I left the pub at closing time and with L/Bdr Stewart, Gnr Gray, Pte Banard and Gnr Pyfe we started up the road together and as we walked we straggled apart and after sometime I found myself walking with Gnr Pyfe - the others having got seperated from us. After a distance of approximately ½ mile I missed Gnr Pyfe and proceeded back to camp where I was alone. During the walk back I heard footsteps behind me from time to time. I arrived back in camp at approximately 2300 hrs.

The Prosecution examine the above witness:

Question 1 — Did you leave the pub at closing time?

Answer — Yes sir.

Question 2 — Did you take any beer with you from the pub?

Answer — Yes sir.

Question 3 — Where did you drink the beer you took from the pub?

Answer — Just after we left the pub.

Question 4 — Were you alone when you drank this beer?

Answer — No sir, we were all together (see statement of witnesses)

Question 5 — Where did you last see the two accused?

Answer — I cannot remember the time but it was a few hundred yards from the pub.

Question 6 — Did you arrive home before the other members of the party with whom you left the pub?

Answer — I do not know.

Question 7 — How did you estimate the time it took you to get from the pub in Whitebrook to your camp?

Answer — It took us ½ hour to walk down and about the same time to walk home.

Question 8 — Do you not think it took you longer to walk home than to walk down to the pub due to the fact that you stopped to drink on the way home and also that the road to the camp is uphill all the way?

Answer — I do not think the difference was more than 15 minutes at the outside.

Question 9 — When you arrived home did you see anyone in the Camp?

Answer — No sir.

Cross-Examined by Defence Counsel:

Question 1 — During the evening did you notice the dress of Gnr Gray?

Answer — He had his DR uniform and his crash helmet.

Question 2 — After you left the pub did you notice if Gnr Gray was wearing his crash helmet?

Answer — Yes, he was wearing it.

Question 3 — How many bottles of beer did you take from the pub?

Answer — Two I think.

Question 4 — What happened to the two bottles you had?

Answer — One of the bottles was passsed around and I threw it away. I do not remember what happened to the other.

Question 5 — You drank this beer just after you left the pub?

Answer — Yes Sir.

Question by President:

Question 1 — What time did you reach the pub?

Answer — About 2030 hrs, sir.

Question 2 — Were Gnr Gray and Pte Panard in the pub when you arrived?

Answer — I think Gnr Gray was in the pub when we arrived and we met Pte Panard just outside.

RP 83 (b) complied with.

Third witness for prosecution:

B9330 L/Bdr Stewart; GB, 2 Cdn CBO Staff RCA, sworn, states:-

I left camp about 2000 hrs and proceeded to Crown Inn, Whitebrook with Gnr Gray. I arrived at the Inn about 2030 hrs 30 Aug and spent the time drinking until closing time which was about 2230 hrs. I left in company with Sgt Brown, Gnr Fyfe, Pte Danard and Gnr Gray. Just after leaving the pub we all had a drink outside and started up the road together. As we walked we started to straggle out. I was with Gnr Gray for awhile and then Gnr Fyfe. About ½ mile from the pub I got seperated from Gnrs Gray and Fyfe and proceeded to the camp alone. About ½ mile further on I met Gnr Fyfe. I spoke to Gnr Fyfe and then he carried on towards the camp and I followed closely behind. I arrived in camp and went straight to bed. During my stay at the pub I drank between 6 and 8 beers and drank for about 5 minutes outside of the pub. I saw Pte Danard outside of the pub and left Gnr Gray about ½ mile up the road. Gnr Fyfe came along right after Sgt Brown had passed me. Gnr Fyfe did not accompany me to the Camp. When I arrived at camp, Gnr Gray who shares a bed with me was not in. I arrived at Camp at about 2315 hrs. Gnr Gray arrived back and went to bed about 2325 .

The Defence Counsel examines the witness:

There were no other soldiers in the pub ~~besides our group~~. At closing time other than our own group of five. Gnr Gray was wearing his DR equipment when he was in the pub. Gnr Gray had on his crash helmet when he left the pub and when I saw him again. We had a quart bottle of beer to drink between the five of us outside of the pub. I saw Gnr Fyfe about ½ mile from camp.

~~Did Gnr Gray get up after he went to bed?~~

Gnr Gray was wearing his crash helmet when I left him ½ mile from the pub.

RP 83 (b) complied with.

Fourth Witness for Prosecution.

K76640 Gnr Fyfe; D. 2 Cdn CBO Staff RCA, sworn, states:

I left the pub about 2230 hrs. I had a drink outside with the group. On the way home we broke up and I found myself walking with Sgt Brown. I left Sgt Brown about ½ mile further on. I walked on my myself to the first Cross Rds and I met L/Bdr Stewart. After a few words with Stewart I started for the camp. On reaching camp I went to the latrine. I was in the latrine for about 5 minutes and walked over to the tent. On the way to the tent I met L/Bdr Penny and then I went straight to bed at about 2320 hrs. During my stay in the pub I had at least 8 pints of beer. I did not notice whether any of the group which I left the pub with were in camp when I arrived. I did not hear anyone come in after I went to bed for I had my head under the blankets.

The Defence Counsel examines the witness:

I never noticed any other soldiers in the pub on the night of 30 Aug outside of our group. We spent about five minutes outside the pub drinking a quart bottle of beer. I did not have any bottled beer with me when I left. I do not know who supplied the quart of beer. I talked to L/Bdr Stewart about ½ mile from Camp. I heard footsteps all the way up the road until we turned off the road where the trail commenced for the camp.

RP 83 (b) complied with.

Fifth Witness for Prosecution:

B43919 L/Bdr Penny RS 2 Cdn CBC Staff, RCA.

I was duty clerk on night of 30 Aug until 0030 hrs. Between 2300 and 2330 I went to the latrine where I saw Gnr Fyfe D.

Defence counsel declines to cross examine above witness.

RP 83 (b) complied with.

First Witness for Defence

The accused M590 Gnr Gray HA having been duly warned gives the following evidence under oath:

I left camp around 2000 hrs 30 Aug with L/Bdr Stewart and proceeded to the Crown Inn, Whitebrook where we spent the evening until 2230 hrs drinking. I drank about 12 pints of beer. At 2230 hrs when the pub keeper hollered time we all left and went outside together. Just outside the pub we had a bottle of beer between us and started for camp together. We got spread out. I tried to keep up to L/Bdr Stewart. After we got split up I found myself walking with someone whom I did not recognize. A little further on we met a person who might have been a policeman who hollered at us telling us not to make so much noise. This man in uniform appeared when we were about ½ mile from the pub. We did not stop but kept on going and I arrived in camp alone. On arriving in camp I spoke to L/Bdr Stew art who had just got into bed, we talked for a short while and went to sleep. The only time I stopped on the way from the pub to the camp was just outside of the pub where we had a drink. I had no physical contact with anyone from the time I left the pub until I reached the camp. I do not remember anyone flashing a light, the persona in uniform had on a square hat and might have been either a bus driver or a policeman.

Witness was examined by the Prosecution.

I estimate that I arrived in camp after 2300 hrs but before midnight.

Witness was examined by President.

I was wearing my DR uniform and my crash helmet. I wore my crash helmet all the time on the night of 30 Aug for fear of losing it. I have my crash helmet now.

RP 83 (b) complied with.

Second witness for Defence:

M16629 Pte Panard; A V having been duly warned gives the following evidence:

On the night of 30 Aug shortly after 2000 hrs I left the camp accompanied by Sgt Carr. We were going down to the pub at Whitebrook. Just as we got to the pub we met Sgt Brown and Gnr Fyfe. I drank beer in the pub until closing time. Just before we came out of the pub there was a flagon of beer on the counter which the pub keeper told me to take. I stepped outside the pub when I tumbled over something and the flagon broke. When I caught up to the others on the road they were passing a bottle around and I had a drink there with them. We then started up the road together. While I was walking up the hill alone I head others in front of me. When I got home I talked to Pte Baker. Then I went straight to bed, but I do not know the time I got into bed. I estimate that I had 6 to 8 pints in the pub and a drink outside the pub.

The above witness cross-examined by the Prosecution.

I think I can remember everything that happened on the night of 30 Aug.

Cross examined by the President.

I do not know the exact time I reached the Camp but I walked back slowly not sitting down anywhere.

RP (B) 83 complied with.

Third witness for Defence:

K37230 Pte Baker; S J 2 Cdn CBO Staff RCA sworn, states:

I am a cook in the mens kitchen. I know both the accused Pte Panard and Gnr Gray. On the night of the 30 Aug I was around the kitchen talking with Gnr Smith who was the guard. We talked till about 2250 hrs when I started to make my bed. I know it was 2250 hrs for I asked Gnr Smith for the time and he looked at his watch. I spoke to Gnr Smith again at 2300 hrs when he went off guard. I then smoked a cigarette in bed. Pte Panard then came in stepped on the foot of my bed and I spoke to him. I would estimate that Pte Panard came in between 2320 and 2325 hrs.

The witness was cross examined by the prosecution.

I was not asleep when Pte Panard came in. I may have fallen asleep before he came in but this is highly improbable. I was not very tired on the night in question as I had a sleep during the day.

RP 83(b) complied with.

Fourth Witness for Defence

Capt J E Seybold, 2 Cdn CBO Staff, RCA, sworn, states,-

I inspected the kit of the men in my unit on 31 Aug and did not find either a constable's staff or flashlight. This inspection included the kits of the two accused. I do not know of the accused, Gnr Gray being short a crash helmet since 30 Aug. There were 17 men present on the identification parade 31 Aug.

RP 83 (b) complied with.

Closing address of
Defence Counsel (sec 7)

This case rests on the question of identification of the two accused. The court is faced with the problem of reconciling two contradictory reports, as to the presence of the two accused in two different places at materially the same time. On the one hand the evidence of Constable Cross that at 0045 hrs 31 Aug ~~Rx~~ out of a group of 4 soldiers the accused were the two by whom he was assaulted. On the other hand we have the quite independent evidence of Pte Baker that the accused Pte ~~B~~anard had stepped on his bed and had subsequently gone to bed in a camp about 1 mile away from the scene of the assault. L/Bdr Stewart said that the accused Gnr Gray came into bed a few minutes after he did at least 1½ hrs before the time of the assault. I ask the court to examine the credibility of these two sets of statements as they apply to the accused. In the latter case there is no question of identification, the accused are known to the persons who gave the evidence. L/Bdr Stewart's time is fixed by the fact that he met Gnr Fyfe about ½ mile from camp. Gnr Fyfe going on into camp ahead of him, the latter arrives at a time fixed by L/Bdr Penny as being between 2300 and 2330 hrs. I submit to the court that it is unreasonable to assume that L/Bdr Stewart took another 3/4 of an hour to make that ½ mile and that the time of his arrival may be taken to be before 2330 hrs.

We are asked to believe that agroup of five men will leave a pub at closing time and are still on their way home some two hours later. Yet we are told by Sgt Brown, Gnr Fyfe and the two accused that they all moved off together from the pub at the most 15 minuts after closing time. I ask the court where the four men of whom the accused are alleged to have been two came from. When we are told that out of a group of 5 from this unit two were definitely in camp by midnight and one was ½ mile away at midnight. I ask the court to examine the strength of the identification by the first witness of the accused. The constable came onto the road, flashed his torch on a party 20 or 30 yds away. Two of the party come running towards him as they come he shines his torch on himself to identify his uniform, then these two men start grappling for the torch. All of this activity the constable tells us took a minute or a matter of seconds. This taking place on a practically moonless night. The constable does not recall any peculiarity in dress and does not recall seeing any dress other than ordinary battle dress on any of these two men. I suggest to the court that a torch flashed over a distance of 20 to 30 yds on people running towards one shows more than just the faces. High boots and breeches, a crash helmet, whether worn or carried, are sufficient variance of the normal pattern as to make a decided impression. I suggest to the court that Constable Cross has made a mistake in identification. His identification is based on colour of hair, height and general build. I would submit as a ~~Rxxx~~ psycological fact that the human mind sees and recognizes that which it wants to see and recognize.

The constable comes to a group of 17 men and sees two who answer his description. The first time he sees them he is positive of one and not of the other. The second time he sees them that evening he is satisfied as to both. I submit that having seen them in court a third time he firmly believes they are the two men. I would submit to the Court that Constable Cross at about 2300 hrs saw the accused walking down to the pub. The next day when he came to identify them they struck a responsive chord in his mind and his identification was incorrect.

I ask the court to pay attention to MML p 58 para 67 ch 5.

I suggest that at least one hour before the scene described by the constable took place the accused were back in camp.

Closing address of the Prosecution.

As Capt Sheps pointed out there are two conflicting stories, one the evidence of the policeman, who as it was said before, was positive of the identity of one man on the parade, but was not certain of the other until he heard the second one's voice later on. Against that we have the evidence of L/Bdr Stewart and L/Bdr Penny, Sgt Brown, Gnr Fyfe, as to when they arrived home. None of them should have been out of camp at all. With the exception of Fyfe who was seen by Penny within certain time limits I submit that there has not been one definite time established regarding the time of return of these men. In Penny's evidence he stated that he went back to the tent after duty at about 0045 hrs. He remembers Fyfe there. He does not remember any of the others. It is reasonable to expect that had Gray been in Penny would have noticed him as they only slept a foot and a half apart. I would ask the court to consider the way these soldiers spent the evening, the amount of beer they had consumed, the fact that none of them should have been out of camp, at the time when it is weighing the evidence.

Summary of evidence in the case of M 590 Gnr Herbert Alfred Gray and M 16629 Pte Avery Victor Danard of 2 Cdn C.B.O. Staff R.C.A., Canadian Army Overseas, charged with a civil offence, that is to say assault of W.R. 170 Constable Crosse of the Monmouthshire County Constabulary.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

W.R. 170 Constable Edward Owen Crosse, sworn, states:

At 0040 a.m. on 31 August I was at my home in Whitebrook when I heard the sound of smashing wood on the road outside and some men shouting. I put on my uniform and went down on to the road where I saw a 4'x4' section of fencing which had been recently smashed. A little way up the road there was a group of men smashing at something. I shone my torch towards them and one of them called out, "What do you want? I replied, " I want you to come down here and see this damage." One of them called out, "All right we are coming" and two of the men came towards me. They appeared to be hostile so I shone my torch on my uniform so that they should know who it was accosting them. I then shone the torch on them again and they continued to come towards me. I warned them to stop intending to question them. The man on my left who appeared to have the fairer hair of the two said, "He is only a fucking policeman, we can knock his head off." He then tried to take the torch from me and I shone it on them again. The man on my right had darker hair that stood upright on his forehead. The man on my left succeeded in obtaining possession of the torch. I then drew my staff and warned the men once more that I was a police officer. The man on my left then shone the torch on my face and both men tried to get my staff from me. They twisted my arm around until I had to release my staff which was taken by the man on my right. The man on my left then took the staff and held it up in his right hand above my head and said, "We can knock your head off and we will". He did not deliver a blow but closed with me and pinned my arms to my side. He then pushed me backwards and the man on my right started punching me on my throat but landed only two blows. The man on my right then said, "Take off your bloody glasses so we can hit you properly." I then released myself from their grasp and went to a house to telephone for assistance from Monmouth. When I returned to the road the men had gone. At 1.20 a.m. in company with Sgt Taylor and W.R. Turvill, I visited the Crown Inn at Whitebrook. I made enquiries there as a result of which we three officers visited a gravel quarry near Trelleck. We there saw Capt Seybold and told him what had occurred and that we beleived the men to be in his unit. We were informed by Capt Seybold after he had made a search, that all men were present, the time then being 0230 hrs. At 0700 hrs, 31 August, I searched the road where the fight had occurred and found a flagon half full of beer in a ditch and a bottle containing a clear liquid. At 9.30 a.m. 31 August in company with Supt. Lewis of Monmouth I visited the quarry again. An identification parade was held and I was invited to try to identify my two assailants. I identified the two men who are before you now, Gray being the man who was on my right and Danard on my left. During the fight a third soldier was lying on the road a few feet away and a fourth man, who I

do not know if he was a soldier, was about thirty yards away up the road holding a white light. He remained there during the fight.

Q. What other troops are there in the neighborhood?

A. To my knowledge, more within seven miles of Monmouth in which district I am in, I do not think there are any between here and Chepstow.

Pte Danard, the accused, cross examined:

Q. When you came out on the road how far away would you say the troops were that were doing the breaking?

A. About 15 yards.

Q. I understand you to say that you stood by the break in the fence and these two soldiers approached you.

A. I did say that.

Q. When you came out on the road firstdid you shine your torch around to see the damage?

A. Yes. I did.

Q. Then did you see the man that you said was lying on the road?

A. The third man did not approach me in the same manner as the other two.

Gnr Gray, the other accused, cross examined the witness:

Q. You say that the two men who approached you had no hats on?

A. I did not say that but I say it now. That is how I was able to describe their hair.

[signature] 24/10

Signature of Witness

Second Witness

H.24129 A/Sgt. Brown, E.J., 2 Cdn C.B.C. Staff, R.C.A. sworn states:-

"Sir, I left camp shortly after 2000 hrs on 30 Aug 1943. I walked down to the pub in Whitebrook with Gnr. Fyfe, where I spent the evening and left at closing time with Gnr. Gray, Pte. Danard, L/Bdr. Stewart and Gnr Fyfe. We started off up the road together. After we had gone a short distance we straggled out and I found myself walking with Gnr. Fyfe. After some time which I think to be about half a mile we got separated. I do not know if Gnr. Fyfe was in front or behind. The rest of the journey home I heard no unusual sounds but I heard footsteps behind me from time to time. I arrived back in camp at what I estimated to be approximately 2300 hrs.

Q. When you left the pub did you take any beer with you?

A. Yes sir.

Q. How much?

A. I think I had two bottles.

Q. Where did you drink this beer?

A. I had a few drinks just after I started to walk and I threw the empty bottle in a ditch. I don't remember what happened to the other bottle.

Q. Were you drinking alone or were others with you?

A. There were others with me just after I left the pub.

Q. They shared in your bottle?

A. I believe so.

Q. When was the last time you saw the accused on the way home?

A. I believe it was shortly after we left the pub. I don't remember seeing them again.

The accused both decline to cross examine the witness.

E. J. Brown
Signature of Witness

Third Witness

B.9930 L/Bdr. Stewart, G.B., 2 Cdn C.B.C. Staff, R.C.A. sworn states:

"I left camp at approximately 2200 hrs and proceeded directly to a pub about a mile and a half away. I think it was the Crown Inn at Whitebrook. I arrived there at approximately 2030 hrs. I went with Gnr. Gray and spent the evening drinking beer till closing time. I then left the pub and returned directly to the camp. I went to bed.

Q. When you left the pub were you alone or who was with you?

A. I was with Sgt. Brown, Pte. Danard, Gnr. Fyfe, and Gnr. Gray.

Q. Did you bring any beer with you?

A. No.sir.

Q. Who did you walk home with?

A. We started together but as we walked along we began to straggle out and I was with Gnr. Fyfe for some time. I was also with Gnr. Gray and Pte Dunard and Sgt. Brown. About a mile from the pub I left Gnr. Fyfe and proceeded to camp by myself.

Q. Did you drink any beer on the way home?

A. Yes sir.

Q. Where was that?

A. Just after I left the pub.

Q. Was that all?

A. Yes sir.

Q. How far had you gone when you last saw Sgt. Brown?

A. About a mile.

Q. And Gnr. Gray?

A. About half a mile.

Q. And Pte. Dunard?

A. I don't remember seeing him after I had a drink with the others outside the pub.

Q. How far was it from the pub to the place where you turned into the lane leading to the camp?

A. About ½ mile.

Q. What time did you get home?

A. About 2315 hrs.

Q. Do you know if the others arrived back ahead or after you?

A. I believe it was shortly after.

Q. Did you hear them come in?

A. I was talking to Gnr. Gray.

Q. Did he mention anything about a fight or a row on the way home?

A. No sir.

Cross examined by Gnr. Gray, one of the accused.

Q. How long after you got in were you talking to me?

A. Shortly after, a matter of minutes, but I couldn't say as I was not paying any attention to xxx time.

Pte Dunard the other accused, declines to cross examine the witness.

S B Stewart
Signature of Witness

Fourth Witness

K.76640 Gnr. Fyfe, D., 2 Cdn C.B.O. Staff, R.C.A. sworn states:

"I went down to the pub with Sgt. Brown and met Gnr. Gray , Pte Danard, L/Sgt. Carr, and L/Bdr. Stewart. I drank there until 2230 hrs and left about 2235 hrs with the others. We started off and split up as we walked. I found myself with Sgt. Brown. Just before we pulled off the main road to go up the trail I missed Sgt. Brown. I proceeded up the trail and met L/Bdr. Stewart. I spoke to him and kept on going. I went straight to camp and went to the latrine. I went over to the tent and saw L/Bdr. Penny on the way and went straight to bed.

Q. How far had you gone from the pub when you last saw the accused?

A. I didn't after we started up the hill from the pub.

Q. Did you have anything to drink on the way home?

A. Yes sir just after we left the pub.

Q. Did you bring a bottle with you from the pub?

A. No sir.

The accused decline to cross examine the witness.

D. Fyfe
Signature of Witness

Fifth Witness

B.43919 L/Bdr. Penny sworn states:

"I was on duty between 1800 hrs and 2400 hrs. Between 2300 hrs and 2330 hrs on my way to the latrine I met Gnr. Fyfe. He was going from the latrine to the tent. I went on to the latrine and then went back to the office. I was not away more than ten minutes.

Cross examined by Gnr. Gray one of the accused

Q. Did you go to the tent coming from the latrine or go straight to the office?

A. I went straight to the office.

Pte Danard the other accused, declines to cross examine the witness.

R. L. Penny
Signature of Witness

The accused declined to call any witnesses.

The accused were warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused, Gnr. Gray " I have nothing to say at this time."

The accused, Pte. Danard "I have nothing to say at this time"

I certify that paras C,D,E and F of Rules of Procedure 4 Have been complied with.

Taken by me in the field in the presence and hearing of the accused this 31st day of August and 1st day of September 1943.

F. Seybold Capt R.C.A.

Signature of Officer taking Summary

LIST OF WITNESSES

For Prosecution

W.R. 170	Constable	E.O.Grosse	Monmouth Police Station. Monmouth.
H.24129	A/Sgt.	Brown, E.J.	2 Cdn C.B.O. Staff, R.C.A.
B.9930	L/Bdr.	Stewart, G.B.	2 Cdn C.B.O. Staff, R.C.A.
K.76640	Gn.r	Fyfe, D.	2 Cdn C.B.O. Staff, R.C.A.
B.43919	L/Bdr.	Penny, R.S.	2 Cdn C.B.O. Staff, R.C.A.

For Defence

Nil

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by field general court-martial.

I desire the services of Lieut. Sheps, 5 Med Regt RCA, if he is available.

(Signature of Accused)

RR 9
GNR GRAY HA

M-590 Gnr GRAY, Howard Alfred
2 Cdn CBO Staff

RR-9

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-second day of September, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of H.Q. R.C.A., 2 Cdn Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~(and that it is not practicable to delay the trial for reference to a superior military officer)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

SDT.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~(I am unable to appoint:—~~

~~(1) Three Officers to form the Court.~~

~~(2) A Field Officer as President.)~~

~~for the following reasons, namely:—~~

*Omit if not applicable.

SDT.

14 Oct 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H.G. Williams	6 Cdn LAA Regt

Members.

Rank.	Name.	Regiment.
Capt	V.G. Spittal	19 Cdn SP Regt
Capt	J.W. Monahan	23 Cdn SP Regt
Capt	J.S. Glover (Waiting Member)	6 Cdn LAA Regt

(Judge-Advocate)
Capt G.H. Jermyn
HQ 2 Cdn Corps

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (A E D Tremblin) Brig
Commanding CCRA, 2 Cdn Corps
Convening Officer.

SCHEDULE

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M-590 Gnr GRAY, Howard Alfred 2 Cdn CBD Staff	First Charge Absence Without Leave - AA Sec 15(1)	Guilty	Guilty	Remainder of the finding and sentence of the Court. J.H.S. Tremain Brig ADC
	Second Charge AA Sec 40.	Guilty	Guilty To undergo detention for a period of 50 days 25 Sep. 43 J.H.S. Tremain Brig President J. Fernyn Capt J.A.	
	(See Charge Sheet attached)			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.H.S. Tremain (A E D Tremain) Brig (Signed) H.W. Wilkinson Maj.
Commanding 5 Cdn Armd Corps *Convening Officer* (*e*) J. Fernyn Capt J.A. *President.*

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of September, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~(3. The Interpreter)~~ Judge Advocate
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 25th day of September 1943

J. Fernyn Capt J.A. H.W. Wilkinson Maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*e*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

H.W.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) A281.

Signed this 25 day of Sept. 1943

J.H.S. Tremain Brig ADC
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 27th September 1943 (Signed) J.E. Seybold Capt RCA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) W1.47525/242 25,000 7/42 A.& E.W.,Ltd. Gp.698
(21246) W1.18068/1359 40,000 7/42

CHARGE SHEET

The accused, M-590 Gnr Howard Alfred Gray, 2 Cdn C.B.O. Staff, a soldier of the Canadian Army Overseas is charged with:-

First Charge
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE

In that he

in the field, absented himself from his unit lines without leave from 1930 hrs 17 Sep 43 to 2155 hrs 17 Sep 43. (absent 2 hrs 25 min)

Second Charge
Army Act
Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

in the field on 17 Sep 43 between 1930 hrs and 2155 hrs improperly and without authority used Canadian Military Vehicle #CC-4220711 a Harley-Davidson Motor Cycle for private purposes.

In the field,
20 Sep 43.

J.H.D. Ross
(J.H.D. ROSS) Lt-Col., R.C.A.
Commanding,
2 Cdn C.B.O. Staff, R.C.A.

To be tried by Field General Court Martial.

A.E.D. Tremain

In the field.
22 Sep 43.

(A.E.D. Tremain) Brigadier
C.C.R.A. 2 Cdn Corps

H G Williams Maj.
President

G Terrazza Capt
J.A.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No M-590 Gnr. Grey H.A. of 2 Cdn C.B.O. Staff, R.C.A. and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 25 Sep 43

J. E. McCol, Capt
Medical Officer.

H G Williams Maj
President

PAGE 1

Record of Proceedings of a Field General Court Martial

Held in the Field in England (Country) on 23 Sep 43 (Date) to try

Accused M590 Gnr Howard Alfred Gray 2 Cdn C BO Staff RCA
(Number) (Rank) (Christian Names) (Surname) (Unit)

	Rank	Name	Unit
President	Maj	H.C. Williams	6 Cdn LAA Rgt RCA
Member	Capt	V.G. Spittal	19 Cdn SP Rgt RCA
Member	Capt	J.W. Menabam	23 Cdn SP Rgt RCA
Judge Advocate (if any)	Capt	J.H. Jermyn	HQ 2 Cdn Corps
Officers Under Instruction (if any)	Capt	J.S. Glover	6 Cdn LAA Rgt RCA
	Lt	S.P. Wright	6 Cdn LAA Rgt RCA
	Lt	P.H. Greenwood	6 Cdn LAA Rgt RCA
	Lt	S.M. Pimberton	23 Cdn SP Rgt RCA
Prosecuting Officer	Capt	J.P. Seybold	2 Cdn C BO Staff RCA
Lawyer? Ans No			
Defending Officer	Lt	J.W. Blain	23 Cdn SP Rgt RCA
Lawyer? Ans yes			

(The following procedure must actually be carried out)

1. The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P.17(E), 22(A)).

   (If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto). (For form of record see M.M.L. p.742 top).

2. The President, in closed court (R.P.22, fn 1) reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted (A.A.49: Rs.P.106, 107), that the accused is (are) amenable to Military Law, and that each charge discloses an offence (Rs.P.23,108).

3. The accused is (are) brought before the Court and at 1530 hours the trial commences.

4. The Prosecuting Officer produces a Medical Certificate under K.R.(Can) 557 (See CMHQ Circular Letter 173) that the accused has (have) this day been examined and is (are) fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

(Over)

5. ~~President to accused:~~

Q - Do you object to _____ as interpreter?
A - _____

The interpreter is duly sworn. (Form of oath on Page "D").

Q - Do you object to _____ as ~~shorthand~~ writer?
A - _____

~~The shorthand writer is duly sworn. (Form of oath on Page "D").~~

6. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P.25).

7. President to Accused:

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A - NOSIR.

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto. (R.P.25). (For form of record see M.M.L. p. 742 Variation).

8. The President, Members, Judge-Advocate and Officers under Instruction are duly sworn (Rs.P.26, 27). (Forms of oath on page "D").

9. The Charge Sheet( ) is ( ) signed by the President.

10. The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (A.A.46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P.62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.56); or as to accused's mental fitness to stand trial (A.A.130; R.P.57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto). (For form of record see M.M.L. p. 744, 745, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge	GUILTY	Fifth Charge	
Second Charge	GUILTY	Sixth Charge	
Third Charge		Seventh Charge	
Fourth Charge		Eighth Charge	

(For procedure on alternative charges, see R.P. 57(A) and fn. 2). (For form of record see M.M.L. p. 744 Instructions).

Further proceedings are recorded on pages hereto attached.

(2 Cdn Corps 15-6-43)

PAGE 1A

(For use when accused pleads "Guilty" to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. The President complies with R.P.35(B) by ascertaining that the accused understands the nature of the charge(s) (fn. 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) & fn. 3) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. The finding(s) of the Court is (are) recorded on p. 2 of A.F.A.3.

3. President to accused:

Q - Do you desire to make any statement of the circumstances in reference to the charge(s)? (R.P.37(B)).

A - NO SIR

(Statement (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

4. The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

(If no such Summary, sufficient evidence for determination of the sentence is taken and recorded on separate sheets, initialled by the President and attached hereto). (R.P.37(B)).

5. President to accused:

Q - Do you wish to make any statement in mitigation of punishment? (R.P.37(C)).

A - YES SIR

(Statement (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

(If from paras. 3, 4 or 5 it appears to the Court that the accused did not understand the effect of his plea see Rs.P. 37(B) fn. 3; 37(C); 37(D) fns. 5 & 6: M.M.L. p. 747 Variations).

6. President to accused:

Q - Do you wish to give evidence yourself or to call any witnesses as to character? (R.P.37(C)).

A - NO. SIR

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

7. Statement of Character and Service (A.F.B.296 or M.F.B.355) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, marked " X ", and " Y ", signed by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131).

8. President to accused:

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)).

A - YES. SIR

(Address (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

(Over)

9. The President announces:

" The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

10. The Court is closed to consider the sentence.

11. The sentence is recorded, dated and signed by the President (R.P.50) on p. 2 of A.F.A.3.

(Punishments, A.A.44; M.M.L. p.130-134; K.R.(Can)563-566; Overseas R.Os.309, 2323).
(One sentence is awarded in respect of all offences, R.P.48).
(For form of sentence see M.M.L. p.756-758).

12.

H G Williams Maj
(Signature of President)

G. Fermyn capt
J.A.

(2 Cdn Corps 15-6-43)

Address by Accused in Mitigation of Punishment

When I came to this unit I was told I was to be a D.R. and would be kept busy with M.E. orderly work. I gave up a stripe in C.D.R.U and a job instructing to come here. When I arrived I sat around for three months doing fatigue work. It went on like that until the Spartan scheme, which was the first time I had to ride my bike. Then there was no more riding until the next scheme. I gradually got fed up with the unit because I wanted to be kept busy. I took a course in D.R. because I wanted to ride a bike. Being idle around here is the reason I've had a few crimes in this unit.

Address by Defending Officer on Statement of Character and Conduct

The plea of guilty was the result of the verdict of the court in the previous case. The court heard the evidence in the previous case and it would be the same facts in this case. The same things should be considered in this case as to sentence, namely that there was some excuse for taking this machine out for a test after doing maintenance on it. I would also bring to the Court's attention that there are not very many serious crimes entered on the conduct sheet of the accused.

[illegible] Capt
J.A.
[illegible] Maj
President

Summary of evidence in the case of H-590 Gnr. Howard Alfred GRAY and D-26673 Gnr. Louis Patrick BURNS of 2 Cdn C.B.O. Staff, R.C.A., Canadian Army Overseas, charged with Absence Without Leave on 17 Sep 43, Improper use of military vehicles, namely No. CC-4220711 Harley-Davidson Motor Cycle and C-4601266 Norton Motor Cycle and stealing petrol by using the above mentioned vehicles which contained N.D. petrol.

The Commanding Officer directs that evidence be taken on oath.

First Witness

K.98319 L/Bdr. Williams, A.T., 2 Cdn C.B.O. Staff, R.C.A. sworn states

"On the night of 17 Sep 43 at approximately 1930 hrs Capt. Ely came to me and asked me where the motorcycles were kept. I said that they should be in the unit line s. We went through the unit lines looking for the motorcycles. We could not find them. We then went to the Orderly Room and enquired whether they had been sent out on a trip. We were told that they had not been sent out. We then went through the unit lines again. We did not find the motorcycles or see Gnr. Gray or Gnr. Burns. Neither Gnr. Gray or Gnr. Burns had any authority to take the motorcycles from the unit lines at that time.

The accused decline to cross examine the witness.

A. Williams L/Bdr.
Signature of Witness

Second Witness

Capt. John E. Ely, R.C. ., 2 Cdn C.B.O. Staff, R.C.A. sworn states

"At about 1910 hrs on the 17 Sep 43 I had occasion to go out on one of the motorcycles and I went to the Unit M.C. park and neither of our two motorcycles was there. On discovering this I enquired from L/Bdr. Williams as to whether he knew where the motorcycles were. He did not know and we proceeded to the Orderly Room to find out if authority had been given for the motorcycles to be out. I found out that authority had not been given. We then searched the unit lines completely to try to locate the two motorcycles. The motorcycles were not in the unit lines. We then searched the Unit lines again to find out if Gnr. Gray or Gnr. Burns were in camp. They could not be found. This search took place at approximately 1925 hrs.

"At about 2030 hrs I was ordered to proceed to Thetford to try to locate Gnr. Gray and Gnr. Burns and the two motorcycles. I took Sgt. Brown with me and the two of us entered several pubs in the town but could not find Gnr. Gray or Gnr. Burns nor the motorcycles. ~~On returning to our vehicles driven by Gnr. Plunkett he told me that he had seen Gnr. Gray and Gnr. Burns and told them that they were required in camp.~~

The accused decline to cross examine the witness.

Signature of Witness

The accused decline to cross examine the witness.

Third Witness

C-10536 Gnr. Plunkett, G.W., 2 Cdn C.R.C. Staff, R.C.A. sworn states

Signature of Witness

"I was in the Station Waggon and I heard two motorcycles coming along. I got out of the station waggon and shouted at them as I recognized Gnr. Grey and Gnr. Burns. They stopped and I told them that they were wanted back in camp. They told me that they were going back. This was at about 2140 hrs while I was parked in Thetford waiting for Capt. Ely and Sgt. Brown.

The accused decline to cross examine the witness.

G.W. Plunkett
Signature of Witness

Fourth Witness

K.76640 Gnr. Fyfe, D., 2 Cdn C.R.C. Staff, R.C.A. sworn states

"At 2155 hrs 17 Sep 43 I was on guard in the unit lines I heard two motorcycles come in to the D.R. park. I walked to the park and found the D.Rs to be Gnr. Gray and Gnr. Burns. I escorted them to the Orderly room. We arrived at the Orderly Room at 2205 hrs.

The accused decline to cross examine the witness.

D. Fyfe
Signature of Witness

Fifth Witness

Capt. J.E.Seybold, R.C.A., 2 Cdn C.R.C. Staff, R.C.A. sworn states

"On 17 Sep 43 at 2203 hrs I was in the C.R. Office truck. Gnr. Fyfe, who was on guard, escorted Gnr. Gray and Gnr. Burns to me as they had just returned to the unit lines. I questioned them about their absence and placed them under open arrest.

The accused decline to cross examine the witness.

J.E. Seybold Capt RCA
Signature of Witness

H.G.W.

Sixth Witness

H-24129 A/Sgt. Brown, E.J., 2 Cdn C.B.O. Staff, R.C.A. sworn states

"Sir, at approximately 0920 hrs 11 Sep 43 I called a parade of all other rank personnel of 2 Cdn C.B.O. Staff, R.C.A. The accused whom I now recognize were both present on that parade. On the parade there were a number of orders given regarding discipline on the exercise in which the unit was about to take part. One of these orders was to do with bounds of the camp. The order stated that personnel would be confined to a radius of 200 yds from the unit lines unless otherwise otherwise authorized by an officer.

The accused decline to cross examine the witness.

E J Brown
Signature of Witness

The Accused were warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused Gnr. Burns "I have nothing to say at this time."

L. P. Burns
Signature of Accused

The accused Gnr. Gray "I have nothing to say at this time".

Hal Gray
Signature of Accused

The accused declined to call witnesses on their own behalf.

I certify that R.F. 6 paras C,D,E and F have been complied with.

Taken by me in the field in the presence and hearing of the accused this 18th day of September 1943.

J E Seybold Capt RCAM
Signature of Officer Taking Summary.

HGW

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

I desire the services of Capt. S. Sheps, 5 Cdn Med Regt, R.C.A., if he is available.

Signature of Accused

M.F.M. 6
(A.F.M. 3.32)
175M—T-61—(2-20)
H.Q. 1772-20-1652

No. M-590 Name Gray Howard Alfred Son, Battery, or Company } old sheet destroyed 4 July 1942 Corps - R.C.A. Date of enlistment } 29-4-41 G.C. Badges } Service or Proficiency Pay } Character

Date of last entry in Company Conduct Sheet } No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Gnr		W.O.A.S., AWL from 0600 hrs 12 Jan 42 at Fort Garry, Man. (Absent 6 days 14 hrs 45 mins)	Bdr. W.H. Barker " L.J. McIvor	14days C.B.	20-1-42	A.L.S. Nash CQA, 3RCAAT	Fined 15 dys pay forf 7 dys pay FR&I-149
Fort Garry	2-3-42	"		AWL from 0730 hrs 2-3-42 to 1710 hrs 9 Mar 42 (Absent 7 day 9 hrs 40 mins)	Doc. L/Cpl Russel Sgt Hadden	28 days Detention	19Mar42	Lt-Col Nash	Forf 8 day pay FR&I stoppages of $1.20 returning to Unit. Forfeits 1 days pay FR&I 149(1)(a)
Field	19Oct 1942	L/Bdr		WOAS, AWL from 2200 hrs 19 Oct 42 until 0630 hrs 20 Oct 42. (Absent 8 hrs 30 mins. AA Sec 15(1)	Sgt Baldwin Bdr Lawson	Admonished	20Oct42	Lt. Col. Co. [illegible]	

"V" H G William Maj
President

(F.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	* Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28 Feb 43	Gnr	-	WOAS Disobeying a lawful command given by his superior officer. A.A.Sec. 9(2)	B88480 Bdr Carr,T.G. B-6252 Sgt Steel, J.M.	28 days F.P. Forfeits 28 days pay AA Sec 46(2)(c)	2Mar43	J.H.D.ROSS Lt-Col OC 2 Cdn CBO Staff RCA	Total Forfeiture 28 days pay FRAI149(2)
In the Field	2Apr43	Gnr		W.O.A.S. AWL 9 days 6 hrs 15 mins A.A. Sec 15 (1)	B-9930 L/Bdr Stewart Documentary	28 days F.P. forfeits 28 days pay FR&I149(2) Stoppage of pay of£1-11-8 to defray cost of apprehension	and16Apr43	Lt-Col J.H.D Ross, O.C. 2 Cdn CBO Staff	Forf10dys pay FRAI 149(1)(a) Forfs 3dys pay FRAI 149(1)(c)(ii) Total Forfieture 41 days pay
In the Field	4Aug43	Gnr		W.O.A.S.AWL 1 hr 7 mins A.A. Sec 15(1)	L/Bdr Stewart L/Sgt Pallett	5C.B.	5 Aug	Capt J.E. Seybold	

A certified true copy of the original conduct sheet in my possession

(J.H.ELY) Capt R.C.A.

"X" H G William Maj
President

M.F.B. 283
22M—5-41 (573-2)
H.Q. 1772-99-625
A.F.B. 286

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.590	Gnr.	GRAY, Howard Alfred	2 Cdn C.B.O. Staff, R.C.A.

1. The following is a fair and true summary of the entries in the ~~Service and General Conduct sheets~~ ~~Regimental and Squadron, Battery or~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For	A.W.L.	3 times	5 times
For	Disobeying a lawful Command	1 times	1 times
For		times	times
For		times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 8 days in ~~Air Force~~ military custody (open arrest), making a total of 8 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 21 years 5 mos

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ ~~2 years 4 mos~~ 29 Apr 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force~~ military reward (~~or is in possession of or entitled to~~). ~~State any air force decoration or reward.~~ ~~military~~

10. (~~If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of Sept 43 J. E. Seybold Capt RCAS

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

5 V-45

Sm Gray, J.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-87709 Gnr GRAY, James Robert - 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 40	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of sixty (60) days.

(Sgd) ..... Judge-Advocate, if any. 26 Oct/45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) ..... Brigadier, Commanding "C" Group, Cdn. Reinforcement Units, Commanding Confirming Officer.

Date 27 Oct 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F87709 Gnr GRAY, J.R.	27 Oct 45	C.C. Lamb, Lieut., R.C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150 5-V-45

FIELD GENERAL COURT-MARTIAL

CFAAO (In lieu of AFAS) 40/F & S/1688 (1944) 4/388

Convened by Order of Brig E.C.Plow, CBE DSO Comd "C" Gp, CRU dated 23 Oct 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-87709	Gnr	James Robert	GRAY	1 CGRU

PROCEEDINGS REVIEWED 10 Nov 45 JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 26 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns 80s. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... or interpreter?~~ Ans .....

~~The Interpreter is sworn.~~(1) Do you object to C/S/Sgt Bonneau as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D. L. REDMAN	HQ CRU
Member	CAPT	D. L. FARMER	1 CGRU
Member	LIEUT	M. W. BERRIDGE	1 CGRU
~~Judge-Advocate~~			
Prosecutor	LIEUT	Z. MILLER	1 CGRU
Defending Offr	LIEUT	R. E. MILLER	1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NIL Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 135, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressum made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns as RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence, (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JAs, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(7) (d), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 353 or AFB 296. 2. Name o. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NOTHING (2)
(1. RP 37(C), 46(D). 2. Address, if gave, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (2)). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 88, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, F87709 Gnr James Robert GRAY, R.C.A., on strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2359 hrs 11 Aug 45 until apprehended by the Canadian Provost Corps in London at 0700 hrs 19 Sep 45.

Absent: 38 days 7 hrs. 1 min.

SECOND CHARGE

SECTION 40

ARMY ACT

WHEN ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at approximately 0700 hrs 19 Sep 45 on Euston Road, London, did state a falsehood to an NCO of the Canadian Provost Corps, while in the execution of his duty, in that he, the Accused, stated that his friend had his leave pass but later admitted being an absentee from his Unit.

E Partington Lt Col
A/Comd No. 1 Cdn Gen Rft Unit
Canadian Army Overseas

FIELD

17 Oct 45

To be tried by Field General Court Martial

J H Plaw, Brigadier
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

23 Oct 45
Bordon, Hants

My 11 4

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-87709	Gnr		James Robert	GRAY	1 CGHU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~are~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, ~~or on behalf of me by my staff officer~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(or that it is not practicable that the trial by reference to a superior military tribunal)~~.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint as the member to form the Court, (a) other Offr or Pte[sic], the next senior to the said Pte is Lieut~~.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the Offr mentioned hereunder~~.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		
Lt-Colonel	D.L. Redmen, VD (Must be named. RP 106.)	Hq CGHU (Unit.)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO	1 CGHU
Lieutenant	To be detailed by CO	1 CGHU
	~~WAITING MEMBER~~	
	~~SECOND WAITING MEMBER~~	

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

(Rank.) (Named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 23 Oct 45

Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 50 (In lieu of AFA 3) 60/7 & 8/1697 (51-42) (See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. F 87709 Gray J.R.
of _____ is in a good state of health,
and fit to undergo Trial by Court martial.

H.H. Nicolson Capt
Medical Officer

Station Field

Date 26 Oct 45

M. F. B. 246
BAM—6-41 (792)
H.Q. 1772-39-466

Plea of Mitigation

The accused F87709 Gnr Gray J. R. enlisted 18th July 41 at the age of 15 yrs. and came overseas 13th Dec the same year.

He went to France in June 44 with the 4th L AA Regt later transferring to the 3rd L AA Regt in Nov. 44 and fought with them all the way to Oldenburg Germany.

From there he returned to England on B. L. A pass, ending up in the hospital. On discharge from there was posted to Borden where he volunteered for Bursna and has been on fatigues ever since.

He is homesick and would like to get home now that the war is over, but is frozen to his lot with only fatigues to look forward to and in respite rebellion went A.W.L. Prior to this his record is very good.

As to the second charge, Gnr Gray was on his way back to his unit to surrender when apprehended and unwisely resorted to this falsehood; hoping he would be able to carry out his original intention.

He is only a boy and realizes the wrong he has done and is heartily sorry for it. I feel sure he will conduct himself as a good soldier in future.

Knowing and having talked to this man I beg to remd to consider leniency in his case for I feel this will do much to preserve a useful citizen

E-3
RMy

SUMMARY OF EVIDENCE

in the case of

F87709 Gnr James Robert GRAY, R.C.A., on strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commander No. 1 Canadian General Reinforcement Unit the Summary of Evidence is taken on oath.

"I produce the following documents pursuant to Overseas Routine Order 5352, which have been read over and shown to the Accused and which are attached hereto as exhibits:

(1) Certified True Extract from No. 2 Canadian General Reinforcement Unit Part II Order No. 62 dated 4 Oct 45 which declares in Section "B", Para 7, sub-para (a) F87709 Gnr Gray J. R. as being Absent Without Leave from 2359 hrs 11 Aug 45.
(Marked Exhibit "A")

(2) Certificate in Accordance with PC 2797 of 10 Apr 42 signed by R.J. Stinson, Capt., DAPM CNHQ at London dated 19 Sep 45 which declares that F87709 Gnr Gray J. R. was arrested at London at 0700 hrs 19 Sep 45.
(Marked Exhibit "B")

J. F. Hodgins Capt
(J.F. Hodgins) Capt
Officer detailed to take
the Summary of Evidence.

FIRST WITNESS for the Prosecution

F57816 L/Cpl Walker T. E., on the strength of No. 6 (Area) Provost Coy., Canadian Provost Corps.

The attendance of this Witness, due to the exigencies of the Service, cannot in my opinion be readily procured. A statement purporting to be signed by him and corroborated by M105892 L/Cpl Bietz J. of No. 6 Area Provost Coy., Cdn Provost Corps, is marked Appendix "A" and attached to the Summary of Evidence. The aforesaid statement has been read to the Accused.

J. F. Hodgins Capt
(J.F. Hodgins) Capt
Officer detailed to take
the Summary of Evidence.

The Accused does not demand the attendance of this Witness in cross-examination.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

.....Capt.
(J.F. Hodgins) Capt
Officer detailed to take
the Summary of Evidence.

FIELD

17 Oct 45

E+A

Exhibit "A"

NO 2 CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

PART II ORDERS
issued by

LAST ORDER		THIS ORDER
NO. 61	COLONEL W. A. TOWNSLEY OBE MC ED	NO. 62
3 OCT 45	COMMANDING OFFICER	4 OCT 45

SECTION "B" OTHER RANKS

7. ABSENT WITHOUT LEAVE

(a) Absent without leave from 2359 hrs 11 Aug 45 still absent 24 hrs.

F87709 GNR GRAY J R "F" Coy

"J.B. Lawson Lieut"
"for" (W.A. TOWNSLEY) COLONEL
COMMANDING OFFICER
No. 2 Canadian General Reinforcement Unit

CERTIFIED TRUE EXTRACT FROM ORIGINAL DOCUMENT HELD IN MY POSSESSION.

J T Hodgins Capt & Legal Offr 1 C & RU.

NO 2 CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

PART II ORDERS
issued by

LAST ORDER		THIS ORDER
NO. 61	COLONEL W. A. TOWNSLEY OBE MC ED	NO. 62
3 OCT 45	COMMANDING OFFICER	4 OCT 45

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"for" (W.A. TOWNSLEY) COLONEL
COMMANDING OFFICER
No. 2 Canadian General Reinforcement Unit

CERTIFIED TRUE EXTRACT FROM ORIGINAL DOCUMENT HELD IN MY POSSESSION.
H Madgin Capt & Legal Officer 1 C&RU.

MY

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr 42. Exhibit

I Certify that No. F-87709 &Rank Gnr Name Gray J.R.

Unit No.1.C.G.R.U. Was arrested at London (Place)

at 0700 (Hour) on 19-9-45 (Date) and that at the time of his arrest, he was wearing(Military Uniform)or (~~Civilian clothes~~) Signature of Provost Marshal, Assistant Provost Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

London
19-9-45

D.A.P.M. (R.J.Stinson) CAPT. C.M.H.Q.

Appendix A.C

CHARGE

Army Form B 252
(See King's Regulations)

No.1.C.G.R.U. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. F-87709 Rank Gnr

Name Gray J.R.

Place London Date of Offence 19-9-45

OFFENCE W.C.A.S. was 1. A.W.L.

2. Stating a Falsehood to an N.C.O. of the Cdn.Provost Corps. while in the execution of his duty.

CAPT.
STINSON, D.A.P.M.

Names of Witnesses :—

L/cpl.Walker T.E. No.6.(Area)Provost Coy.

L/cpl.Bietz.J. No.6.(Area)Provost Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

3 3/44 G.H.Q.F.P.

Appendix 'A'

Statement of **EVIDENCE** in the case of
F-87709 Gnr.Gray J.R.
No.1.C.G.R.U.

Sir;

At London at about 0900 hrs.19-9-45 I was on duty on EUSTON RD. in company with L/cpl. Bietz J.where I saw the a/m soldier.

I approached him and requested to see his M.B.M.1.pts.1.2.3. and.leave pass.He could not produce a leave pass but stated that his friend had it. Later when told he would be taken to H.Q. for a check he admitted being an absentee from the a/m unit.

I placed him under close arrest and escorted him to No.6.(Area)Provost Detention room where he was handed over to the N.C.O. i/c cells to be detained.

London
19-9-45

.....L/cpl.
F-57816 Walker T.E.
No.6.(Area)Provost Coy.
Cdn.Provost Corps.

Sir;

I have read over and corroborate the above statement.

London
19-9-45

.....L/cpl
14105892 Bietz J
No.6.(Area)Provost Coy.
Cdn.Provost Corps.

REMARKS

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
F87709	Gnr	GRAY J.R.	No. 1 Cdn Gen Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15 (1) 8 times.

For AA Sec 40 2 times.

For AA Sec 10 (4) 1 times.

For AA Sec 15 (30) 1 times.
AA Sec ? 2

Date of first entry in Field Conduct Sheet 7 Mar 42

Date of last entry in Field Conduct Sheet 3 Feb 45

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been awaiting trial on the present charges for no days in civil custody; and for 34 days in military custody, *i.e.*, no days in open arrest, 34 days in close arrest; of which no days were spent in hospital.

5. The present age of the accused is 23 yrs

6. The date of his attestation ~~calling up for military service~~ is 18 Jun 41

7. The service which the accused is allowed to reckon is

8. The accused is in possession of: CVSM & Clasp

‡State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, as the present date.~~

~~Date of Promotion.~~

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~In the acting rank of~~

EX B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/3701 32,000 9-44 A. & E. W. Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 26th day of Oct. 45

Legal officer 1 C & RU.

No. F-87709 Name Gnr GRAY James Robert | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 18 Jun 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
UK	7 Mar 42	Gnr		AA SEC 15 (1) - AWL		7 days Detn	7 Mar 42		Forf 8 days pay FRAI 149
UK	6 May 42			AA SEC 15 (1) - AWL		14 days CB	6 May 42		Forf 6 days pay FRAI 149
UK	14 May 42			AA SEC 40:		14 days FP 14 days pay	14 May 42		
UK				AA SEC		Awarded 7 days FP	28 Oct 42		Forf 7 days pay FRAI
UK				AA SEC -		Awarded 1 days FP - forf 7 days pay	4 Nov 42		

(FTO)

No. F87709 Name GRAY James Robt | Sqn, Battery, or Company | Corps RCA | Date of enlistment 18 Jun 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	23 Oct 44	Gnr		AA Sec 15 (3) (2nd offence)		Forf 3 days Pay FRAI 149			
Field	3 Feb 45	Gnr		(1) AA Sec 15 (2) AA Sec 40		Forf 15 days pay FRAI 149			
				CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4 HELD IN MY POSSESSION J.H. Hodgins Capt. (J.H. Hodgins) Capt Legal Officer No. 1 CDHU Officer having custody of original documents.					

(FTO)

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
UK	24 Nov 42	GNR		AA SEC 15 (1) - AWL		14 days FP	24 Nov 42		Forf 17 days pay FR&I
UK		"		AA SEC 15 (1) - AWL			18 May 43		Forf 10 days pay FR&I 149
UK		"		AA SEC 15 (1) - AWL			5 Jun 43		Forf 10 days pay FR&I 149
UK		"	(1) AA SEC 10(4) (2) AA SEC 15 (1)			21 days Detn	21 Jun 43		Forf 24 days pay FR&I 149
UK		"		AA SEC 15(1)		7 days CB	15 Jul 43		Forf 8 days pay FR&I 149

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11-8-45	Gnr		AA Sec. 15(1) AWL 38 da, 7hr, 1 min. AA Sec. 40 Conduct etc.		60 da Deten.	27-9-45	F.G.C.M.	Forf total of 147 da.pay

CASE OF F87709 Gnr James Robert GRAY

(i) LIST OF WITNESSES FOR PROSECUTION

(a) F57816 L/Cpl Walker T. E.
No. 6(Area) Provost Coy. Cdn Prov Corps

(b) M105892 L/Cpl Bietz J.
No. 6(Area) Provost Coy. Cdn Prov Corps

(ii) LIST OF WITNESSES FOR DEFENCE

NIL

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Extract from No. 2 Cdn Gen Rft Unit Part II Order No. 62 dated 4 Oct 45 concerning the absence of F87709 Gnr Gray J. R. (Exhibit "A")

(b) Certificate in Accordance with PC 2797 signed by R.J. Stinson, Capt., DAPM CMHQ and dated at London 19 Sep 45 concerning the arrest of F87709 Gnr Gray J. R. (Exhibit "B")

(iv) LIST OF EXHIBITS FOR DEFENCE

NIL

(v) LIST OF APPENDICES FOR PROSECUTION

(a) Statement signed by F57816 L/Cpl Walker T. E. of No. 6 (Area) Provost Coy., Cdn Provost Corps. (Appendix "A")

(vi) LIST OF APPENDICES FOR DEFENCE

NIL

(vii) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charges under which I am being brought to Court Martial.

C. R. Gray
(F87709 Gnr Gray J. R.)

(viii) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my Trial.

I desire the services of Lt(or Capt) J.P. Hughes - ICGRU if he is available.

C. R. Gray
(F87709 Gnr Gray J.R.)

Signed in the Field

this 17 day of Oct 45

XXX-81

PTE GRAY, N.W

XXX-81

FIELD GENERAL COURT-MARTIAL

CFA86 (To item of AFA21 40/P & S/1668) 4/388

Convened by Order of Brig G FRANCOEUR Comd 2 CBRG dated 15 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A Apptmt.	Full Christian Names.	Surname.	Unit.
M-16767	Pte	NORMAN WESLEY	GRAY	ROOC 12 CBR Bn

Certified True Copy

(C.P. Lee) Major DJAG

Can see § 46 2 Can & Reg

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 16 Sep 44

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, [redacted] and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER: NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] attached thereto.[2] The Court is satisfied that it is properly convened and constituted[3], accused is [redacted] amenable to military law, and each charge discloses an offence.[4]

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [redacted] brought before the Court. At 0410 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [redacted] fit to undergo trial by court-martial.[5]

[redacted]

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

[redacted]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.[1] President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir [2]

(1. RP 110. 2. If no objection, [redacted] member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, [redacted] and Offrs under instr, if any, are sworn.[1] The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D W M COOPER	RCA	12 CBR Bn
Member	Capt	D E McPEE	RCA	12 CBR Bn
Member	Lieut	F E WELSH	CIC	12 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	E GLUCK	RCASC	12 CBR Bn
Defending Offr	Lieut	L E N SELKIRK	RCASC	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No [3]

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See [illegible] p 3.)

A8. The accused M-16767 Pte Norman Wesley GRAY before arraignment makes[1] (no[illegible]) plea

-- [2]

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(6), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is [redacted] arraigned [redacted] all charges in the charge sheet.[1] The accused does [redacted] not object to any charge.[2] There is no amendment to be made to the Charge Sheet.[3] The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 67; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. [redacted]

Proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-16767 Pte Norman Wesley GRAY 12 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

[redacted] [redacted] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(6). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

9 months detention

[redacted] 16 Sep 44 (Sgd) D M Cooper Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

[redacted] (1)

(1. AA 57A. Delete if not used.)

(Sgd) "G Francoeur"

Date 18 Sep 44 Commanding 2 CBRG Brigadier Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M-16767 Pte Gray W.N. ROOC (x-4) 12 Bn 2 CBRG	20 Sep 44	A O Hood Lt Col OC 12 Bn 2 CBR Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Stmt.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by usn of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (5).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use record alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 116, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF X85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated : Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (d), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Evs
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy/copies of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Not Sure.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused M-16767 Pte Gray Norman Wesley R.C.O.C. on the strength of 12 Bn #2 CBRG a soldier of the Cdn Army (O) is charged with:-

While on active service

First Charge
AA 15 (1) ABSENTING HIMSELF WITHOUT LEAVE

in that he

did absent himself without leave from 0745 hrs. 10 Jul 44 until he did surrender himself to the civilian police at 2350 hrs 21 Aug 44.

(Total Absence 42 days, 16 hrs, 5 min)

In the Field in France
15 Sep 44

"A @ Hood Lt Col"
(A O Hood)
Officer Commanding
12 Bn 2 CBRG

In the Field.
15 Sep 44

To be tried by Field General Court Martial.

G Francoeur
Brig
Cmd 2 CBRG

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/F&S/1697 (2802)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-16767	Pte	Norman Wesley	GRAY	12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Sep 44 endorsed by me, [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	D W M Cooper	RCA	12 Bn 2 CBRG

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 11 Bn 2 CBRG		11 Bn 2 CBRG
Lieut	To be detailed by OC 11 CBR Bn		11 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn		12 CBR Bn

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Fran ce (Country.)

G Francoeur (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 15 Sep 44 Commanding 2 CBRG Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M-16787 Cfn Gray N.W.

and in my opinion he is fit to undergo trial by Court Martila.

S&tion Field
Date 16/9/44

???????? Capt S&d
Medical officer
Unit - 12 CBR Bn

E.3 D2C

PLEA IN MITIGATION

Wir I like to point out to the court that this soldier has been in the army since 1937 with the 49th Edmonton Regt (NPAM) He went active in February 1940 with the infantry.

He completed his Basic Training and his infantry training and was overseas as an infantry reinforcement. While overseas with the infantry he had one small crime.

In July of 1941 he was involuntary transferred to the Ordnance Corps when he was given a job in the Mobile Laundry. During his service with the Mob Laundry he found that he didn't fit in to that type of work and was paraded in an attempt to re-join an infantry unit. He was flatly refused. Followin this he became involved in one or two charges and at all times asked to be transferred back to an infantry unit.

Since the 17th Feb of this year he has received no letters from his wife at home. He received the last parcel in June. ofth's year. This fact, combined with the fact he was unhappy while working with the mo Laundry led to the present charge.

I wish to point out to the Court that this man appears to be psycholigically maladapted to the work to which he was put in the Ordnance Corps. Tl a man of his temperment the Mob Laundry is"tantamount to being sent to Coventry"

I bring to the attention of the Court that this man's crime sheet, for his period of service over 4 years is very clear. I would recommend the utmost leniency in his case, coupled with recommendation from the court, that this man be transferred to the infantry.

Exhibit A
one.

SUMMARY OF EVIDENCE

inthe case of

M-16767 Pte GRAY Norman Wesley

First Witness Capt L.B. Skinner Adj 12 Bn # 2 CBR Gp having Been dul sworn states:-

I am Adj 12 Bn 2 CBRG and I present the following documents as originally received by me:-

(1) X list R.C.O.C. Part II Order No. 25 B d/15 July 44 Which shows M-16767 Pte Gray Norman, Wesley as absent from 0745 hrs 10 July 44 and is signed by Capt B.I. Saunders for offi er i/c Cdn Sec G Q 2 Ech 21 Army Gp
(Marked App "A")
(2) Army Form 0617 which shows M-1 6767 Pte Gray Norman Wesley R.C.O.C. surrendered himself to police Sgt Thompson at 1350 hrs 21 Aug 44 and signed by police Sgt R Richard Police Officer i/c St Anne Rd Station "B" Div Metropolitan Police d/22 Aug 44
(Marked App"B")

L B Skinner Capt Adj

The accused declined to question the witness.

The accused is cautioned as follows:-

D o you wish to make any statement orto give evidence on oath? You ar not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidecne you give will be taken down in writing and may be given in evidence.
The accused declines to make a statement or to give evidence under oath.
The accused does not call witnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4(C) (D) (E) and (F) have been complied with.

In the Field in France
14 Sep 44

Donald F Story. Capt.
Donald F Storey
Officer detailed to take
Summary of Evidence.

App "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S. 56th Thomson at Brunswick Road N.15 at (hour) 11.50 p.m. on the 21st day of August 44 as being No. M-167677 (Rank and Name) Pte Gray N.W. a deserter (or absentee without leave) from R.C.O.C. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 26 Height 5 Feet 11 Inches

Complexion Fresh Hair Brown Eyes Blue

Marks Scar on right wrist and back of neck

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	12-8-40 Edmonton Alberta.
Probable Date of Desertion or beginning of absence, and from what place	8-7-44 Aldershot

R Rubard P.S.
Metropolitan police
Signature of Officer of Police in charge of St Ann's Road Station.
"B" Division

22-8-44. Date of Signature.

Last Order
No. 25 A
13 Jul 44

X LIST
ROYAL CANADIAN ORDNANCE CORPS
PART II ORDERS
issued by
CANADIAN SECTION G H Q 2nd ECHELON. - 21 ARMY GROUP

App "A"
Crum

No. 25 B
15 Jul 44

"A" Officers
NIL
"B" OtherRanks

1. ABSENT
[illegible]T WITHOUT LEAVE

"a" AWL from 0745 hrs 10 Jul 44 Still absent at 0745 hrs
11 Jul 44 (1st day)
M 16767 Pt. GRAY NW

"B T Saunders"
(B TSAUNDERS) Capt
for Officer i/c
Cdn Sec GHQ 2 Ech 21 Army Gp

BTS/OM M

Exhibit B Ordo

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-16767	Pte	GRAY Norman Wesley	12 CBR Bn

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	2	times
For	1	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~one~~ beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for one days in civil custody, and 25 days in Air Force military custody, making a total of twenty ~~one~~ six days in custody, of which days were spent in hospital.

5. The present age of the accused according to his MBM 1 Ptl 28 yrs 3 months is

6. The date of his attestation specified in his MBM 1 is 12 Feb 40

7. The service which the accused is allowed to reckon towards discharge is 4 yr 7 Months

8. The accused is entitled to reckon 4 yrs 7 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 Sep 44 ..... day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "L B Skinner" signed by the president, and a [illegible] proceedings.
(L B Skinner) Officer [illegible] custody of original documents

Exhibit C

MFM 6.
(AFB 122)
40/PAM/136 (34258)

No M16767 Name GRAY NW | Sqn, Battery, or Company | Corps RCOC | Date of enlistment | QC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 41	Pte		Refused to obey an order and abusive language AA 8(2)		4 days det 4 days pay	14 Feb 41		FR &I(1)(b)
Field	23 Oct 42	Pte		AWL AA 15(1)		7 days CB 7 days pay	23 Oct 42		
Field	2 Feb 43			AWL AA 15(1) (Absent 1 day 7 hrs		7 days CB 7 days pyay	2 Feb 44		FR &I 149(1)(b) FR &I 149(1)(a)
Field	1 May 44	Pte				28 days FP 28 days pay 2 days pay			

Certified to be a true copy from the regimental books and documents in my custody "L B Skinner"
12 Bn 2 CanG. (L B Skinner) Capt & Adjt

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M 16767 Pte NORMAN WESLEY GRAY 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 482 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

DMC At present under sentence for ~~Beginning on (date)~~ (*)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

9 months detention.

DMC (Sgd) ~~Judge Advocate, if any.~~ 16 Sep 44 Date awarded. (Sgd) D.M.Cooper Maj. President. (RP 45, 52(f))

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~
(1. AA 57A. Delete if not used.)

(Sgd)

Date 18th Sept 44 Commanding 2CBRG Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M16767 Pte GRAY N.W. R.A.O.C. (A-D) 12 Bn. 2CBRGP	20 Sept 44	[signature] Lt-Col. O.C., 12 Bn., 2 C.B.R. Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 10 OCT 1944 JAG BRANCH 8 MIL DIST

RECORDED AS EXHIBIT "XXX-21" IN THE CASE OF [illegible]

FIELD GENERAL COURT-MARTIAL 4/388

Convened by Order of BRIG. G. FRANCOEUR Comd 2 CBRG dated 15 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 16767	Pte		NORMAN WESLEY	GRAY	12 CBR Bn. RCOC

PROCEEDINGS REVIEWED 1 Oct 44 HH
JCAC W.R. Jackson Capt
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date) 16 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/145

A1. The President, Members, waiting Member, ~~Judge Advocate~~ DMC and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn HQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is [illegible] amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is DMC brought before the Court. At 1410 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is DMC fit to undergo trial by court-martial.(5)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~ DMC
~~The Interpreter is sworn. (2) Do you object to as shorthand writer? Ans~~
~~The shorthand writer is sworn. (3)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, Sir. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge Advocate~~ DMC, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.W.M. COOPER	RCA	12 CBR Bn
Member	Capt.	D.E. McFEE	RCA	12 CBR Bn
Member	Lieut.	F.E. WALSH	GIC	11 CBR Bn
~~Judge Advocate~~ DMC				
Prosecutor	Lieut.	E. GLUCK	RCASC	12 CBR Bn
Defending Offr	Lieut.	L.E.N. SELKIRK	RCASC	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 66 (B) and fn 2 were not followed. See DJAG 3.)

A8. The accused M16767 Pte NORMAN WESLEY GRAY before arraignment makes(1) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is DMC arraigned ~~(separately)~~ DMC on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~A10. The Court is cleared and considers the Instrs on Procedure after Arraignment at top of p 2.~~ The proceedings are continued on Record Form B.E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol 2 p 13

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 80, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO, SIR .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF #95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO, SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement of Age and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or MFB 296. 2. MFM 6. 2. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 3 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement of and Conduct Sheet, and in mitigation of punishment ?(1) Ans Yes, SIR .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso. As to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 399, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 388. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DMC

C H A R G E S H E E T

The accused M-16767 Pte Gray, Norman, Wesley, R.C.O.C. on the strength of 12 Bn. # 2 C.B.R.Gp. a soldier of Cdn Army (O) is charged with:-

First Charge
AA. Sec 15(1)

While on active service

ABSENTING HIMSELF WITHOUT LEAVE

in that he

did absent himself without leave from 0745 hrs. 10 July 44 until he did surrendered himself to the civilian police at 2350 hrs 21 Aug. 44

(Total absence 42 days, 16 hrs, 5 min.)

In the field in France
15 Sept. 44

A.O.Hood Lt. Col.
(A.O.Hood)
Officer Comd.
12 Bn. # 2 C.B.R.Gp.

In the Field
15 Sept 44

To Be Tried By Field General Court Martial

[illegible] Brig.
Comd. 2 C.B.R.G.

DMC

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M.16767	PTE.	NORMAN WESLEY	GRAY	12 BN. 2 CBR G.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 SEPT 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	D W M COOPER	R.C.A.	12 CBR BN

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT	To be DETAILED By OC 11 CBR BN	11 CBR BN
LIEUT	To be DETAILED By OC 11 CBR BN	11 CBR BN.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
CAPT	To be DETAILED By OC. 12 CBR BN	12 CBR BN

~~JUDGE-ADVOCATE:~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE
(Country.)

Date 15 SEPT 44

(Signed personally. RP 105 fn 2.) (Rank.)

Commanding 2 CBRG Brig
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Para 130 (a) of AFRs; AD/P & S/1/1807 (4881).)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

DMC

I certify that I have this day examined M16767 (No.)

Cfn (Rank) Gray N.W (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field

Date. 16/9/44

[signature] Capt (Sgd)
Medical Officer
(unit) 12 C.B.R.Bn

PLEA IN MITIGATION

E3
DPR

Sir: I like to point out to the court that this soldier has been in the army since 1937 with the 49th Edmonton Regiment (N.P.A.M.). He went active in February 1940 with the infantry.

He completed his Basic Training ~~[illegible]~~ his Infantry Training ~~[illegible]~~ (N.P.A.M.) ~~[illegible]~~ While serving with the infantry he had one small vision.

In July of 1941 he was involuntary transferred to the Ordnance Corps where he was given a job in the Mobile Laundry. During his service with the Mob. Laundry he found that he didn't fit in to that type of work & was guarded in an attempt to re-join an infantry unit. He was flatly refused. Following this he became involved in one or two charges & at all times asked to be transferred back to an infantry unit.

Since the 17th Feb. of this year he has received no letters from his wife at home. He received the last parcel in June of this year. This fact, combined with the fact he was unhappy while working with the Mob. Laundry, led to

the present charge.

I wish to point out to the Court, that this man appears to be ~~of the~~ psychologically maladapted to the work to which he was put in the Ordnance Corps. To a man of his temperament the Mob. Laundry is, "tantamount to being sent to Coventry"

I bring to the attention of the Court that this man's crime sheet, for his period of service over 4 yrs., is very clean. I would recommend the utmost leniency in his case, coupled with a recommendation from the Court, that this man be transferred to the infantry.

Exhibit A

DME

SUMMARY OF EVIDENCE

in the case of
M-16767 Pte Gray, Norman, Wesley.

First Witness Capt L.B.Skinner, Adj. 12 Bn. # 2 C.B.R.Gp. having been duly sworn states:-

I am adj. 12 Bn. # 2 C.B.R.Gp. and I present the following documents as originally received by me:-
(1) X list R.C.O.C. Part 11 Order No. 25 B d/15 July 44 which shows M-16767 Pte. Gray Norman, Wesley as absent from 0745 hrs 10 July 44 and is signed by Capt. B.I.Saunders for officer I/C, Cdn. Sec. G.H.Q. 2nd Ech. 21 Army Gp. (Marked App "A")
(2) Army Form C1617 which shows M-16767 Pte Gray Norman Wesley. R.C.O.C. surrendered himself to police Sgt. Thompson at 1350 hrs 21 Aug 44 and signed by police Sgt R.Richard Police Officer I/C St. Anne Rd. Station "N" Div. Metropolitan Police d/22 Aug 44. (Marked App "B")

L.B.Skinner Capt. Adj.
L.B.Skinner

The accused declined to question the witness.

The accused is cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence under oath.

The accused does not call witnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

In the field in France
14 Sept. 44

Capt.
Donald F.Storey,
Officer detailed to take
Summary of evidence.

App B

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S. 56th Thomson at Brunswick Road N.15 at (hour) 11-50 pm on the 21st day of August 1944 as being No. M. 16767 (Rank and Name) Pte GRAY. N.W. a deserter (or absentee without leave) from R.C.O.C. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 28 Height 5 Feet 11 Inches

Complexion Fresh Hair Brown

Eyes Blue

Marks Scar right wrist and back of neck

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	12-2-40 Edmonton Alberta
Probable Date of Desertion or beginning of absence, and from what place	8-7-44. Aldershot.

Signature of Officer of Police in charge of [signature] P.S. Station.

22-8-44 Date of Signature [signature]

METROPOLITAN POLICE ST. ANN'S ROAD "N" DIVISION

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. ..... who surrendered to the Police at ..... on .....

Payable to .....

Nil

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

App "A"

DNE

X LIST
ROYAL CANADIAN ORDNANCE CORPS

PART II ORDERS

Last Order No 25 A 13 JUL 44 — Issued By CANADIAN SECTION G H Q 2nd ECHELON-21 ARMY GROUP — No 25 D 15 JUL 44

"A" OFFICERS
N I L

"B" OTHER RANKS

1. ABSENT WITHOUT LEAVE
(a) AWL from 0745 hrs 10 JUL 44. Still absent at 0745 hrs 11 Jul 44(1st day).
M16767 Pte GRAY NW

(D.T. SAUNDERS) Captain,
for Officer i/c,
CDN SEC - GHQ - 2ND ECHELON - 21 ARMY GP.

DTS/CMM.

2

11

Exhibit B
Bme

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
M 16767	Pte	GRAY Norman Wesley	12 CBR Bn

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	Nil times	2 times
For	1 times	1 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for one days in civil custody, and 25 days in military custody, making a total of twenty one days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service 1 Pte attestation paper 26 years 3 months

6. The date of his commission / attestation specified in his ~~attestation~~ record of service 1 Pte 1 attestation paper 12 Feb 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 Yr 7 Mos.

8. The accused is entitled to deferred pay or gratuity in respect of 4 Yr 7 Mos service.

9. The accused is entitled to reckon 4 Yr 7 Mos. service for the purpose of determining his position, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of or entitled to (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or department*) the rank of dated

W.1.57837/2519 20M. 1/40. P. Ltd. T19-1.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M 16767 *Rank* Pte *Name* GRAY Norman Wesley of 12 CBR Bn Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		LBS		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 Sep day of September 44

L.B. Skinner

Capt & Adj.

(L.B.SKINNER) Officer having custody of Original documents

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of Date of Promotion.

In the rank of years.

In the rank of years.

In the rank of years.

LBS

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available, and the paragraphs concerned amended accordingly.)

OFFICERS UNDER INSTRUCTION 16 Sept 44

Lieut	J. A. Rose	RCASC	12 CBR Bn
Lieut	J. P McAvoy.	RCASC	12 CBR Bn

D McCooper Maj

Exhibit C

M.F.M. 2
A.F.B. 122
MFM—4-10-40
H.Q. 1772-43-18

No. M16767 Name GRAY N.W Sqn., Battery, or Company Corps RCOC Date of enlistment G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 41	Pte		Refused to obey an Order and abusive language.		4 days det. 4 days pay	14 Feb 41		FR& I (1) (b)
Field	23 Oct 42	Pte		AA 8 (2)		7 Days CB 7 Days pay	23 Oct 42		
Field	2 Feb 43	Pte		AWL AA 15 (1)		7 Days CB 7 Days pay	2 Feb 43		
Field	1 May 44	Pte		AWL AA 15 (1) (Absent 1 day, 7 hrs)		28 Days FP 28 Days Pay 2 Days pay			FR&I 149 (1)(b FR&I 149 (1)(a

Certified to be a true extract from the regimental books and documents in custody.

(L.B.SKINNER) Captain & Adjutant
12 CBR Bn 2 CBR Gp.

(P.T.O.)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: W-16767 Pte Norman Wesley GRAY 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

Time present under sentence for xxxx xxxxxxxxxxxx (1) xxxxxxxxxxx

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir. .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 25(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C). 114. KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 92 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, SF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C, respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statements and Conduct Sheets, and in mitigation of punishment ?(1) Ans Yes Sir. .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused M-16767 Pte Gray Norman Wesley R.C.O.C. on the strength of 12 Bn #2 CBRG a soldier of the Cdn Army (O) is charged with:-

While on active service

First Charge
AA 15 (1) ABSENTING HIMSELF WITHOUT LEAVE

in that he

did absent himself without leave from 0745 hrs. 10 Jul 44 until he did surrender himself to the civilian police at 2350 hrs 21 Aug 44.

(Total Absence 42 days, 16 hrs, 5 min)

In the Field in France
15 Sep 44

"A C Hood Lt Col"
(A C Hood)
Officer Commanding
12 Bn 2 CBRG

In the Field.
15 Sep 44

To be tried by Field General Court Martial.

G Francoeur
Brig
C md 2 CBRG

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-16767	Pte	Norman Wesley	GRAY	12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Sep 44 endorsed by me, [or by an offr of my staff for me]. " To be tried by Field General Court-Martial.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [and that it is not practicable to delay the trial for reference to a superior qualified offr.]

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	D W M Cooper	(Must be named. RP 106.)	12 Bn 2 CBRG

MEMBERS.

Capt	To be detailed by OC 11 Bn 2 CBRG	11 Bn 2 CBRG
Lieut	To be detailed by OC 11 CBR Bn (Named or detailed, if any. RP 106.)	11 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	To be detailed by OC 12 CBR Bn (Named or detailed, if any. RP 106.)	12 CBR Bn (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Fra. 44 (Signed) G. [illegible] Brigadier (Rank.)

Date 15 Sep 44 Commanding 2 CBRG Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CF/A&D (To Unit of AFA2) 40/F.S.C./1667 (4951)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M-16767 Cfn Gray N.W.

and in my opinion he is fit to undergo trial by Court Martila.

Station Field
Date 16/9/44

??????????Capt Sgd
Medical Officer
Unit - 12 CBR Bn

PLEA IN MITIGATION

Wir I like to point out to the court that this soldier has been in the army since 1937 with the 49th Edmonton Regt (NPAM) He went active in February 1940 with the infantry.

He completed his Basic Training and his infantry training and was overseas as an infantry reinforcement. While overseas with the infantry he had one small crime.

In July of 1941 he was involuntary transferred to the Ordnance Corps when he was given a job in the Mobile Laundry. During his service with the Mob Laundry he found that he didn't fit in to that type of work and was paraded in an attempt to re-join an infantry unit. He was flatly refused. Following this he became involved in one or two charges and at all times asked to be transferred back to an infantry unit.

Since the 17th Feb of this year he has received no letters from his wife at home. He received the last parcel in June. ofthis year. This fact, combined with the fact he was unhappy while working with the mo Laundry led to the present charge.

I wish to point out to the Court that this man appears to be psycholigically maladapted to the work to which he was put in the Ordnance Corps. Tl a man of his temperment the Mob Laundry is"tantamount to being sent to Coventry"

I bring to the attention of the Court that this man's crime sheet, for his period of service over 4 years is very clear. I would recommend the utmost leniency in his case, coupled with recommendation from the court, that this man be transferred to the infantry.

Exhibit B

SUMMARY OF EVIDENCE

inthe case of

M-16767 Pte GRAY Norman Wesley

First Witness Capt L.B. Skinner Adj 12 Bn # 2 CBR Gp having been dul sworn states:-

I am Adj 12 Bn 2 CBRG and I present the following documents as originally received by me:-

(1) X 1st N.C.O.C. Part II Order No. 25 B d/15 July 44 Which shows M-16767 Pte Gray Norman, Wesley as absent from 0745 hrs 10 July 44 and is signed by Capt B.I. Saunders for offi er i/c Cln Sec G Q 2 Ech 21 Army Gp (Marked App "A")
(2) Army Form C617 which shows M-1 6767 Pte Gray Norman Wesley R.C.O.C. surrendered himself to police Sgt Thompson at 1350 hrs 21 Aug 44 and signed by police Sgt R Richard Police Officer i/c St Anne Rd Station "H" Div Metropolitan Police d/22 Aug 44 (Marked App"B2)

L B Skinner Capt Adj

The accused declined to question the witness.

The accused is cautioned as follows:-

D o you wish to make any statement orto give evidence on oath? You ar not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidecne you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evide ce under oath.

The accused does not call w tnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4(C) (D) (E) and (F) have been complied with.

In the Field in France
14 Sep 44

Donald F Story. Capt.
Donald F Storey
Officer detailed to take
Summary of Evidence.

App "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S. 56tl. Thomson at Brunswick Road N.15 at (hour) 11.50 p.m. on the 21st day of August 44 as being No. W-16767 (Rank and Name) Pte Gray N.W. a deserter (or absentee without leave) from R.C.O.C. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 28 Height 5 Feet 11 Inches

Complexion Fresh Hair Brown Eyes Blue

Marks Scar on right wrist and back of neck

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	12-2-40 Edmonton Alberta.
Probable Date of Desertion or beginning of absence, and from what place	8-7-44 Aldershot

R Hubard P.S. Metropolitan police
Signature of Officer of Police in charge of St Ann's Road "S" Division Station.

22-8-44. Date of Signature.

Last Order
No. 28 A
13 Jul 44

X LIST
ROYAL CANADIAN ORDNANCE CORPS
PART II ORDERS
Issued by
CANADIAN SECTION G H Q 2nd ECHELON - 21 ARMY GROUP

No. 25 B
15 Jul 44

"A" Officers

NIL

1. ABSENT "B" Other Ranks

ABSENT WITHOUT LEAVE

"a" AWL from 0745 hrs 10 Jul 44 Still absent at 0745 hrs
11 Jul 44 (1st day)
M 16767 Pte GRAY NW

"B T Saunders"
(B TSAUNDERS) Capt
for Officer i/c

BTS/OM M

Cdn Sec GHQ 2 Ech 21 Army Gp

Exhibit C

No M167 67 Name GRAY RW | Sqn, Battery, or Company | Corps RCOC | Date of enlistment | GC Badges | Rate of Proficiency Pay | MFM 6 (AFB 122) 60/PAM/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 41	Pte		Refused to obey an order and abusive language		4 days det 4 days pay	14 Feb 41		FR &I(1)(b)
Field	23 Oct 42	Pte		AA 8(2)		7 days CB 7 days pay	23 Oct 42		
Field	2 Feb 43			AWL AA 15(1)		7 days CB 7 days pay	2 Feb 44		
Field 1	May 44	Pte		AWL AA 15(1) (Absent 1 day 7 hrs		28 days FP 28 days pay 2 days pay			FR &I 1497(1)(b) FR &I 1497(1)(a)
				Certified to be a true copy from the regimental books and documents in my custody "L B Skinner" (L B Skinner) Capt & Adjt 12 Bn 2 CSHG.					

(PTO)

Exhibit B
D Int

M.F.B. 155
22M—5-41 (572-2)
H.Q. 1772-99-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-16767	Pte	GRAY Norman Wesley	12 CBR Bn

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	2	times
For	1	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for LBS beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges for one days in civil custody, and 25 days in Air Force military custody, making a total of twenty six days in custody, of which days were spent in hospital.

5. The present age of the accused according to his MBM 1 Ptl 28 yrs 3 months

6. The date of his attestation specified in his MBM 1 is 12 Feb 40

7. The service which the accused is allowed to reckon towards discharge is 4 yr 7 Months

8. The accused is entitled to reckon 4 yrs 7 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Proceedings Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 Sep 44 day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "L B Skinner" proceedings. (L B Skinner) Officer having custody of original documents
Capt & Adjt

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-16767 Pte Norman Wesley GRAY 12 CER Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to Findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Dft present under custody for xxxx x xxxxxxxxx xxxx xxxxxxxxxxxx (1)
(1. Delete if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

9 months detention

Dft (Sgd) --
Judge-Advocate, if any.

16 Sep 44
Date awarded.

(Sgd) D M Cooper Major
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be xxx xxxxxxx xx x xxxxxxxxxxx

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; securing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir. .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (d), RP 41, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C, respectively.(2)
(*1. MFR 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused M-16767 Pte Gray Norman Wesley R.C.O.C. on the strength of 12 Bn #2 CBRG a soldier of the Cdn Army (O) is charged with:-

While on active service

First Charge
AA 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

did absent himself without leave from 0745 hrs. 10 Jul 44 until he did surrender himself to the civilian police at 2350 hrs 21 Aug 44.

(Total Absence 42 days, 16 hrs, 5 min)

In the Field in France
15 Sep 44

"A @ Hood Lt Col"
(A O Hood)
Officer Commanding
12 Bn 2 CBRG

In the Field.
15 Sep 44

To be tried by Field General Court Martial.

G Francoeur Brig
C_md 2 CBRG

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF 642)
40/PAM/1697 (28908)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-16767	Pte	Norman Kelley	GRAY	12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Sep 44 endorsed by me, ~~XXXX OR XXXXXXXXXXXX~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~XXXXXXXXXXX

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M-16767 Cfn Gray N.W.

and in my opinion he is fit to undergo trial by Court Martila.

S&ation Field
Date 16/9/44

????????? Capt Sgd
Medical officer
Unit - 12 CHR Bn

PLEA IN MITIGATION

Wir I like to point out to the court that this soldier has been in the army since 1937 with the 49th Edmonton Regt (NPAM) He went active in February 1940 with the infantry.

He completed his Basic Training and his infantry training and was overseas as an infantry reinforcement. While overseas with the infantry he had one small crime.

In July of 1941 he was involuntary transferred to the Ordnance Corps when he was given a job in the Mobile Laundry. During his service with the Mob Laundry he found that he didn't fit in to that type of work and was paraded in an attempt to re-join an infantry unit. He was flatly refused. Following this he became involved in one or two charges and at all times asked to be transferred back to an infantry unit.

Since the 17th Feb of this year he has received no letters from his wife at home. He received the last parcel in June. ofthis year. This fact, combined with the fact he was unhappy while working with the mo Laundry led to the present charge.

I wish to point out to the Court that this man appears to be psycholigically maladapted to the work to which he was put in the Ordnance Corps. Tl a man of his temperment the Mob Laundry is"tantamount to being sent to Coventry"

I bring to the attention of the Court that this man's crime sheet, for his period of service over 4 years is very clear. I would recommend the utmost leniency in his case, coupled with recommendation from the court, that this man be transferred to the infantry.

SUMMARY OF EVIDENCE

Inthe case of Exhibit A

M-16767 Pte GRAY Norman Wesley

First Witness Capt L.B. Skinner Adj 12 Bn # 2 CBR Gp having been dul sworn states:-

I am Adj 12 Bn 2 CBRG and I present the following documents as originally received by me:-

(1) X list R.C.O.C. Part II Order No. 25 B d/15 July 44 Which shows M-16767 Pte Gray Norman, Wesley as absent from 0745 hrs 10 July 44 and is signed by Capt B.I. Saunders for offi er i/c Cln Sec G Q 2 Ech 21 Army Gp (Marked App "A")
(2) Army Form 0617 which shows M-1 6767 Pte Gray Norman Wesley R.C.O.C. surrendered himself to police Sgt Thompson at 1350 hrs 21 Aug 44 and signed by police Sgt R Richard Police Officer i/c St Anne Rd Station "N" Div Metropolitan Police d/22 Aug 44 (Marked App"B")

L B Skinner Capt Adj

The accused declined to question the witness.

The accused is cautioned as follows:-

Do you wish to make any statement orto give evidence on oath? You ar not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidecne you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence under oath.

The accused does not call witnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4(C) (D) (E) and (F) have been complied with.

In the Field in France
14 Sep 44

Donald F Story. Capt.
Donald F Storey
Officer detailed to take
Summary of Evidence.

App "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S. 56th Thomson at Brunswick Road N.15 at (hour) 11 50 p.m. on the 21st day of August 44 as being No. 4-167 67 (Rank and Name) Pte Gray N.W. a deserter (or absentee without leave) from R.C.O.C. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 28 Height 5 Feet 11 Inches

Complexion Fresh Hair Brown Eyes Blue

Marks Scar on right wrist and back of neck

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	12-2-40 Edmonton Alberta.
Probable Date of Desertion or beginning of absence, and from what place	8-7-44 Aldershot

R Rubard P.S. Metropolitan police St Ann's Road Station. "E" Division

Signature of Officer of Police in charge of

22-8-44. Date of Signature.

Copy "B"

Last Order
No. 25 A
13 Jul 44

X LIST
ROYAL CANADIAN ORDNANCE CORPS
PART II ORDERS
issued by
CANADIAN SECTION G H Q 2nd ECHELON - 21 ARMY GROUP

No. 25 B
15 Jul 44

"A" Officers
Nil
"B" Other Ranks

1. ABSENT
56A56EST WITHOUT LEAVE

"a" AWL from 0745 hrs 10 Jul 44 Still absent at 0745 hrs
11 Jul 44 (1st day)
M 16767 Pt GRAY NW

"B T Saunders"
(B TSAUNDERS) Capt
for Officer i/c

Cin Sec GHQ 2 Ech 21 Army Gp

BTS/OM M

Exhibit C

MFM 6
(AFB 122)
40/PAS/126 (3438)

No. M16767 Name GRAY NW | Sqn, Battery, or Company | Corps rcoc | Date of enlistment | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 41	Pte		Refused to obey an order and abusive language		4 days det 4 days pay	14 Feb 41		FR &I(1)(b)
Field	23 Oct 42	Pte		AA 8(2)		7 days CB 7 days pay	23 Oct 42		
Field	2 Feb 43			AWL AA 15(1)		7 days CB 7 days pay	2 Feb 44		
Field	1 May 44	Pte		AWL AA 15(1) (Absent 1 day 7 hrs		28 days FP 28 days pay 2 days pay			FR &I 149(1)(b) FR &I 149(1)(a)

Certified to be a true copy from the regimental books and documents in my custody "L B Skinner"
(L B Skinner) Capt & Adjt
12 Bn 2 CBRG.

(PTO)

Exhibit B Dwee

M.F.B. 388
22M—5-41 (372-3)
H.Q. 1772-29-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-16767	Pte	GRAY Norman Wesley	12 CBR Bn

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	2	times
For	1	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted LBS

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~[illegible]~~ LBS beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for one days in civil custody, and 25 days in Air Force military custody, making a total of twenty ~~one~~ six days in custody, of which days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ MBM 1 Ptl 28 yrs 3 months is LBS.

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ MBM 1 ~~[illegible]~~ is 12 Feb 40

7. The service which the accused is allowed to reckon towards discharge is 4 yr 7 Months

8. The accused is entitled to reckon 4 yrs 7 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

LBS.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of .....

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in *my* custody.

Signed this 16 Sep 44 day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "L B Skinner" signed by the presiding officer in original proceedings. (L B Skinner) Officer having custody of original documents
Capt & Adjt

TTT-223

Cpl. Gray R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A23351 Cpl Robert GRAY - 2 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)(a)	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Nil~~ At present under sentence for ..... beginning on (date) .....

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which NIL days were spent in hospital.(1)

(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE REDUCED TO THE RANKS AND TO SUFFER PENAL SERVITUDE FOR THE TERM OF FIVE(5) YEARS AND TO BE DISCHARGED WITH IGNOMINY FROM HIS MAJESTY'S SERVICE.

(Sgd) ..... Judge-Advocate, if any. 24 JUL 44 Date awarded. (Sgd) McAlpine Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Seldom confirmation of the finding with sentence is required, especially abroad.

(J S N Gostling) Brig
Date 26 Jul 44 (Sgd) ..... Commanding "A" Gp Cdn Bft Units CA(O)

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding but commute the Sentence to read as follows: To undergo detention for 6 months and I confirm the Sentence as so Commuted

I direct that the accused be not committed to prison or ~~dismiss~~ barracks until further orders.(1) N/A

(I. AA 57A. Delete if not used.)

(Sgd) P/Brig
(J. J. Montgomery) Brig
Date ..... Commanding Corps Troops, Base Administrative Area Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A23351 PTE ROBERT GRAY	9 AUG 44	[signature] Adjutant R.C.I.R.U.

PART II ORDER No. 190

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation. (J. G. Borden) Lt-Col. A.J.A.G., C.M.H.Q.

RECORDED AT CMHQ IN AB 160 777223

RECEIVED 5 AUG 44 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFP 106 (To Date of AP 421) 40-P.M.M.-6-1944 (45701) 4/38B

Convened by Order of Brig GSN Gostling, ED Comd "A" GP CRU dated 21 JUL 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/B or A/Appmt.	Full Christian Names.	Surname.	Unit.
A23351	Cpl		Robert	GRAY	2 CIRU CIC

PROCEEDINGS REVIEWED
J. Ruffignac Capt.
14 Aug 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the ~~Fd~~ in (country) England on (date) 24 JUL 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 395, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(I. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(I. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~
~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(I. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(I. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	M S McALPINE	2 CIRU
Member	Capt	J.T. ROBB	2 CIRU
Member	Lt ~~CAPT~~	S. FIDLER	2 CIRU
~~WAITING MEMBER~~	~~CAPT~~	~~K.S. RE-S~~	~~2 CIRU~~ RESIGN
Prosecutor	Lieut	W.L. LISCOMBE	2 CIRU
Defending Offr	Major	L.W.F. WAKEFIELD	3 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (2)

(I. RP 2a, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused A23351 Cpl GRAY, R before arraignment make(s) (no) ~~no~~ plea. ALLOW (3)

(I. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or on bar of trial (RP 36), or as to accused's mental fitness or stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 more and delete the words not applicable.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~not~~ ALLOW not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(I. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*) R.P.Bty(6) read & explained to.

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1) As per CA
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ As per CA
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans To give evidence myself as a witness on oath. (5) Do you intend to call witnesses on your behalf ?
Ans Yes. Are they witnesses as to character only ? Ans No
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s) (1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. As per CA
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s) is being subject to confirmation, will be promulgated later.(1) As per CA
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~ As per CA
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans I wish to give evidence myself.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement~~s~~ as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet~~s~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier~~s~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3) As per CA
(*1. MFB 355 or AFB 295. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet~~s~~ and in mitigation of punishment ?(1) Ans Yes (2) As per CA
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas MO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(183), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see insets on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A-23351 Cpl Robert GRAY, C.I.C., on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with

---

SEC 12(1)(a) ARMY ACT — WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, at 2300 hours on the 28 day of June 1944, after having been warned that he would proceed on draft, with intent to avoid so proceeding, absented himself without leave until he surrendered himself to his unit at 1750 hours on the 9 day of July 1944.
(Total absence 10 days 18 hours 50 minutes)

In the Field
20 July 44

.....
(M.K. Greene) Colonel
Commanding 2 C.I.R.U.

To be tried by Field General Court Martial.

Field
21 Jul 44

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
24 JUL 44

R.B.R. Alpine Major
President, F.G.C.M.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A23381	Cpl		Robert	GRAY	2 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 21 Jul 44 endorsed by me, ~~(or by an offr of my staff (or me))~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have X attached thereto X~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the next the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	M S McALPINE	2 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 CIRU	
Lt	to be detailed by OC 2 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 CIRU	

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England — (Country.)

(Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

(G S N Gostling)

Date 21 Jul 44 — Commanding "A" Gp Cdn Rft Units C A (O)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFASS (In lieu of APAS) 10/7 & 8/1697 (1951).

(See overleaf for oaths and notes for use on trial.)

Field

24 JUL 44

A/Sn C/Alpine Major

Presidt F.G.C.M.

M.I.R. 2 C.I.R.U.

This is to certify that I have examined A23351. CPL. GRAY. R.

on 24 JULY 1944 and I find him medically [illegible] to stand

Trial by Court Martial.

[illegible]

Medical Officer
2 C.I.R.U.

[illegible] Major
24 JUL 44

MED OFFRS CERTIFICATE

KR Can Para 557

I certify that I have this morning examined No. A 23331 Cpl

GRAY R and in my opinion he is

fit to undergo trial by Court Martial.

~~unfit~~

Station: 2 CIRU

Date: 24 July 44

S A Simon Capt

(Med Offr)

Opening Adress of Prosecutor

This is a charge of desertion under Sec 12(1)(a) A.A. For a conviction to lie under that section it is necessary to prove only that the accused intended to avoid some important particular service, such as active service. (Read P. 437 ftn 1 para 2 M.M.L.) It is the intention of the prosecution in this case to prove that the accused absented himself without leave with the intention of avoiding a field draft, after having been specifically warned for that draft.

24 July 44

Sgt. S. Lisciarke Lt.
Pros. Off.

[illegible]

Opening Address of Prosecutor

This is a charge of desertion under Art. 1[illegible] A.W. For a conviction to lie under that section it is necessary to prove only that the accused intended to avoid some important particular service, such as active service (Read p. 437 [illegible] para 2) It is the intention of the prosecution in this case to prove that the accused deserted himself without leave with the intention of avoiding a field draft after having been specifically warned for that draft.

14 July 44

J. S. [illegible]
Pros. Off.

First Witness Prosecution

Lieut J. S. Taylor F Coy 2 C I R U being duly sworn ~~[illegible]~~. Do you recognize the accused (a) yes (b) Tell the court what happened on June 22nd 1944

I was documenting men who were to proceed on draft. Cpl Gray was one of the men who had been posted to F Coy. during documentation each man signs a form which has a heading at the top stating I hereby acknowledge that I have been warned for draft. Cpl Gray signed this form in my presence.

(B) What statement or conversation took place prior to the signing of the paper

(A) I copied down Cpl Gray number rank and name and then said sign here at the same time pointing out the heading on the top. I also said you understand you are being warned for draft. I cannot state definitely whether

[illegible]

Evidence in the case of A 23357 Cpl. A. Gray - C.I.C.
he answered me or not other than signing the paper
Witness recognize Exhibit 'A' which he states is
the draft warning order used in F Coy and
which is signed by the accused.

Defence Cross Examine — 'Q' Did you give the witnesses any
other warning

'A' That was the official warning.

'Q' How long have you been in F Coy

A 3 months

'Q' Have you sent out former drafts
and warned former drafts

A Yes Sir.

'Q' You pointed out the leading and
warned time for draft

A Yes

Q Who was with you when the accused
signed this form

A Mr Saperia who was also getting
similar forms signed

Q. ~~[illegible]~~ Were there no NCOs present when
you were doing the

A I cant swear to any sir

Q Did you ever hear of CRU Inst
#9.

A I dont recall ever having seen it
sir.

I present a certified copy of CRU Adm
Inst #9 dated 22 March 44 signed by Col Spenley
and draw the courts attention to para 4.

NSMA

"Q" Did you read para 4 in its entirety to Cpl Gray

"A" I did not sir as it is not considered necessary as the draft concerned was not an overseas draft

"Q" You had a definite order not to use that Adm Inst

"A" Yes sir.

"Q" Do you recall whether Cpl Gray remained on that parade until it was finished

"A" When finished the man would return to the N.C.O. in charge of his hut

"Q" Do you recall what time the parade was called

"A" No sir

"Q" On the morning of the 27th ~~had~~ you knowledge of these men going on pay parade

"A" No sir

"Q" Are these men CB'd after signing the draft notice

"A" No sir, only the night prior to departure

"Q" Do you recall making any notation on the nominal roll as the accused

"A" Yes sir. I marked him down as Essex Scottish.

"Q" Is it a practice to send men to their own units

"A" As much as possible sir [illegible]

"Q" How many men were left in the draft Cy after the draft was warned

"A" I don't know sir, but if there were, they would be [illegible].

Questioned by Counsel: ~~Q would the accused move be posted in another [illegible] warned for~~

Ordered: I certify the AQ 83B has been complied with

Second Witness L 84083 Tlgt Ruth F Coy 2 C I R U.

Prosecution duly sworn states Recognises the accused.

& On 2300 hrs on the 28th June 44. I called the roll for a group of men who I had cleared and to which the accused belonged. In calling the roll the accused failed to answer his name and after making a bed check I reported the accused as absent at approximately 0400 29 June which was reveille for the draft when the group was formed up. I called the roll and the accused was not there when the draft left the accused was not on it and therefor failed to proceed on draft.

Q. You mentioned clearing a group. what do you mean.

A Drafts a split into groups for clearing the accused was a member of my group.

Defence Cross Examine: Q you say called the roll at 2300 hrs how did you do it

A I called the roll and then checked the beds for those absent and according to the number of men the accused was absent.

Q At 1400 hrs you called the roll again

A I called the roll again shortly after making the men up I called it personally

Certify that RP. 83B has been complied with

RSMA

Third Witness Prosecution — A 37713 C l M Fair H M. F Coy 2CIRU
being duly sworn states
Arraignment the accused.

The accused was not on any parade or roll call or I did not see him at any time between June 28th 44 and July 9th 44

Defence Cross examine — Q. You say you did not see him, were you on every parade.

A. I can say all parades except meal parades

Q. Do you call the roll yourself

A. Yes sir personally

Fourth Witness Prosecution — L102536 Cpl Smith R M. ~~F Coy~~ A Wing 2CIRU
duly sworn state. I am employed on O.C. as a R.P.
I recognize the accused. at 1750 hrs on the 9th of July 1944 Cpl Gray entered the unit detention barracks and surrendered himself to me I placed him under clear arrest and admitted him into the unit ~~detention~~ guard rooms

Q. What was your duties that night

A. I was in charge of the unit detention barracks

Q. Was there any conversation between you and the accused

A. very little sir only referring to the 11 days AWL

Defence Cross Examine — Q. Do you recall Cpl Grays appearance etc when he surrendered

A. Yes - he was properly dressed and sober

Nomak — I certify that R.P. 83B has been complied with

Defence

First Witness :- Capt I A C Phillips Adjt 2 C I R U. being
Defence duly sworn states:-

Q as adjt you see all documents and mail passing through the unit orderly room

A Yes sir

Q Are you familiar with C R U. Adm Inst #9. signed by Lt Col Sparkey referring to instruction re warning drafts

A Yes Sir

Q ref Para 6 + 10 on the Inst previously referred to ~~can~~ you produce the pt I order complying with said instruction

A No Incomplete sir

Q As adjt you see training instruction

A Yes Sir

Q You are familiar with the instruction that all ~~[illegible]~~ returning from field and
A hospital unless necessary to fill drafts that they men should have at least two weeks basic training

Yes Sir
A ~~It is not looked after by the instructional [illegible]~~

Q Was the accused given refresher training and T O E T D

A I don't know sir

Q Is it normal procedure to list [illegible] and ~~[illegible]~~ roll for drafts in Pt order

A It only applies to overseas drafts

Prosecution Cross Examination Q Does Adm Inst #9 apply to C B R G drafts

A No Sir only to overseas draft.

Examination Defence Q Do you know what Adm Inst does refer to a C B R G draft

A No sir

Insofar Certify that QQ 928 has been complied with

Second Witness Lieut. J Gartside asst Record officer
Defense 2CIRU being duly sworn states

Q Is the records officer on duty now
A No sir
Q Are you acting for him and for how long.
A Yes for about two months, the records officer being in hospital. However Capt Howard is acting record officer
Q Have you anything to do with despatching drafts
A Yes sir
Q Have you seen Adm Inst #9
A Yes sir
Q When
A About the middle of Oct 1943 when we read it and made copies of it
Q Do you recognize exhibit B as being that Adm Inst.
A Ido sir
Q How do you list drafts in order
A Since before Xmas 43 we used to put the warning order in Ob II orders, and then instructions came down to put it in Ob I orders since the new instructions came down the warning order and nominal roll have been published in Ob I orders
Prosecution Q You say new instructions, what do you mean
A The original instr were that a nominal roll of those selected for draft would be prepared and the nominal roll together with a definite warning that the people mentioned therein were to proceed on draft if they failed to do so they were liable to a charge of desertion which if proven would.

[illegible]

produce a minimum penalty of 3 years penal servitude. When this instruction first came out the understanding in this unit and two or three other units was that this should be done in Qt II orders. In two or three cases this was done by this unit and a further order was issued that this warning order and nominal roll would be published in Qt I orders. I am not in a position to give the exact date of any of these instructions. To the best of my knowledge the original inst applied to all drafts to field units, the new instruction however applied only to overseas drafts.

I certify the R.P. 83B has been complied with

The accused A 23351 Cpl Gray A. being duty sworn states I am a confirmed corporal. I was confirmed the 29th of May 1944, on the Essex Scottish Field Unit. I had been with the field unit over two years. I left the unit on the 9th of June 44 when I was admitted to hospital to have an operation. I was in hospital approx 14 days. I was sent from hospital to the staging camp at Selby. I had written instructions from the hospital which I was to deliver to the M.O. at 2CIRU stating I was to undergo treatment for the next 30 days, I did not deliver these instructions because these documents were taken from me upon entering the staging camp at Selby. I was sent to 2CIRU on the 24th of June 1944. I went to the MO of 2CIRU after I arrived for treatment as called for by my documents. I was never taken or provided to

NMCA

the S.P.O. between June 24th and 28th, I was never T.O.E.T.O. at 2 C.I.R.U. I was called to records office and was told to get equipment ready that I was being posted to F Coy to proceed on draft. At 1600 hrs on 27th June I was called upon to attend a parade of F Coy. After falling in on this parade I was inspected by an officer and was dismissed from that parade approx 15 mins later. I then went to Barnsley and proceeded to start drinking until closing time. I met a friend a L/Cpl Renaud at approx. 2200 hrs. at that time I considered myself in a drunken condition and feeling rather blue at finding out I was to be posted to a new field unit and after talking it over with L/Cpl Renaud, we thought the army was giving us a raw deal and decided to go A.W.L. after new days had passed we saw we had done wrong and decided to come in and report to the guard room 2 C.I.R.U. which needed

"B" What was you got in the field unit
"A" Section leader, sir
"B" How long had you been a corporal
"A" Three months, sir.
"B" How did you know you were being sent to another unit
"A" I was told by the officer inspecting the parade at 1600 hrs 27th June 44 that my Essex Scottish flashes had to be removed. I asked why, and he told me it was customary to carry out that procedure. I then asked the O.M.S. who was following the officer the reasons for removing them and he told me I was to be posted to a new field unit

Cross Examination Examination } "B" Did the MO clear you for draft
"A" Yes sir

RJ[illegible]

accused recognizes and confirmed his signature on Exhibit A and states he knew he was being warned for draft

'Q' You stated you met a friend at 2200 hrs. and decided to go loose. because you felt the army had given you a raw deal. even though you were on draft to a new field unit

'A' Yes. Sir

Reexamine Defense } 'Q' Was abandoning the draft your only purpose in going AWL

'A' No Sir. I didn't think I was physically fit to enter a field unit at that time

I certify the QP 93B has been complied with

Defense Closing Address

There are two points I'd like to bring to the courts attention that if there is a contravention of Admin Inst #9. if that is what he is being charged on provisions as set out in that inst it has been proven has not been complied with. Secondly, if the man is being charged under SEC 12 (1) provisions as set forth there have not been complied with in that or not 1 para 3 quote In order to establish an accident that a soldier has deserted or attempted to desert when under orders for embarkation } ref Para 2 page 437. I say that within CRU that Adm Inst #9 cancels Inst #3 and that is the authority for warning men proceeding on draft

NJMH

Records officer gave evidence that there
be a definite warning and the prosecution
produced such warning as to time of dep

Closing Address Prosecution

In reply to defence, the defendant own
witnesses all stated that adm Inst #9 ~~did~~ apply
only to overseas drafts and that it does not apply
to a draft proceeding to CBRG. The evidence of
Lieut Gartside was to the effect that the
procedure outlined was used for all drafts at
one time but under new instructions is no
longer used for U.K. drafts. The accused himself
admitted that he signed exhibit 'A' and that he
knew that he was being warned for draft, a more
definite warning than that could not be given.
There is no evidence brought forth by the defence
that the accused must be warned of a definite
time of departure. At any rate the accused
admitted he intended to mess that particular draft
para 2 quoted by the defending officer refers to orders
for embarkation, or drafts overseas and does not refer
to a U.K. draft. The authority for charging —
with desertion in cases of this type is not adm Inst
#9. but is the A.A. itself. Refer to para 2. footnote 1
sect 12. Submit that proceeding on draft to CBRG
which merely a holding unit for field units which
were then and are now in action in France. —

NSMA

Records officer gave evidence that there must be a definite warning and the prosecution has not produced such warning as to time of departure

Closing Address Prosecution

In reply to defence, the defendant own witnesses all stated that adm Inst #9 did apply only to overseas drafts and that it does not apply to a draft proceeding to CBRG. The evidence of Lieut Gartside was to the effect that the procedure outlined was used for all drafts at one time but under new instructions is no longer used for UK drafts. The accused himself admitted that he signed exhibit 'A' and that he knew that he was being warned for draft, a more definite warning than that could not be given. There is no evidence brought forth by the defence that the accused must be warned of a definite time of departure, at any rate the accused admitted he intended to miss that particular draft. Para 3 quoted by the defending officer refers to orders for embarkation or draft overseas and does not refer to a UK draft. The authority for charging men with desertion in cases of this type is not adm Inst #9. but is the AA itself. Refer to para 2 footnote 1 sect 13. Submit that proceeding on draft to CBRG whether merely a holding unit for field units which were then and are now in action in France is

NYRCA

an important particular service which the AA intended to cover. I cannot imagine more important service, the evidence of the prosecution is unshaken by the defence, and the accused own admission of the intended to miss the craft. I submit the accused is guilty of desertion.

Statement of accused:-

There is nothing more I can say except that my field record will speak for itself my work in the field has been satisfactory and other than one or two small army crimes my record is clean.

Plea of Mitigation -

Even though the man is single and an American became to Canada and enlisted voluntarily became overseas in June 42 and with the unit for almost two years until forced to go to the hospital for an operation. at the end of his three months as an a/cpl. he was confirmed as a cpl and promised an additional stripe he is [illegible] assigning $20 a month to his mother, and has purchased a $50 Victory Bond. despite the fact that he was supposed to have a certain amount of treatment after [illegible] the hospital he forwent that treatment hoping to get back to his unit

NSMA

as soon as possible because he had taken part and been briefed in the forthcoming events. You have his MFM6 before which is self explanatory. My firm connection is that had he been going to his own unit nothing would have made him happier. I trust the court bear in mind the situation whereby a confirmed NCO. is pushed into another unit other than his own. that situation is appreciated by the individual also. He has had no leave since Mar 44 he he has tried to do what he can towards the termination of the war by volunteering and doing his duty wherever he has been sent. It must also be borne in mind that he got paid the morning of the 27th and being in the browned off condition in not being sent to his own unit probably drank too much and was not fully responsible for his acting. He desires if possible to return to his own unit forthwith if possible.

[illegible signature] Major

Rsmia

EXHIBIT 'A' 27 Jun 44

I HEREBY ACKNOWLEDGE THAT I HAVE BEEN WARNED FOR DRAFT

NUMBER	RANK	NAME	SIGNATURE	INITIAL OF OFF
A37572	Pte GD.	Woods H.	H. Woods.	
H8760	Pte GD.	Allison L.M.	L.M. Allison.	
B29913	Pte GD.	Lavery W.M.	W.M. Lavery.	
D22696	L/Cpl GD	Gilbey L.H.	L.H. Gilbey.	
B67593	Pte BRICKLAYER	Blaker G.H.	G.H. Blaker	
H60490	Pte GD.	Harrison S.	S. Harrison	
A23357	A/Cpl. GD.	Gray R.	R. Gray	
B51806	Pte M. MECH.	McQuigge R.G.	R.G. McQuigge	
H-8753	Pte W. PNR.	Vermette L.C.	L.C. Vermette	

Exhibit B

22 Mar 44

ADMINISTRATIVE INSTRUCTION

No 9

HEADQUARTERS, CANADIAN REINFORCEMENT UNITS

STANDING INSTRUCTIONS FOR THE WARNING OF RFTS PROCEEDING ON DRAFT:

1. Adm Instr No 3 d/2 Feb 44, para 13, and RURO 814 d/22 Oct 43 (With Appx "A" thereto) are now cancelled.

2. The following procedure will be taken into effect in all cases where rft drafts are warned or ordered to proceed Overseas.

3. A Nominal Roll of rftd and/or personnel concerned will be prepared. A Parade will be called and a Nominal Roll of the personnel detailed to proceed with the draft will be read out.

4. Each soldier so detailed for the draft will be warned by an Officer, in the presence of two other Offrs and two WOs or senior NCOs, none of whom whom will be proceeding with the draft, and in the presence at the same time of two other Offrs and two WOs or senior NCOs who will be proceeding with the draft, that he is to proceed on draft. Such warning will be in the most definite possible terms and will include the following statements:

(a) "You have been selected to proceed on a draft for the performance of a special duty, and you are now warned that you must be present and ready to go when the draft is sent off."

(b) "Any unauthorised failure on your part to go with the draft when it leaves will result in your being charged with desertion on active service."

(c) "Similarly any unauthorised absence on your part while the draft is in transit or at any intermediate point before its final destination will result in your being charged with desertion on active service."

(d) "If you are convicted of desertion the Court has the power to sentence you to a maximum sentence of penal servitude for life."

(e) "At some time prior to the departure of the draft a parade will be called on which you must be present, and at which time the exact date and time of departure will be told to you."

5. Each offr detailed for the draft will be similarly warned in the presence of two other offrs, neither of whom will be proceeding with the draft, and in the presence at the same time of two other offrs who will be proceeding with the draft.

6. A Part 1 Order will then be published setting out:

(a) The Nominal Roll
(b) That those on the Nominal Roll were present on parade.
(c) That the warning referred to in para 4 , was given, naming the offr who gave it.
(d) That the Nominal Roll was certified by the warning offr, witnessing offrs, WOs orNCOs mentioned in para 4 (giving their names.

A properly certified copy of such Part 1 Order will accompany the senior offr of the unit draft and will be made available by him for the taking of any necessary disciplinary action at the destination of the draft.

7. The warning to be given on parade aforesaid will be given in definite, precise, and unequivocal terms, and in such a tone of voice that no one on parade shall fail to hear or understand it.

8. The warning offr, and all witnessing offrs and all witnessing WOs or senior NCOs must be present at the time of departure and at all intervening parades at which any order relevant to the warning is given, and particularly at the parade at which the date and time of departure are notified.

9. With respect to every particular absentee, at least two of the warning offrs and witnessing offrs, WOS or senior NCOs who are NOT proceeding with the draft, and at least two of the witnessing offrs, WOS or senior NCOs who ARE proceeding with the draft must be prepared and available to give evidence on oath and in the most definite and conclusive forms:

(a) That the particular absentee was in fact detailed for the draft.

(b) Of the exact terms of the warning given, which must correspond to para 4 hereof.

(c) That the particular absentee was in fact present when the warning was given.

(d) That the particular absentee could not have failed to hear the warning or otherwise to know of it.

(e) That the particular absentee could not have failed to know of the precise date and time of the departure, or that any such failure was given by reason of the unauthorised absence of such absentee.

(f) That the particular absentee did not proceed with the draft.

10. Following the departure of the draft in question, there will be published a Part II Order recording the appropriate details respecting any personnel who were absent from the parade and stating the date when they were warned for the draft.

(D.F. Spankie) Lt.Col
A.A. & Q.M.G.
CANADIAN REINFORCEMENT UNITS

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.....
(M.S. McAlpine) Major

Date 24 Jly 44

CERTIFICATE RE WAITING MEMBER

In the case of A23351 Cpl Robert GRAY, 2 C.I.R.U.

I hereby certify that there were no objections to the Members who constituted the Court which tried the a/m soldier by Field General Court Martial. The Waiting Member, CAPTAIN D.R.McNAUGHTON, was therefore permitted to withdraw.

In the Field
25 July 1944

N.S.McAlpine
(N.S. McALPINE) Major
President

LIST OF OFFICERS UNDER INSTRUCTION

In the case of A23351 Cpl Robert GRAY, 2 C.I.R.U.

The following Officers attended the Trial of the a/m soldier as Officers under instruction:-

Lieut J.S. Freeman	2 C.I.R.U.
Lieut W.A. Prast	2 C.I.R.U.
Lieut C.T. Smith	2 C.I.R.U.

In the Field
25 July 1944

N.S.McAlpine
(N.S. McALPINE) Major
President.

Mgr Calpine Major

SUMMARY OF EVIDENCE

In the case of A-23351 Cpl Robert GRAY, C.I.C., on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. J.S. Taylor, 'F' Coy, 2 C.I.R.U., having been duly sworn states as follows:
I am Lieut. J.S. Taylor of 'F' Coy, 2 C.I.R.U. On the 27 June 44 I personally warned the accused, whom I now recognize, for draft. I produce as exhibit 'A' for the prosecution an acknowledgment signed by the accused acknowledging that he had been warned for draft, which acknowledgment was signed on that date. Before the accused signed I pointed out the heading to him which reads "I hereby acknowledge that I have been warned for draft", and told him to read it before signing. The accused then read and signed the document, which I witnessed as attested by my initials added thereto.

The accused declines to cross-examine the witness.

J.S. Taylor
(J.S. Taylor) Lieut.

SECOND WITNESS FOR THE PROSECUTION

L-84083 Sgt Ruth, R.A., 'F' Coy, 2 C.I.R.U., having been duly sworn states as follows:
I am L-84083 Sgt Ruth, R.A. of 'F' Coy, 2 C.I.R.U. At 2300 hrs on 28 June 44 the accused, whom I now recognize, did not answer his name at tattoo roll call, nor was he present when the draft for which he had been warned left next morning, 29 June 44. He had absented himself from this draft.

The accused declines to cross-examine the witness.

R.A. Ruth
(R.A. Ruth) Sgt.

THIRD WITNESS FOR THE PROSECUTION

A-37713 C.S.M. Fair, H.M., 'F' Coy, 2 C.I.R.U., having been duly sworn states as follows:
I am A-37713 C.S.M. Fair, H.M. of 'F' Coy, 2 C.I.R.U. I was C.S.M. of 'F' Coy between 28 June 44 and 9 July 44. The accused whom I now recognize did not attend any parades nor did I see him at any time between these dates.

The accused declines to cross-examine the witness.

H.M. Fair
(H.M. Fair) C.S.M.

In the case of A-23351 Cpl Robert GRAY, C.I.C. on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

FOURTH WITNESS FOR THE PROSECUTION

L-102536 L/Cpl Smith, R.L., 'A' Wing, 2 C.I.R.U., having been duly sworn states as follows:
I am L-102536 L/Cpl Smith, R.L. of 'A' Wing, 2 C.I.R.U. and am employed as a member of the Regimental Police. At 1950 hrs on 9 July 44 I was on duty as N.C.O. i/c guard room. At that time the accused, whom I now recognize, entered the guard room and reported to me that he was an absentee. I immediately placed him under close arrest and confined him to the detention room.

The accused declines to cross-examine the witness.

.....R.L. Smith C/Cpl.....
(R.L. Smith) L/Cpl.

The accused was cautioned as follows: "Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement and reserves his Defence.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down by me in the presence and hearing of the accused and that Rule of Procedure 4(c)(d)(e)(f) have been complied with.

In the Field
17 July 44

.....W.L. Liscombe.....
(W.L. Liscombe) Lieut.
Officer detailed to take the Summary of Evidence.

LIST OF WITNESSES

In the case against A-23351 Cpl Gray, R., C.I.C.

(For the Prosecution)

1. Lieut. J.S. Taylor, 'F' Coy, 2 C.I.R.U.
2. L-84083 Sgt Ruth, R.A., 'F' Coy, 2 C.I.R.U.
3. A-37713 C.S.M. Fair, H.M., 'F' Coy, 2 C.I.R.U.
4. L-102536 L/Cpl Smith, R.L., 'A' Wing, 2 C.I.R.U.

(For the Defence)

none

LIST OF EXHIBITS

In the case against A-23351 Cpl Gray, R., C.I.C.

(For the Prosecution)

Exhibit 'A' Acknowledgment of warning for draft signed by the accused and produced by Lieut. J.S. Taylor.

(For the Defence)

none

Miscellaneous

REQUEST FOR DEFENDING OFFICER

I, A-[illegible]51 Cpl Gray, R.

Maj. Wakefield

3 C.I.R.U.

17 July 44

R. Gray
(R. Gray) Cpl.

I, A-[illegible]51 Cpl Gray, R.

17 July 44

R. Gray
(R. Gray) Cpl.

Old sheet destroyed July 11/42

EXHIBIT "D"

No. A 28351 Name GRAY R. Sqn., Battery, or Company Corps C.I.C. Date of enlistment 12-2-42 GC Badges Service or Proficiency Pay 1.50 3/17 MFM 6 (AFB 122) 30/PAS/156 (54)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc [illegible] Character [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	28/12/42	Pte.		A.W.L. from 1200 hrs. 26 Dec 42 to 1830 hrs. 26 Dec 42. (6½ hrs.) A.A. 15 (1) Prejudice (neglect to carry out an order)	Capt. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]	1 days pay F.R.&L. [illegible] 3 days pay F.R.&L. [illegible] 5 Day C.B.	27 Dec 42 9 Dec 42	Capt. [illegible] [illegible]	Forfeits 4 day pay
FIELD	9 Dec 42	Pte.							
FIELD	31-5-43	Pte.		A.W.L. from 1330 hrs 31-5-43 till 2000 hrs. 3-5-43 A.A. 15 (1)	[illegible]	Return to permanent [illegible]	5-5-43	[illegible]	Forfeits 4 days pay

CERTIFIED TRUE COPY

DATED 24 July 44

[illegible] Capt.

(A.R. McTAGGART) CAPT. OFFICER HAVING CUSTODY OF REGL BOOKS

EXHIBIT "C"

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-420
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
6-23361	Cpl	Gray, R.	R.C.A.F.U.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Sec 15(1)	times	2 times
For Sec 40	times	2 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act A.F.A. 73 ~~Section 47 of the Army Act and dispensations with reference thereto A.A. 73~~ are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ imprisoning for the ~~imprisonment~~ for the ~~detention~~ for the ~~penal servitude~~ for the ~~corrective training~~ for the ~~Borstal training~~ for the ~~reformatory~~ for the ~~Borstal~~ for the ~~Borstal~~ for the ~~Borstal

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

19 June 44 Date of promotion

In the rank of Cpl. 1 month ~~XXXX~~

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Air Force Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of July 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit "C" signed by the president, and annexed to the proceedings.

RCAF Squadron Major
24 JUL 44

CAOF-1-142 Pt. Grey R. 2.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 8 (2) AA	Not Guilty	Guilty	
2nd Sec 8 (2) AA	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kill see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for Sixty (60) days

(Sgd) H S Bearden, Judge-Advocate, if any. 17 Apr 46 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : RP 37-57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : of the Court

I confirm the findings and sentence but remit thirty (30) days detention

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1. AA 57A. Delete if not used.)

Date 22 Apr 46 (Sgd) [illegible] Commanding 79 Cdn Inf Bde CAOF Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F-34646 Pte (W/Sgt) GRAY RG	23 APR 46	[illegible] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED MAY 3 - 12 JAG CANADA G.M.H.Q.

RECORDED AT CMHQ IN AB 165 as C A01-1-142

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AF 40/P & R/1698 (Rev) 4/38B

Convened by Order of Brigadier W.J. Megill Comd 2/9 Cdn Inf Bde dated 13 Apr 46 CAOF

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Permnt. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-34646	Private Sergeant	Reginald George	GRAY	3 Nth NS Highrs CAOF

PROCEEDINGS REVIEWED 3 Jan 46 H Tait, Maj. REVIEWING OFFICER, JAG CANADA G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date) ..... Apr 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for duties and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, K.R. 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 2100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~ ~~The Interpreter is sworn.~~(1) Do you object to F/Sgt CME Crone, RY as shorthand writer ? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	F.H.G. PATERSON	3 SD & G Highrs CAOF
Member	A/ Captain	G.R. SULLIVAN	3 HLI of C CAOF
Member	Lieutenant	T.W. STANLEY	3 SD & G Highrs CAOF
Judge-Advocate	Lieutenant	H.S. BEARDEN	3 Incr 'B' (CAOF) Cdn JAG Overseas
Prosecutor	Captain	G.J. Pearson	3 Nth NS Highrs CAOF
Defending Offr	Captain	R.F. LYONS	11 Cdn Grn Bn

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused F.34646 Pte(A/Sgt) Reginald George Gray before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(b) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 236B, fn 9 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (ii).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the both charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the both charge(s), ~~and allowed on the charge(s), and that, accordingly, but the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Give evidence as a witness Do you intend to call witnesses on your behalf ? Ans Yes sir. Are they witnesses as to character only ? Ans Yes sir.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the both charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Call witnesses as to character
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. MFB 335 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes sir, through my Defending Officer .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 230, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Owing to the exigencies of the service, Captain C.M. MacDonald, 3 Nth NS Highrs CAOF is unable to sit and the waiting member, Lt T.W. Stanley, 3 SD & G Highrs CAOF takes his place.

(P.H.S. Paterson) Major
President

HSB.

CHARGE SHEET

The accused, F34646 Pte (A/Sgt) Reginald George GRAY, 3/North Nova Scotia Highlanders, Canadian Army Occupation Force, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE, USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER,

in that he,

in the Field, in Germany, on 17 Mar 46, when checked by Major F.T. Horrobin, RAMC, said to him, "Your're nothing but a fucking Limey Captain ~~of no account~~," or words to that effect and, "any cunt can be an Officer in the British Army, provided he had sufficient money to buy it," or words to that effect.

SECOND CHARGE
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE, OFFERING VIOLENCE TO HIS SUPERIOR OFFICER,

in that he,

in the Field, in Germany, on 17 Mar 46, caught hold of the lapel of Major F.T. Horrobin's coat and raised a bottle at him, saying, "the only good Limey is a dead bastard", or words to that effect, and "I will knock your fucking head off", or words to that effect.

In the Field,
3 Apr 46.

W. A. Milroy
(W.A.Milroy) Major
A/OC
3/Nth NS Highrs CAOF.

To be tried by F.G.C.M.
Wm Pitt Brig
Comd 3/Cdn Inf Bde
CAOF.

13 Apr 46

245

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 326, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F34646	Pte	(A/Sgt)	Reginald George	GRAY	3/Nth NS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Sept 46 endorsed by me, [illegible], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	P H S PATTERSON (Must be named. RP 106.)	3/SD & G Highrs (Unit.)

MEMBERS.

Capt	C M MacDONALD	3/Nth NS Highrs
A/Capt (Rank.)	G R SULLIVAN (Named or detailed. RP 106.)	3/HLI of C (Unit.)

WAITING MEMBER.

Lt (Rank.)	T W STANLEY (Named or detailed, if any. RP 106.)	3/SD & G Highrs (Unit.)

JUDGE-ADVOCATE.

Lt (Rank.)	H S BEARDEN (Must be named, if any. RP 106.)	3 Incr "B" (CAOF) Cdn JAG Overseas

On Active Service in the Fd

in Germany (Country.)

Dat 13 Sept 46

(W J Megill) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 2/3 Cdn Inf Bde CAOF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6142) (See overleaf for oaths and notes for use on trial.)

HSB

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this morning examined No. F34646 A/Sgt. GRAY R.G. of 3/Nth NS Highrs CAOF. and in my opinion he is fit to undergo trial by court-martial.

Station In the Field

Date 17 Apr 46

(J. S. Lewis) Capt
RCAMC.

FIRST WITNESS FOR THE PROSECUTION:

Major R.T. Horrobin, 949 German Base Depot Medical Stores, Varel, Germany, having been duly sworn, is examined by the Prosecutor.

Q.1 Would you give your rank, name and unit to the Court please?
A.1 Major R.T. Horrobin, RAMC, 949 German Base Depot Medical Stores, Varel.

Q.2 Can you identify anybody in this room?
A.2 Yes - Sergeant Gray.

Q.3 Would you tell the Court what happened at 1930 hours on Sunday the seventeenth of March, 1946?
A.3 At 1930 hours on Sunday, March the seventeenth, I left my car outside of my residence and stores and five minutes later I returned to enter the car. Looking through the window I saw a person in the driver's seat. I opened the door nearest him and asked him what he was doing in there and he said he was putting his cakes away. I told him to clear off. Twice I told him to do this. He did not do so and I went round to the other door and the person who is the accused got out of the car. Then he stated "Oh you are a fucking Limey captain" and "anybody can be an officer in the British Army if he has the money to pay for it" and "the only fucking good Limey is a dead one". And raising a bottle of Champagne he said "I'll knock your fucking head off." I then got my orderly to phone for the Provosts to place him under arrest. My coat is here to show where he grabbed it with his dirty filthy hands. The bottle I took off him as I think he would have knocked me on the head.

Q.4 Will you tell the Court what side of the car you found the accused on?
A.4 On the driver's seat which is the left-hand side of the car.

Q.5 When did he grab hold of your coat?
A.5 When he got out and told me that the only good Limey was a dead one.

Q.6 Would you tell the Court what was on his hands?
A.6 Cream. It was a lot of cream cakes which he had in the car.

Q.7 Did you take the bottle of Champagne away from him?
A.7 He put the bottle on the ground after a little tustle.

Q.8 That was after he grabbed you by the coat?
A.8 Yes.

Q.9 Do you identify this coat here?
A.9 Yes, that is my coat.

Q.10 How do you identify it?
A.10 This mark and there is a button which was torn off the coat that night.

Q.11 Your name is not on it?
A.11 No. I took it off and gave it to the Provost at the time.

The coat referred to in the evidence of the witness above is entered as an exhibit and is held in custody pending disposal. (Marked 'Exhibit 'A').

Q.12 Do you identify this bottle?
A.12 It looks exactly like the bottle.

Q.13 There is no way that you can identify it?
A.13 No, that I also handed to the Provost. It looks like it.

Q.14 It could be the same bottle?
A.14 Yes, it could be.

The bottle of Champagne referred to in the evidence of the witness above is entered as an exhibit and is held in custody pending disposal. (Marked Exhibit 'B').

The witness is cross-examined by the Defending Officer:

Q.15 Major Horrobin, is that coat in the same condition as when you were wearing it? Has anything been removed from it?
A.15 Not that I know of. I have not had it in my possession since that night.

Q.16 I am particularly anxious to know about rank badges.
A.16 There were no badges on it.

Q.17 What type of hat were you wearing?
A.17 This particular type I have on now.

Q.18 That is the army forage cap?
A.18 Yes.

Q.19 The time of the night in question now, the seventeenth of March. That is approximately a month ago and we were on standard time then - not on daylight saving time.
A.19 The time has only been changed a few days.

Q.20 Was it light or twilight?
A.20 There is an electric light immediately over my stores.

Q.21 So there was a fair amount of light?
A.21 A good light.

Q.22 Would you tell the Court what type of vehicle it was?
A.22 A Mercedes-Benz car.

Q.23 A German vehicle?
A.23 A German vehicle, with 949 Base Medical Stores on it. It is fairly conspicuous.

Q.24 Was there anybody with you at the time this incident occurred?
A.24 My orderly and the interpreter was on the doorstep.

Q.25 In your evidence you stated that you ordered him out of the car and he said you must be a fucking Limey captain. Didn't he say at the time that a Canadian would not talk in the manner in which you had ordered him out of the car?
A.25 He didn't refer to any method of speaking at all.

Q.26 I see. Didn't you say at approximately the same time that you ordered him out of the car that this was not the way for a soldier to act?
A.26 No, I don't remember saying that at all.

Q.27 Do you remember him saying "This doesn't look very good in front of the Jerries"? - referring to the interpreter, I suppose.
A.27 No, what he said was "All you are trying to do is to fucking well show off in front of the Jerries".

Q.28 Now, where was Sergeant Gray standing, or where were you standing when he took hold of your coat?
A.28 He had come out of the door and he was coming round to the front of the car. He had moved about a yard from the door.

Q.29 You were standing in the middle of the street then?
A.29 Practically at the kurb.

Q.30 Did you not first catch hold of Gray by the lapel of his coat or the shoulder strap?
A.30 No. He was in shirt-sleeves. He didn't have a coat on.

Q.31 You didn't touch him until after he had raised his arm?
A.31 He raised his arm?

Q.32 Yes.
A.32 He raised the bottle first.

Q.33 And then what?
A.33 He had still got hold of my coat then.

Q.34 He had raised the bottle before you touched him?
A.34 Yes.

Q.35 Wasn't Sergeant Gray's whole statement to you to the effect that "to take your hands off me or I will knock your head off"?
A.35 No, definitely not.

Q.36 Do you mind giving the name of your orderly, or driver?
A.36 He is my orderly - Private Madocks.

Q.37 Did Sergeant Gray ask him for his name and number?
A.37 He asked him many questions and I advised the orderly not to answer him.

Q.38 Why?
A.38 Because his attitude did not induce conversation and I did not wish to have any conversation at all.

Q.39 Now, in your evidence you stated thatyou ordered Sergeant Gray to get out of the car twice?
A.39 Yes.

Q.40 In view of the fact that he apparently had these cream cakes or something like that, did he have time to act, I mean - I presume if I was in the same position I would try to gather up rather than immediately jump out and for that reason there might be some delay between the time of receiving the order and obeying it. Was there sufficient time for him to obey it?
A.40 Yes. I opened the door to give him a hand - not to give him a hand but so that he could very easily have got out. Then I told him to clear off after I opened the door.

Q.41 You stated that he said that the only good Limey was a dead one.
A.41 Yes.

Q.42 And that you must be a fucking Limey Captain.
A.42 Yes.

Q.43 Were these statements at the same time as the raising of the bottle - while the bottle was in the air?
A.43 Just preceded them.

The Prosecutor declines to re-examine the witness.

The Witness is questioned by the Court:

Q.44 Sir, at the time the accused was supposed to have said these things - was it outside the car, or inside the car?
A.44 Outside the car.

Q.45 And during the time he was in the car, did he say anything?
A.45 Only that he was putting his cakes away.

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of Rule of Procedure 89(B).

The witness withdrew.

SECOND WITNESS FOR THE PROSECUTION:

14342977, Pte Maddocks, H, 949 German Base Depot Medical Stores, Wural, Germany, having been duly sworn, is examined by the Prosecutor:

Q.46 Would you tell the Court your number, rank, name and unit?
A.46 14342977, Private Maddocks, 949 Base Depot Medical Stores, RAMC.

Q.47 Can you identify anybody in this room?
A.47 , Just the sergeant, sir.

Q.48 Do you know his name?
A.48 Sergeant Gray, Sir.

Q.49 How can you identify him?
A.49 I recognise him from the night of the crime, sir.

Q.50 Would you tell the Court exactly what happened at 1900 hours, Sunday the seventeenth of March?
A.50 I was entering the Medical Stores, sir. I saw a man in the OC's car with some cream cakes on the driver's seat. Major Horrobin came on the scene and asked him to leave the car and this Sergeant said "the only good Likey is a dead one." He threatened to knock his head off. With that sir, I was told to call the Provosts.

Q.51 Were you beside the car when Major Horrobin was there? Did you both arrive at the car at the same time?
A.51 Yes. It is a coincidence sir. I was leaving the Jack-Pot Canteen and the Major came down at the same time, sir.

Q.52 And you both arrived at the car at the same time?
A.52 At the same second sir, yes.

Q.53 What did you hear the accused call the Major?
A.53 I heard him say he would knock his fucking head off, and that the only good Likey was a dead one.

Q.54 That was before you were told to phone for the Provost?
A.54 Yes sir.

Q.55 And then you were told to phone?
A.55 Yes sir.

Q.56 Did you return again to the car?
A.56 Yes sir.

Q.57 And you were with the Major right after that?
A.57 Yes sir.

Q.58 Were you talking together?
A.58 Yes sir, but the Provost was on the scene - they were coming on the scene sir as I came out of the building. They were coming up the street.

Q.59 You had not got back to the car then?
A.59 Yes sir.

Q.60 You had got back?
A.60 Yes sir.

Q.61 What happened when the Provosts arrived?
A.61 They came and the Major handed his overcoat and the accused,

sir, was put in the jeep and they drove away.

Q.62 During this time, did you see a bottle in the car?
A.62 Yes sir, a Champagne bottle.

Q.63 What happened to this bottle? Did you see anybody take it away from anybody?
A.63 No sir. I believe that happened when I was phoning for the Provosts sir.

Q.64 Did you see the accused take hold of Major Horrobin's coat?
A.64 Yes sir.

Q.65 You saw him?
A.65 Yes sir.

Q.66 But you never saw the bottle?
A.66 In the Sergeant's hands, sir.

Q.67 You saw the bottle in the Sergeant's hand?
A.67 Yes sir.

Q.68 Did you - but you didn't see him make any motion?
A.68 No sir.

Q.69 None at all?
A.69 No sir.

The witness is cross-examined by the Defending Officer:

Q.70 Private Madocks, in your story of how this alleged crime occurred, you went rather rapidly over things and I would like you to go over the sequence of how things occurred. You said that you came down the street and saw these things. Now, first, these Base Medical Stores - is that on the street, or is it back a few feet from the street?
A.70 On the Street, sir.

Q.71 Just the width of the sidewalk from the door to the road?
A.71 Yes sir.

Q.72 I see. And you said that you saw cream cakes in the car.
A.72 Yes sir, I opened the door to see who was in the car.

Q.73 Before Major Horrobin came along?
A.73 No sir, he was standing right behind me.

Q.74 You opened the door for Major Horrobin then?
A.74 Yes sir, more or less. I looked in at the same time sir.

Q.75 Having opened the door, what did you see?
A.75 The Major inquired who was in the car sir. He went to the other door and opened the door and asked if he would get out of the car.

Q.76 You opened the door nearest to the sidewalk first?
A.76 I did.

Q.77 Did the Major look in there?
A.77 He glanced in there, yes sir.

Q.78 Did he say anything?
A.78 He inquired who it was.

Q.79 Then he went to the other door?
A.79 Yes sir.

Q.80 He opened that?
A.80 Yes sir.

Q.81 And then what?
A.81 He inquired who was in the car.

Q.82 Anything else?
A.82 He asked him to leave the car.

Q.83 Asked him or ordered him. Which?
A.83 More or less, yes.

Q.84 No more or less about it.
A.84 He told him to leave the car, sir, at once.

Q.85 What happened, did you hear anything?
A.85 He became very abusive sir. He opened the door and told the man to leave at once.

Q.86 He opened the door and told the man to get out and the man - did he answer him back right away. What did Sergeant Gray do then?
A.86 He got out of the car then, sir.

Q.87 Then where did Sergeant Gray go from there?
A.87 To the front of the car.

Q.88 And when did Sergeant Gray say, or is alleged to have said that "You must be a Limey Captain" or something like that?
A.88 When he was standing on the sidewalk.

Q.89 On the sidewalk?
A.89 At the side by the car.

Q.90 Did he say anything else?
A.90 He stated that he would knock his fucking head off.

Q.91 Where was Sergeant Gray when he said this?
A.91 He had his arm on the Major's coat sir - on the shoulder of his coat.

Q.92 Did not Major Horrobin catch hold of the Sergeants coat-
A.92 sleeve first?
It didn't seem so sir.

Q.93 Did you see that?
A.93 Yes sir.

Q.94 You saw him grab it?
A.94 Yes sir.

Q.95 Are you sure or not sure that Major Horrobin didn't catch hold of Sergeant Gray's tunic first, or do you mean that
A.95 you just didn't see it?
I didn't see it.

Q.96 Were they in a position where you could see it?
A.96 I was standing about here sir and the Major stood there and the Major said to go an call the Provosts and I had to go into the office of the Medical Stores to phone.

Q.97 Is it possible that Major Horrobin caught hold of Sergeant Gray first?

President: That is not a proper question.

Def Offr: I can ask leading questions in cross-examination.

JA: Yes, but you should not put words into the witness's mouth. You have got to the point a couple of times where you made a speech and then asked the witness a question. And another thing you should remember - the President is right - you should not ask too leading questions but I don't imagine we shall stop you if you don't ask too many.

Def Offr: Very good sir.

Q.98 Was it possible then, or not possible?
A.98 I didn't see him sir, I don't think the Major would have, sir.

Def Offr: That is a question of opinion.

President: That is what you asked him.

Def Offr: He has stated the Major's character.

Witness: Oh yes sir, he was in a position to do it sir. I see what you mean.

The Prosecutor declines to re-examine the witness:

The witness is questioned by the Judge Advocate:

Q.99 When you first arrived at the car, what was the accused doing?
A.99 He had one hand on the steering wheel sir and the cream cakes were on the seat.

Q.100 When he got out of the car, did he take the cakes with him?
A.100 Yes sir.

Q.101 In his hand?
A.101 In his hat sir.

Q.102 And what was in the other hand?
A.102 The Champagne bottle, sir.

Q.103 Did you see him grab the Major by the lapel of his coat?
A.103 I didn't see him grab sir, I just saw his hand on his coat sir.

Q.104 At that time, did you see him raise the Champagne bottle?
A.104 No sir, at that time I was phoning sir, for the Provosts.

The witness is questioned by the Court:

Q.105 When did the accused threaten to knock the Major's head off?
A.105 After he got out of the car.

Q.106 When he said the only good Limey was a dead one, was that before or after you phoned?
A.106 Before I phoned sir.

The witness is questioned by the Judge Advocate:

Q.107 This is an exhibit to these proceedings. You will notice there are certain marks on it. Did you see these marks placed on the coat?
A.107 Yes sir.

Q.108 You were there at that time?
A.108 Yes sir.

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of Rule of Procedure 83(B).

The witness withdraws.

THIRD WITNESS FOR THE PROSECUTION:

SK.49266, Sgt Barnes, RL, 2/4 Cdn Pro Coy, CAOF, having been duly sworn, is examined by the Prosecutor:

Q.109 Sergeant, would you give the Court your number, rank and name and unit?
A.109 SK.49266, Acting Sergeant Barnes, RL, 2/4 Provost Company.

Q.110 Can you identify anybody in this room?
A.110 That is Sergeant Gray.

Q.111 How can you identify him?
A.111 On the seventeenth of March, 1946 at approximately 1950 hours I went to Major Horrobin's Base Medical Stores in Varel on a call from Major Horrobin and he asked me to place Sergeant Gray under close arrest.

Q.112 Could you tell us anything else about what happened that night?
A.112 Well sir, he had in his possession a bottle of Champagne and his hat half-full of cakes and a plate of sandwiches and after I placed him under close arrest I escorted him to the Orderly room and handed him over to the NCO of the guard room and returned to the scene of the disturbance and found evidence of cake icing on the seat of the car, [redacted] on the coat, on the left lapel, and it was similar to the icing on the cakes in Sergeant Gray's hat. And that is all that happened, sir.

Q.113 Would you tell the Court again about what time you arrived on the scene?
A.113 The phone call came in approximately 1945 hours and I would say I was approximately five minutes in getting there, at the most. Possible it was two minutes either way, but it was approximately five minutes.

Q.114 When you arrived on the scene, what exactly, did you see?
A.114 When I first arrived, there was several civilians and Major Horrobin and Sergeant Gray and I believe another soldier all standing out in front of the Base Medical Stores and the car was parked right on the sidewalk there. The sergeant was there - the sergeant who was later identified as Sergeant Gray, and he was having a conversation with the Major. I couldn't hear what was said but it seemed to me that his voice was raised.

Q.115 His voice was raised?
A.115 Yes sir, but I couldn't hear the words that were spoken.

Q.116 You said there was a bottle there. Who did you receive the bottle from?
A.116 The bottle was sitting on the sidewalk. Sergeant Gray said it was his and the Major told me it belonged to him.

Q.117 When you went back, did you notice any cakes on the cushion of the seat? Did you find cakes there?
A.117 No sir, just the icing off the cakes.

Q.118 When you went back, was this on the Major's coat?
A.118 It was the same marking from the icing that I saw, sir.

Q.119 Did you place the accused under arrest immediately?
A.119 I listened to Major Horrobin and heard what he had to say and he said to place this NCO under arrest, so I placed him under arrest.

The witness is cross-examined by the Defending Officer:

Q.120 What was the lighting conditions at the place outside the Base Medical Stores?
A.120 It was light enough sir to recognize faces. I could see quite clearly.

Q.121 Could you easily identify the car, as for instance, being a civilian car?
A.121 Yes sir.

Q.122 You had no difficulty about that?
A.122 It was definitely a civilian car sir.

Q.123 You mentioned that you found a hat full of cakes. Where were they?
A.123 They were on the sidewalk sir.

Q.124 I see. And could you tell the Court in what condition they were found? Were they squashed up, or anything like that?
A.124 More or less sir, they were placed inside the hat - I would say it was about half-full. They had some of the icing rubbed off.

Q.125 This plate of sandwiches, what sort of a plate was it? - a paper plate, or porcelain, or what?
A.125 It was a white glass plate. There was at least half a dozen sandwiches on it.

Q.126 Was there any damage to the plate?
A.126 No sir.

Q.127 It had not been dropped or anything?
A.127 No sir.

Q.128 This hat full of cakes, had it shown any signs of being dropped or anything like that?
A.128 The cakes on top had the icing rubbed off but the rest of the cakes seemed to be intact. I couldn't swear to it.

Q.129 They appeared to be?
A.129 They appeared to be, yes sir.

The Prosecutor desires to re-examine the witness.

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of Rule of Procedure 83(3).

The witness withdraws.

FOURTH WITNESS FOR THE PROSECUTION:

H.103491, L/Cpl Lamb, SW, 2/4 Cdn Pro Coy CASF, having been duly sworn, is examined by the Prosecutor:

Q.130 Would you give the Court your number, rank, name and unit?
A.130 H.103491, Lance-Corporal Lamb, 2/4 Provost Company CASF.

Q.131 Can you identify anyone in this room?
A.131 Yes sir, this sergeant.

Q.132 What is his name?
A.132 Sergeant Gray.

Q.133 Could you tell the Court what happened at 1930 hours, on Sunday the seventeenth of March.
A.133 At 1930 hours?

Q.134 Yes, well say 1930 or thereabouts.
A.134 Well sir, at approximately 1940 hours there was a phone call received in our department from Major Horrobin of the Medical Stores here in Varel that he needed some help. There was a soldier down at his place in trouble and he needed our assistance. We carried on down to the Medical Stores - I was detailed to go down there and upon arriving there I noticed a crowd of people and some soldiers amongst them. There was shouting from the Sergeant which was later identified to be Sergeant Gray and the Major told the Sergeant then for to arrest the man. I don't know the full story on that because I didn't see anything and then he showed us in the vehicle where there was sandwiches and cake. There was cake in his hat you see, which he claimed it was his later. He stated it was his and there was icing on the seat similar to the icing which was in his hats and we also noticed

icing on the left lapel on Major Horrobin's coat which was similar. From there we escorted him to the guard room where a body receipt was obtained and that is about all I seem sir.

Q.135 Can you tell us about what time you arrived at the scene?
A.135 At approximately 1950 hours.

Q.136 When you arrived there was there anybody else other than the Major and the Sergeant?
A.136 There was several people there sir and a couple of soldiers. You know how a crowd gathers and who they were I don't know. I never inquired, they were strangers, some of them.

Q.137 When you arrived there, just exactly what was going on?
A.137 Well sir, there was shouting and ther was a very loud conversation between Major Horrobin and Sergeant Gray.

Q.138 Did you hear anything in words, spoken?
A.138 No sir, just loud conversation. What was said I don't know.

Q.139 Did you see a bottle there?
A.139 Yes sir, a Champagne bottle - a bottle full of Champagne.

Q.140 Where was it at the time?
A.140 Well sir, I can't remember.

Q.141 Did you see the bottle?
A.141 Yes sir.

Q.142 What did you do with it?
A.142 We took the bottle into the vehicle to be used as evidence.

Q.143 And then can you tell us, did the Sergeant arrest the accused?
A.143 Yes sir.

Q.144 He did.
A.144 Yes sir.

Q.145 On his own?
A.145 Well, Major Horrobin told the Sergeant to place this man under close arrest.

Q.146 And you took him to the guard room?
A.146 To the North Novas guard room.

Q.147 Did you return to the scene again?
A.147 Yes sir. We looked the scene over and looked the car over.

Q.148 Would you see that the cakes inside the hat were the same kind as were in the car?
A.148 That's right sir. The icing in the car was similar to the icing in Sergeant Gray's hat.

Q.149 And you immediately returned back to the unit?
A.149 That's right, sir.

The witness is cross-examined by the Defending Officer:

Q.150 You have stated that there was a loud conversation going on between the accused and Major Horrobin. Was Major Horrobin talking loudly too?
A.150 Well sir, it was a conversation - it was shouting that was going on and it was coming from the direction of Major Horrobin and the Sergeant.

Q.151 Do you know which was responsible for it?
A.151 Well sir, as far as I know it was the two of them - it was between the two of them. Which one, I don't know.

Q.152 Will you tell the Court was system of phones there is in Varel. Do you have to call the operator the have the number transmitted or can you do it by dialing?

NSB

A.152 There is two ways you can do it sir - either by the dial or by the operator but it can be done by dial.

Q.153 You can use the dial?
A.153 Yes sir.

Q.154 This hat full of cakes that we have been hearing about. Where were they found?
A.154 In the front seat of the car sir.

Q.155 You found the hat full of cakes in the front seat of the car?
A.155 Yes sir.

Q.156 And was there anything else found, in addition to the hat full of cakes and the bottle of Champagne?
A.156 Yes sir, there was a plate of sandwiches.

Q.157 And where were they?
A.157 The plate was almost in together - all piled together with the cakes and the sandwiches - no person sir, I believe the sergeant was carrying the sandwiches. I honestly don't know whether he was or not. I honestly don't know where they were. But the cakes were in the front seat of the car.

Q.158 What sort of a plate was it?
A.158 Just a small ordinary plate.

Q.159 Paper plate or porcelain?
A.159 No, it was a crockery plate sir.

The Prosecutor declines to re-examine the witness:

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of Rule of Procedure 83(3).

The witness withdraws.

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SUBMISSION BY THE DEFENDING OFFICER

The Defence would like to move sir that both charges be dismissed on the grounds that the evidence has not established a case against the accused, a prima facie case and the reasons for it are these sir. The evidence is that - or rather the charge is that-in both cases reference is made to a superior officer. Now if I may refer the Court to note 3 on page 433 of the Manual, which deals with that section, it points out there that the fact must be apparent or that the soldier concerned must be aware that the person concerned is a senior officer, or a superior officer. The evidence before the Court - the exhibit before the Court is a great-coat which to a certain extent is officer-style but it is not clearly an officer's coat and it bears no rank badges whatsoever. Major Horrobin stated that he was wearing an officer's hat. However, Wil Gov wear the same type of hats so that the accused was not aware or was not in a position to be aware that he was speaking necessarily to a superior officer. People say things for instance on the spur of the moment - perhaps people have said somebody acts like a Major-General, not necessarily meaning that the person concerned is a Major-General. That is something sort of beyond their ken. Now, just because the accused said that Major Horrobin must be a Limey Captain doesn't seem to be grounds for believing that he knew that he was an English officer and in fact he actually made a mistake in one degree in his rank. That proves it. The second ground is the serious discrepancy in the evidence of the Prosecution witnesses. The first witness for the Prosecution - Major Horrobin gave one sequence of events, stating that the accused threatened to knock his head off when he saw the bottle in the air. Private Maddocks says it was not in the air in his evidence. Another discrepancy is the time - in the sequence of events. The events have been stated to have started at approximately 1930 hours and the phone call, as indicated by the two Provost witnesses came in at approximately 1945 hours. It is an extremely long time for the events stated to have taken place. Another discrepancy is this plate of sandwiches and the cakes, which the cross-examination paid so much attention to. The first witness stated that the accused removed his belongings from the car, which consisted of one hat, half-full of cakes, some sandwiches and a bottle of Champagne. The cakes bore no evidence of having been dropped. Neither did the plate of sandwiches. The plate was a porcelain plate and if the events had occurred in the sequence in which the Prosecution witnesses claim, something must have been broken. The Prosecution claims that the accused got out of the car and in a fairly continuous sequence, abused Major Horrobin in language and then raised the bottle and threatened to knock his head off. And for those reasons we ask that the charges be dismissed sir.

The Prosecutor declines to answer the submission

JA: The submission before the Court is that a prima facie case has not been established by the Prosecution. Now, a definition of a prima facie case is this: When the Prosecution has adduced before the Court evidence which, if believed, is sufficient to support all the elements of the offences charged, a prima facie case has been established. If at the close of the case for the Prosecution there is such a deficiency of evidence that a crime has been committed and evidence linking the accused with the crime, then the Court must acquit the accused. Now you have heard the evidence. There are some discrepancies in the evidence, it is true. That is a matter entirely for the Court - as to the facts. However, you must now decide whether, if you heard no further evidence at all, whether you could, I do not say would, but could, convict. The matter for the Court to decide is whether a prima facie case has been established by the Prosecution, or not.

The Court is closed to consider the submission made by the Defending Officer.

YSB.

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FIRST WITNESS FOR THE DEFENCE:

F.34646 Pte(A/Sgt) Gray, RG, 3 Nth NZ Highrs CASF, having been duly sworn, is examined by the Defending Officer:

Q.160 Will you give your number, rank and name please?
A.160 F.34646 Acting Sergeant Gray, R.G.

Q.161 And will you relate to the Court in proper sequence the events of the evening of the seventeenth of March?
A.161 Yes sir. At about 1930 hours on the seventeenth of March I bought these sandwiches and cakes and I came out and I met another sergeant and he asked me where I was going and I told him I was going to my fraulein's house. He said he didn't have any money to buy sandwiches with and that he was selling a bottle of Champagne. He told me he had a car up the street so I bought the bottle and went up the street with the bottle and the sandwiches and cakes to put them in the car. I had just got the sandwiches and cakes down beside me when somebody opened the door. I had got into the car from the door on the street by the steering wheel. They asked me who I was in a language which I understood very well with very much of an English accent. I said "you must be a Limey Captain". I couldn't see who it was. I got out of the car and took my cakes and sandwiches and walked around to the front of the car and then Major Norrobin said "this is no way for a soldier to act" and I replied that it didn't look very good in front of the Jerries. I was about half-way across the street when I felt myself seized and the Major had ahold of me by the lapel. I immediately grabbed hold of him and this Private was standing there and I thought that he had seen it. I asked him for his name and number and the Major said "Don't give your name and number." I asked him again but he didn't give it to me. I don't remember all of the things that went on there. There were a few harsh words but nothing else went on until the Provosts came.

Q.162 What were you wearing that night - the night in question?
A.162 I was wearing battledress, the same as this sir.

Q.163 Greatcoat?
A.163 No sir.

Q.164 Were there any rank badges visible?
A.164 No sir, I couldn't recognize him as an officer. I didn't know he was an officer.

Q.165 Could you see his hat badge?
A.165 No, I couldn't. I wasn't quite light enought to see his hat badge.

The witness is cross-examined by the Prosecutor:

Q.166 You said the car belonged to the sergeant?
A.166 Yes sir.

Q.167 Did the sergeant show you the car?
A.167 No sir.

Q.168 All he told you was that it was down the road.
A.168 No, up the street sir.

Q.169 You didn't know where the car was.
A.169 No sir, except that he said it was just up the street from the Jack-pot.

Q.170 You went up the street and got into the car?
A.170 Yes sir.

Q.171 And where did you lay the cakes?
A.171 The seat away from the wheel.

Q.172 You were sitting on the driver's side?
A.172 Yes sir.

Q.173 To your left then, you put the cakes?
A.173 Yes sir.

Q.174 You just got in the car you say -
A.174 I don't know who it was that opened the door on the sidewalk side.

Q.175 Did anybody open the door on the side that you were on?
A.175 No sir.

Q.176 Nobody opened the door on the right-hand side?
A.176 No sir, only myself.

Q.177 Only yourself?
A.177 Yes sir.

Q.178 What happened when the door opened?
A.178 The door on the sidewalk sir?

Q.179 That's right?
A.179 Somebody asked me what I was doing in the car.

Q.180 I see. What did you say?
A.180 I said I was putting my cakes in there.

Q.181 Did anybody tell you to get out of the car?
A.181 Yes sir. The words that were used were "You have no right in this car, get out of it."

Q.182 Did you get out of it?
A.182 I gathered up my cakes and sandwiches first and then I got out.

Q.183 You got out of the car, and what happened then?
A.183 I walked round to the sidewalk with the cakes and sandwiches.

Q.184 What did you take with you?
A.184 My bottle of Champagne, the sandwiches and the cakes.

Q.185 Everything out of the car?
A.185 Yes sir.

Q.186 There was nothing else that you left there?
A.186 No sir.

Q.187 Did you have yourcakes inside your hat?
A.187 Yes sir.

Q.188 Inside of the hat?
A.188 Yes sir.

Q.189 Where were the sandwiches?
A.189 On a plate.

Q.190 Outside of the hat?
A.190 Yes sir.

Q.191 You had the bottle of Champagne and the cap and the plate. You took them all out together?
A.191 Yes sir.

Q.192 I see. And what did you do with them?
A.192 I laid them down on the kurb.

Q.193 I see. Where did you go from there?
A.193 I stayed there for a minute and the Major said "This is no way for a soldier to act".

Q.194 How close were you to him?
A.194 I would say from here to the table sir.

Q.195 No closer than that?
A.195 The sandwiches and the cakes were between us sir.

Q.196 Could you touch them with your hand?
A.196 Yes, possibly I could.

Q.197 And he told you that this was no way to act. When then?
A.197 I told him this was no way to act in front of the Jerries and I started to walk across the street and he siezed me from behind.

Q.198 How?
A.198 By grabbing one of these.

Q.199 Your lapel.
A.199 No, the epaullet.

Q.200 And then?
A.200 I grabbed hold of his coat.

Q.201 Did you say anything to him?
A.201 I said "Take your hands off me or else I'll knock your fucking head off."

Q.202 You said that?
A.202 Yes sir.

Q.203 And you never raised the bottle?
A.203 No sir.

Q.204 Which hand did you have it in?
A.204 In my left hand, you see I am left-handed.

Q.205 And your other hand was not busy.
A.205 My other hand had hold of his lapel on his coat sir.

Q.206 I see. And then what happened?
A.206 He took his hands right off me.

Q.207 He didn't touch you at all?
A.207 No sir.

Q.208 And then you walked back to the kurb. What happened there?
A.208 We were talking there. I don't remember what was said, and then the Provosts came.

Q.209 The Provosts came right then?
A.209 No, not right away.

Q.210 How long were you there?
A.210 About five minutes.

Q.211 Talking back and forth with the Major?
A.211 Yes sir.

Q.212 Very loudly?
A.212 No, I sound't say loudly.

Q.213 What were you saying?
A.213 I can't just remember sir.

Q.214 You can't remember what you were saying in that five minutes?
A.214 No.

Q.215 In the whole five minutes?
A.215 I know that I was telling him it didn't look very good in front of the Jerries.

Q.216 Were you talking overly loud?
A.216 No sir.

Q.217 Was there any yelling?
A.217 No sir.

Q.218 Just harsh words.
A.218 It might have been harsh but not loud.

HSB

Q.219 Not loud?
A.219 No sir.

Q.220 How far could you hear the talking from where you were standing?
A.220 I don't know sir.

Q.221 And the Provosts arrived. What happened then?
A.221 The sergeant talked to the Major and he asked for my Part I Service Book and took my particulars which I gave him and I was escorted to the guard room.

Q.222 And during this whole scene, there are some parts of it you can't remember --
A.222 I can remember sir.

Q.223 You told me that for five minutes you didn't remember what was said.
A.223 No, I didn't say that. I said I couldn't remember the words. I can remember the idea of the conversation. It was that it just didn't look very good in front of the Jerries.

Q.224 And it took five minutes to say that?
A.224 Well, words to that effect sir.

Q.225 And where did you go with the Provosts? Where did you go from there?
A.225 To the guard room sir.

The Defending Officer declines to re-examine the witness.

The witness is questioned by the Court:

Q.226 At what time during this whole show did you realize that you were talking to an officer. You first thought you were talking to a Private, did you?
A.226 I didn't know who I was talking to sir.

Q.227 When did you realize it was an officer?
A.227 When he grabbed hold of me.

Q.228 How did you know he was an officer?
A.228 I just surmized it sir.

Q.229 What gave you that idea?
A.229 His hat - it was very unusual.

The witness is questioned by the Judge Advocate:

Q.230 You stated that when you got out of the car you picked up your cakes and sandwiches and Champagne bottle.
A.230 Yes sir.

Q.231 What did you have with you when you crossed the street?
A.231 Just the Champagne sir.

Q.232 Where were you going?
A.232 I was getting away from there because I didn't want to get into any trouble.

Q.233 And your hat and cakes you were going to leave there?
A.233 Yes sir.

The witness is questioned by the Court:

Q.234 You stated that no-one opened the door on your side of the car and yet you also stated that before getting out you picked up your cakes and the sandwiches and the bottle of Champagne.
A.234 Yes sir. I opened the door first, sir. And I shoved my leg out and reached over and got my cakes in the hat and the plate and in the other hand I had the Champagne and I just got out of the car like that sir, on to the street.

Q.235 Do you remember the exact words you used with the Major took hold of you?
A.235 Yes sir. I told him to take his hands off me or I would knock his fucking head off.

Q.236 Now you state that in the first place you didn't know you were talking to a Captain. Did you say that anyone could by a commission in the British Army? Did you use those words?
A.236 I did sir, after this incident happened when he grabbed hold of me.

Q.237 Now when he took hold of you --
A.237 He caught me in a firm grip sir.

Q.238 By your lapel?
A.238 By the epaullet sir.

Q.239 With one hand?
A.239 Yes sir.

Q.240 Did he just let go of you then?
A.240 No sir, I turned round quick.

Q.241 How could his hold be so very firm then?
A.241 I mean sir, a quick wrench will loosen the toughest grip.

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of Rule of Procedure 83(3).

The witness stands down.

The Defending Officer makes the following closing address:

The summation as far as the Defence is concerned is along the same lines as the submission that the charges should be dismissed. The only new evidence which has been added has been that of the accused man himself and he is quite clear on the details. There is one point which I would like to bring out in particular and that is that the Prosecution witnesses Major Horrobin and Private Maddocks do not agree very well on the sequence of events. Neither of their versions agree with the accused's version. The accused has stated that he did not know the Prosecution witness was an officer and the Prosecution brought out themselves that there was no particular method of him knowing it. The Court will have noticed that Major Horrobin is wearing an enamelled hat badge, not the kind of badges that the court are wearing, which is practically impossible to see in detail. Lots of people wear forage caps but the type of badge which one might recognise as an officer's badge was not noticeable to the accused until he was up very close to him. The accused has stated that he acted, as far as the laying his hands on Major Horrobin was concerned, with provocation. Major Horrobin layed his hands on him first and the Prosecution has not brought out that it was in any friendly manner. The accused had grounds for believing that he needed to protect himself and he has stated that he said "Take your hands off me or I will knock your head off" - a thoroughly logical reaction. The language of the accused was to a certain extent not of the best but once again if I may refer the Court to Section 71 on page 58 of the Manual on the subject of obscene language, it points out there that the situation of the accused in some cases reflects on his conduct and on his language. The accused is a sergeant and the language which a sergeant can use might be frowned upon if used by an officer. The prevalence of bad language in the army is notorious, and the language used by troops overseas is worse. The statements of the accused were made more in irritation than premeditation. The members of the Court have been in the same position - not in the same position but they have used language on the spur of the moment which had they thought of the consequences they would never have used. Once again I would like to point out that the person must know that the other is his superior officer and when one says something on the spur of the moment there is some doubt that you know you are committing an offence. That is known in the Catholic church as consent of the will. The accused never had an opportunity for that. His statements were on the spur of the moment and any offering of violence was done on provocation by the principle witness of the Prosecution.

The Prosecutor declines to make a closing address

The Judge Advocate makes the following summing-up:

Mister President and Members of the Court: it is not necessary for me to point out to you the seriousness of the case before you and also the importance of your duties. You have sworn to well and truly try the accused and to duly administer justice without partiallity, favour or affection. You have, during the hearing of the case, shown that you were most conscious of your responsibilities and no doubt you will carry on your duties in the same conscientious manner until you have decided as to the guilt or otherwise of the accused.

It is my duty, before you close to consider the findings to advise you as to the law that may be involved and also if necessary to sum up the evidence. In doing so, should I venture to express any personal opinion as to the facts, it is your duty to disregard it. My advice on points of law, however, should be adhered to unless you have very weighty reasons for not following it. In such case you should record your reasons. But as far as the facts are concerned, you are the sole and only judges and you will be called upon, after my summing up, to decide only upon the evidence that was adduced before you as to whether or not the accused is guilty of either or both the charges in the charge sheet. You must first keep in mind that the accused, when he appeared before you this morning, was an innocent a man as any one of you, this being based on the British Common Law principle that an accused is presumed to be innocent until he is proved guilty. In other words, the duty is cast upon the Prosecution to prove that the accused has committed both of the alleged offences.

The first charges reads as follows:

WHEN ON ACTIVE SERVICE USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER in that he in the Field, in Germany, on 17 Mar 46, when checked by Major F.T. Horrobin, RAMC, said to him, "You're nothing but a fucking Limey Captain" or words to that effect and, "any cunt can be an Officer in the British Army, provided he had sufficient money to buy it," or words to that effect.

The witnesses have given evidence before you and you are entitled to believe one witness and to disbelieve another witness and more than that, you may believe part of the testimony of one witness and disbelieve the other part of his testimony. All the questions of fact are for your to decide. You and you alone are the sole judges of the fact. I don't think it is necessary for me to review the evidence because it does not seem to present any complications.

Now, as to the question of superior officer; under Order of Detail Number 12, which is Appendix 'B' to the Appendix to Overseas Routine Order Number 6330, the Canadian Army Occupation Force is ordered to act in combination with the military forces of His Majesty raised in the United Kingdom which are also serving on the continent for the purposes of military occupation.

The legal effect of "Acting in Combination" is set out in paragraph 16(b) to the same Routine Order and is as follows:

> "The legal relationship thus establishes is that any officer of the other force commanding the combined force, or any part thereof, will be treated, and will however members of the force of the nation making the declaration the like powers of command and punishment, as if he were an officer of the latter force of relative rank and holding the same command."

It therefore follows that Major Horrobin is the superior officer of the accused for the purposes of Sections 8 and 9 of the Army Act. A ruling to this effect has been made by the Judge Advocate General's Branch at Canadian Military Headquarters. (Opinions and Rulings No.229)

The only other remark I want to make with regard to this charge is this: You will find this in a notation at the top of page 434 of the Manual of Military Law. "The words must be used with an insubordinate

intent, that is to say, they must be, either in themselves, or in the manner or circumstances in which they are spoken, insulting or disrespectful, and in all cases it must reasonably appear that they were intended to be heard by a superior."

And now a word about special findings under Rule of Procedure 44(D): That rule reads as follows:

"Where the Court are of opinion as regards any charge that the facts which they find to be proved in evidence differ materially from the facts alleged in a statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, they may instead of a finding of 'Not Guilty', record a special finding."

That simply means that if you find as a matter of fact that certain alleged words were not used, then you may make a finding of guilty with the exception of the words alleged which you find not to be proved.

Now, the accused is charged with a second offence - "offering violence to his superior officer, in that he, in the field, in Germany, on 17 Mar 46 caught hold of the lapel of Major F.T. Horrobin's coat and raised a bottle at him, saying, "the only good Limey is a dead bastard or words to that effect, and "I will knock your fucking head off", or words to that effect".

The remarks I have made concerning the first charge apply equally to this charge and I think there is nothing further I need say.

Just one word before closing, with reference to reasonable doubt. If there is any doubt - a reasonable doubt - in your mind that the accused is guilty of these charges, the law gives him the benefit of that doubt. A reasonable doubt is understood as one which an ordinary man would have in the conduct of his own business. Such a doubt will not be any light or capricious doubt such as one which might be provoked by passion or prompted by corruption.

Are there any questions you wish me to discuss further, Mister President?

Pres: No, I think not.

JA: Mister Defending Officer?

Def Offr: No sir.

JA: Mister Prosecutor?

Pros: No sir.

The Court is closed to consider the findings

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Are there any questions you wish me to discuss further, Mister President?

Pres: No, I think not.

JA: Mister Defending Officer?

Def Offr: No sir.

JA: Mister Prosecutor?

Pros: No sir.

The Court is closed to consider the findings

E.1

FIRST CHARACTER WITNESS:

Major D.L. Clark, OC Support Coy, 3 Nth NS Highrs CAOF, having been duly sworn, is examined by the Defending Officer:

Q.242 Would you give your name, rank and posting please sir?
A.242 Major D.L. Clark, Officer Commanding Support Company, 3 North Nova Scotia Highlanders.

Q.243 Would you care to tell the Court your knowledge of the accused's character please?
A.243 Since I took over the Support Company on approximately the twenty-seventh day of December 1945 Sergeant Gray was then a Lance-Corporal. As time went on his work continued so good that I felt he was due for promotion. On the twenty-first of January I promoted him to acting Corporal. It continued to be excellent and I had occasion to promote him to the rank of acting Sergeant. I might say that during that time I had nothing but praise from any members of the battalion that Sergeant Gray had worked for or had work done for. His billets and platoon were definitely outstanding in the company - the cleanliness of his billets and I have a very great regard and respect for him as a worker.

The Prosecutor declines to cross-examine the witness

In the opinion of the Court and Judge Advocate, it is not necessary to comply with the provisions of Rule of Procedure 83(B).

The witness withdrawn

SECOND CHARACTER WITNESS:

SF.49855 MSM J.L. McNeil, 3 Nth NS Highrs CAOF, having been duly sworn, is examined by the Defending Officer:

Q.244 Would you give your number, rank and name and appointment?
A.244 SF.49855 MSM McNeil, 3 North Nova Scotia Highlanders CAOF.

Q.245 Mister McNeil would you tell the Court your knowledge of Sergeant Gray's character as you know him as a soldier and as a member of your mess?
A.245 Sir, I as MSM know the accused, Sergeant Gray. I have known him from the time he joined the battalion last August. He was with the Support Company. The way in which he conducted himself warranted his promotion to acting Corporal on the twenty-first of January of this year. As a non-commissioned officer he came directly under my observation as I am responsible for Mess maintenance and management. All duties which I detailed to Corporal Gray were carried out efficiently and were well done. His work warranted his promotion to acting Sergeant on the fourteenth of February. During this time I found that Gray is an outstanding member of the battalion. He has proved his qualities to me as a barrack room soldier and as a specialist.

The Prosecutor declines to cross-examine the witness

In the opinion of the Court and Judge Advocate it is not necessary to comply with the provisions of Rule of Procedure 83(B).

The witness withdrawn

745B.

R.J

PLEA IN MITIGATION

May it please the Court, the accused before the Court today is a young man twenty-six years old. He has been in the army for six and a half years. The date of his enlistment was the seventh of September 1939 - just about as early as possible. He served in actions and while he has not got a particularly clean crime sheet, many of those who have so many years service and have clean crime sheets means just so many years of undetected crime rather than any virtue, but he has a relatively clear sheet. He has a grade ten education. He is a coal-miner by profession - a profession which is not an easy one nor is it one which in many cases provides people with luxuries or the finer things in life which come with some of the less difficult and hard-working professions and it is not in a certain sense the cleanest of professions. He has a wife in England and one child. He has served well all through from as early as he possibly could, until now, the last of the Canadian Army Overseas. The Defence requests the Court's consideration of these points.

NF 34646 Name GRAY R G | Sqn, Battery, or Company | Corps CIC | Date of enlistment 7 Sep 39 (Indigo) | Service or Preliminary Pay | 3/17 MFM & (AFB 122) 40/PAS/136 (7910)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
7 CIRU	17 Aug 43	Cpl		Reverted to Pte Charges: AA 15(1) AWL (8 hrs 30 mins) AA 15(1) AWL (12 days 7 hrs 20 mins) AA 15(1) AWL (20 days 6 hrs 10 mins) Findings: Guilty Sentence: 90 days det £1-10-6 Cost of Apprehension Total Forfs 134 days pay and cost of apprehension					
7 CIRU Carl & York	15 Oct 43			Granted 30 days remission with pay Awd 7 days CB and a forf of 7 days pay AWL from 2300 hrs 4 Jul 45 till 0230 hrs 5 Jul 45 Total forf 7 days pay.					
Carl & York	23 Aug 45			Awd 7 days pay for AWL from 2300 hrs 18 Aug 45 till 2330 hrs 18 Aug 45 Total forf 7 days pay					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
7 CIRU	22 Nov 43			AA 15(1) AWL 4 days Awd 7 days Det Forfs 4 days pay FR&I 149(1)(a) Forfs 7 days pay FR&I 149(1)(b) Total forf 11 days pay					

Sgd(JD Rose) Lieut

Certified true record of conduct from 27-10-42 as extracted from records on hand at this HQ.

Certified correct as of 3 Apr 46.

(H.M. Cashaback) Capt & Adjt
3/Nth NS Highrs CAOF
Officer i/c Regimental Documents

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F34646	Pte.(A/Sgt)	GRAY R.G.	3/Nth NS Highrs CAO*.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary must be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, possession being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INTERPOLATION.—If the change is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	1 times	6 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

or

There are no entries in the conduct sheets of the accused.

2. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 16 days in military custody, making a total of 16 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his XXXXXXXXX attestation paper is 27

6. The date of his XXXXXXX attestation specified in his XXXXXXXXX attestation paper is 7 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*).) 39-45 Star, France-Germany Star, Defence Medal, CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of NA, dated N/A and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F34646 Rank Pte. (A/Sgt) Name GRAY R.G. of 3/Nth NS Highrs CAOF (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
FGCM	7 CIRU 17 Aug 43.	AA Sec 15(1) AWL 8 hrs, 30 mins) AA Sec 15(1) AWL 12 days, 7 hrs, 20 mins) AA Sec 14(1) AWL 20 days, 6 hrs, 10 mins)	90 days det & £1-10-6 cost of apprehension	30 days remission with pay

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of Apr 46.

W. A. Milroy

(W. A. Milroy) Major
A/OC, 3/Nth NS Highrs CAOF.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	Lance Corporal	14 days 7 Jan 46.
In the rank of	Acting Corporal	21 days 21 Jan 46.
In the rank of	Acting Sergeant	1 month 14 Feb 46.
		17 days

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be inserted from such sources as are available and the paragraph retained amended accordingly.)

~~EXHIBIT A~~
~~HSB~~

HSB

Summary of evidence in the case of F 34646 Pte (A/Sgt.) Gray, R. G., 3/ North Nova Scotia Highlanders, CAOF, charged with using violence and insubordinate language to a superior officer (A.A. Sec. 8(2)) and an act to the prejudice of good order and military discipline (A.A. Sec. 40).

The Commanding Officer directs that the evidence be taken on oath

First Witness: Major F. T. Horrobin, 949 German Base Depot, Medical Stores, Varel, Germany, R.A.M.C., being duly sworn, states:

I am the Officer Commanding, 949 German Base Depot Medical Stores, Varel, Germany, R.A.M.C. At about 1930 hrs. on Sunday, March 17, 1946 I left my car outside my residence which is the Medical Stores. On going to winter it about five minutes later I saw a person in the uniform of an Allied Soldier occupying the driver's seat. I opened the offside door (right ~~hand~~ side of car) and asked him what he was doing in the car. He stated that he was only putting his cakes away. I ordered him out of the car and to clear off. He became abusive, calling me, a fucking Limey Captain

He got out of the car saying any cant could be an Officer in the British Army providing he had sufficient money to buy it. I did not answer him on these remarks. He therefore became further abusive and caught hold of the lapel of my British warm, saying that the only good Limey was a dead bastard, raising a bottle in his right hand, he stated, I will knock your fucking head off. I ordered my orderly 14342977 Pte Madocks, H., to phone for the Provost and on their arrival I had the accused placed in close arrest. The British warm, I was wearing, is ruined through the greasy fingers marks of the accused catching hold of it after handling the cream cakes which were in his possession. It also took many minutes to clean the seats of the car up before I could use it. That is all I have to say.

The accused declines to cross-examine the witness

[signature]
(F. T. Harrabin) Major
R. A. M. C.

(3) 24 S.B.

Second Witness: 14342977 Pte. Maddocks, H.
949 German Base Depot medical Stores
Varl, Germany, R.A.M.C. having been
duly sworn, states:

I am 14342977 Pte. Maddocks, H,
949 German Base Depot medical Stores, R.A.M.C.
About 1930 hrs. 19 March 46 I was
approaching the medical Stores, Varl when I
saw a man in Battle Dress sitting in
driver's seat of Major Horrobin's car. At
the same time I saw him in the car
Major Horrobin came into the scene and
asked him to get out of the car
and on being so the accused became
abusive and stated that the Major must
be Limey Captain and the only good
Limey was a dead one. At that moment
the Major asked me to phone for the
Provost which I did from the office
in the Medical Stores Building. When
I came from the office the accused
threatened to knock the Major's head
off by saying "I will knock your
fucking head off." The Provost arrived
on the scene and arrested him. That
is all I have to say, Sir.

The accused declines to cross-
examine the witness.

H. Maddocks Pte.
R.A.M.C.

H. Maddocks. Pte
R.A.M.C.

(H. Maddocks) Pte.
R.A.M.C.

HSB.

Third Witness: K 49266 A/Sgt. Barnes, R.L., 2/4 Cdn. Provost Coy, CAOF, being duly sworn, states: I am K 49266 A/Sgt. Barnes, R.L., 2/4 Cdn. Provost Coy, CAOF. At approximately 1945 hrs. 17 Mar 46 a phone call was received at our Head Quarters, 49 Bahnhof Strasse, Varel, Germany from Major Horrobin of the Medical Stores, Varel to the effect that he required immediate assistance from us. Accompanied by H 103491 L/Cpl. Lamb, S. W. I proceeded to the Medical Stores, Varel. Upon arriving there we found Major Horrobin and several soldiers & civilians. One soldier appeared to be arguing with Major Horrobin as they were conversing loudly. I did not hear what was being said. Major Horrobin explained that a Canadian N.C.O. had been found by him in his car and in his attempts to remove the N.C.O. from the car the N.C.O. had threatened and cursed him. The N.C.O. was then identified by his M.B.M. - Part 1. (Service Book) to be F 34696 Sgt. Gray, R. G., Support Company, 3/North Nova Scotia Highlanders, CAOF. Sgt. Gray had his hat partly filled with cakes and a plate of sandwiches and also a bottle of Champagne which Major Horrobin claimed he had threatened him with.

Major Horrobin asked me to place Sgt. Gray under close arrest and that he would give me a statement the following day. After warning the N.C.O., Sgt. Gray, that he need not say anything, I placed him under close arrest and escorted him to his unit guard room where he was

turned over to the U.C.O. in charge of the guard who was informed that the U.C.O. Sgt. Gray was under close arrest.

There was evidence of cake icing on the cushions of Major Horrobin's car. This was ~~the same~~ similar to the icing on the cakes in Sgt. Gray's hat. There was also icing on Major Horrobin's Great Coat on the left lapel.

Sgt. Gray did not resist arrest and in my own opinion I would say he had been drinking.

I have the bottle of champagne & great coat and am holding them as evidence.

That is all I have to say, Sir.

The accused declines to cross-examine this witness.

R L Barnes
(R. L. Barnes) Sgt.
2/4 Cdn Provost Coy, CAOF

Fourth Witness: H103491 L/Cpl. Lamb, S.W., 2/4 Cdn. Provost Coy, CAOF, being duly sworn, states:

I am H103491 L/Cpl Lamb, S.W., of 2/4 Cdn. Provost Coy, CAOF. ~~[illegible]~~ At 1945 hrs. approximately, 17 mar 46 a phone call was received at our Detachment Head Quarters, Varel, Germany. It was received from Major Horrobin of the Medical Stores, Varel, Germany. Then I was detailed to proceed with Sgt. Barnes, R.L., K 49266, of 2/4 Cdn

(6) 1456

Provost Coy, CAOF to the Medical Stores in Vaux. Upon arriving at the Medical Stores I noticed a group of people standing in front on the street and ~~[illegible]~~ amidst the crowd it was noticed that one soldier was talking very loudly. The soldier was afterwards identified by his M.B.M.1. (Service Book) to be Sgt. Gray, 3/ North Nova Scotia Highlanders, CAOF. In my opinion it seemed that Sgt. Gray had been drinking. Then Major Horrobin of R.A.M.C. told ~~the~~ Sgt. Barnes to place this soldier under close arrest. Then the major told what had happened and he pointed out the cakes & sandwitches and the bottle of champagne which he stated belonged to Sgt. Gray. Sgt. Gray stated also that the cakes & sandwitches, which were in his hat, belonged to him. Sgt. Barnes then told Sgt. Gray that he was under close arrest and we escorted him to the 3/NNSH Guard Room where a live body receipt was obtained which is now held at our detachment Head Quarters on file. We then returned to the scene, (Medical Stores) ~~[illegible]~~ with the cakes and sandwitches and champagne and upon inspecting the car, which belonged to Major Horrobin, which was parked in front of the Medical Stores, we found cake and icing similar to that which was in Sgt. Gray's hat on the right hand front seat of the car. I also noticed on Major Horrobin's coat, on the left lapel, cake icing similar to the cake icing which was in Sgt. Gray's hat. That is all I have to say, Sir.

S W Lamb
(S. W. Lamb) H.Capt.
2/4 Cdn Provost Coy, CAOF.

The accused declines to cross examine the witness.

43B

The accused was cautioned as follows:—

Q. Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make any statement, Sir.

[signature]
(Signature of accused)

I certify that the foregoing Summary of Evidence, consisting of six pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) have been complied with.

In the field
2 Apr 46

R. E. Hart (Capt)
(R. E. Hart) Capt.
3/nth NS Highrs, CAOF

43B

3 Apr 46.

Commanding Officer
3/Nth NS Highrs CAOF.

Sir,

I desire to have the services of Capt E. F. Lyons, 3/North Nova Scotia Highlanders, CAOF to defend me at my forthcoming trial by Field General Court Martial.

F34646 R.G. Gray, A/Sgt,
3/Nth NS Highrs CAOF.

00·7
CPL GRAY R.G.

45

F-34646 Cpl. GRAY, Reginald George
Princess Louise Fusiliers.
7 Cdn. Infantry Reinforcement Unit.

007

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this seventeenth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ EWH

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint :—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~ EWH
~~for the following reasons, namely :—]~~

30 Aug 43 Dy. Brigadier Capt fw

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A. S. Pettapiece	HQ. C.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by C.O.	7 C.I.R.U.
A Lieutenant	to be detailed by C.O.	7 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed EW Hackenby Brigadier.

Commanding "D" Group, C.R.U.
Convening Officer.

Arthur S. Pettapiece, Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
	First Charge A.A. Sec. 15 (1)	Guilty	Guilty	
	Second Charge A.A. Sec. 15 (1)	Guilty	Guilty	
	Third Charge A.A. Sec. 15 (1)	Guilty	Guilty	
F-34646 Cpl. GRAY, Reginald George P.L.Fus. 7 C.I.R.U.			Sentenced to undergo detention for a period of ninety (90) days and to be put under stoppage of pay until he has made good the sum of £1-10-6 in respect of the cost of his apprehension and return. 17 Aug 43 AHP	Confirmed 19 Aug 43 E W Haedenby Brig.
	See Charge Sheet attached.			

~~*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
~~Answer (to be recorded on separate sheet if necessary):—~~

(Signed) E W Haedenby Brigadier (Signed) Arthur S. Pettapiece, Major

Commanding "D" Gp. C.R.U.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The Interpreter)~~
~~*(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

AHP AHP AHP

Signed this 17th day of August 1943.

Arthur S. Pettapiece, Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

AHP AHP AHP AHP

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ E W H

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19 day of Aug 1943.

E W Haedenby Brig
Confirming Officer.

Promulgated and extracts taken in the case of F34646 Cpl Gray, R.G. P.L.Fus.

(a) (Dated) 19 Aug 43 (Signed) R E Drakin Lt
A/ADST. 7. C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2000) Wt.28500/411 60,000 12/42 A.& E.W.Ltd. Gp.698

CHARGE SHEET

The accused No. F 34646 Corporal Reginald George GRAY, Princess Louise Fusiliers, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service is charged with:

FIRST CHARGE
SEC 15 (1)
ARMY ACT

Absenting himself without leave,

in that he,

at Haig Lines, Crookham, Hants, absented himself without leave from 2300 hrs 4 Jul 43 until reporting to "A" Coy Office at 0730 hrs 5 Jul 43.

Total absence - 8 hrs., 30 mins.

SECOND CHARGE
SEC 15 (1)
ARMY ACT

Absenting himself without leave,

in that he,

at Haig Lines, Crookham, Hants, absented himself without leave from 2300 hrs 6 Jul 43 until apprehended by the Corps of Military Police in Reading at 0620 hrs 19 Jul 43, thereby incurring a cost of apprehension in the amount of £0:6:7.

Total absence - 12 days 7 hrs., 20 mins.

THIRD CHARGE
SEC 15 (1)
ARMY ACT

Absenting himself without leave,

in that he,

At Haig Lines, Crookham, Hants, while under close arrest, absented himself from 0950 hrs 22 Jul 43 until surrendering himself to the Royal Marines, Div. Provost Coy at 1600 hrs 11 Aug 43, thereby incurring a cost of apprehension in the amount of £1:3:11.

Total absence - 20 days 6 hrs., 10 mins.

(W.C. Lawson) Lt-Col.
A/Commander
7 Cdn Inf Rft Unit

In the Field
16 Aug 43.

To be tried by Field General Court Martial.

(E. W. Haldenby) Brigadier
Commander
"D" Group, Cdn. Rft. Units

In the Field
17 Aug. 43.

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. F 34646 Cpl. Grey, R.C.

7 Cdn. Inf. Reinf. Unit, and in my opinion,

he is fit to undergo trial by Court-Martial.

for .....
(Medical Officer)
7 Cdn. Inf. Rft. Unit.

In the Field
17 Aug 1943

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Kipgie Barracks, Lowhoff, Kents.
ON THE 17th DAY OF August 1943

The accused F.346.46. Cpl. Gray R.G. ...Unit.... J.C.I.R.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. S. Pettapiece ...Unit.. H.Q.C.R.U..

Members Capt. M. Mac Pherson ....Unit. J.C.I.R.U.....

Lt. H. D. Kane .....Unit.. J.C.I.R.U.....

~~The officers under instruction are duly sworn:-~~ AP

.....~~Unit.~~..... AP

.....~~Unit.~~..... AP

Prosecutor. Lt. G. W. Rhem .....Unit.. J.C.I.R.U.....

Defending Officer Lt. D. R. Neish ...Unit. J.C.I.R.U.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces ~~MFB~~ 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment. AP
~~(b) Calls witnesses as to character.~~ AP
~~(c) Calls witnesses in mitigation of punishment.~~
~~(d) Addresses the Court by his Defending Officer.~~

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, ~~CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER~~

---

attached hereto.

Arthur S. Pettapiece, Major

A

EXHIBIT "A"

Certificate in accordance with Army Act, Section 153 (1) (ii).

I certify that No. P.34646 Rank Cpl. Name GRAY, R.G.

Unit Princess Louise Fus. "F" Coy. 7 C.I.R.H. was arrested at READING

at 06.20 hours on the 19th/JULY/1943 wearing Military Uniform.

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above mentioned person was taken on arrest.

A.C.I. 2253 of 1942.

Major, A.P.M.
159(H.1) Provost Coy.

EXHIBIT "B"

"B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. F34646 Rank 6 pl. Name Gray, R. G. Unit 7 CIRU PLF

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ ~~Unit From~~ London from Reading

Date	Particulars (1/3 portion)	Amount		
21 July (1)	Escorts return fare from LONDON To Reading		3	9
	Prisoners single fare to LONDON From Reading		2	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		6	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CHP

C.M.H.Q. 1000:55
40/P & S/483

14. ABSENTEES

(a) AWL from 0950 hrs 22 July.43.
G22018 Pte. Bernard.F.W. (N Shore R)
F34646 Cpl. Gray.R.G. (P.L.Fus.)

(b) AWL from 0800 hrs 23 July.43.
G22437 Pte. Hudon.L (N Shore R)

(c) Apprehended in Reading by C. .C at 1200 hrs 23 July.43.
G22304 Pte. Laviollette.J.J. (N Shore R)

(d) Returned from AWL at 2300 hrs 22 July.43.
F35206 Pte. DeForest.H (RCOC) 3 C.I.D.Sub.Park.

15. AMENDMENTS ABSENTEES

(a) D.O.143 d/26 July.43 para 16(b) insofar as it relates to the u/m is amended to read "(Carlt & York R)"
G22933 Pte. McLenaghan.I.L. (N Shore R)

16. PUNISHMENTS

(a) Was on 26 July.43 awarded 7 days F.P.& forfeits 7 days pay for WOAS AA Sec 15(1) AWL from 2359 hrs 25 July.43 until 0800 hrs 26 July.43 (8 hrs 1 min)
Forfeits 1 days pay under FR&I 149 (1)(a)
Forfeits 7 days pay under FR&I 149 (1)(b)
Total forfeiture 8 days pay.
P75802 Pte. Barker.C.J. (Gen.List.)

(b) Was on 23 July.43 awarded 7 days C B & Forfeits 1 days pay for WOAS AA Sec 40.
Forfeits 1 days pay under FR&I 149 (2)
P39813 Pte. Beaver.G (West N S R)

(c) Was on 23 July.43 awarded 7 days F.P.&.forfeits 7 days pay for WOAS AA Sec 11. Forfeits 7 days pay under FR&I 149 (1)(b).
P60746 Pte. Clark.J.W.W (Gen.List.)

(d) Was on 24 July.43 awarded 28 days Detention for WOAS AA Sec 15(1) AWL from 2359 hrs 4 July.43 until 2300 hrs 20 July.43(15 days 23 hrs 1 min) The accuses was in close arrest from 2300 hrs 20 July.43 until 24 July.43 (3 days 1 hr)
Forfeits 16 days pay under FR&I 149 (1)(a)
Forfeits 28 days pay under FR&I 149 (1)(b)
Forfeits 3 days pay under FR&I 149 (1)(c)
Total forfeiture 47 days pay.
F35206 Pte. DeForest.H (RCOC) 3 C.I.D.Sub.Park.

(e) Was on 24 July.43 awarded 7 days F.P.&.Forfeits 7 days pay for WOAS AA Sec 15(1) AWL from 2359 hrs 18 July.43 until 0800 hrs 19 July.43 (8 hrs 1 min)
Forfeits 1 days pay under FR&I 149 (1)(a)
Forfeits 7 days pay under FR&I 149 (1)(b)
Total forfeiture 8 days pay.
P59703 Pte. Dennis.C (Gen.List.)

(f) Was on 26 July.43 awarded 7 days F.P.& forfeits 7 days pay for WOAS.AA Sec 15(1) AWL from 1430 hrs 23 July.43 until 0800 hrs 24 July.43 (17 hrs 30 mins)
Forfeits 1 days pay under FR&I 149 (1)(a)
Forfeits 7 days pay under FR&I 149 (1)(b)
Total forfeiture 8 days pay.
P4910 Pte. Kendall.J. (West N S R)

14. PUNISHMENTS (CONT'D)

(g) Was on 24 July.43 awarded 14 days F.P.&.forfeits 14 days pay for WOAS AA Sec 15(1) AWL from 0800 hrs 22 July.43 until 1530 hrs 23 July.43 (1 day 7 hrs 30 mins)
Forfeits 2 days pay under FR&I 149 (1)(a)
Forfeits 14 days pay under FR&I 149 (1)(b)
Total forfeiture 16 days pay.
F60753 Fus. Lanning.W.A. (P.L.Fus.)

(h) Was on 26 July.43 awarded 14 days C B & forfeits 14 days pay for (1)WOAS AA Sec 15(1) AWL from 0600 hrs 19 July.43 until appre. by C.P.C.in Reading at 1200 hrs 23 July.43 thereby incurring a cost of appre. of £0-8-5. (4 days 6 hrs)(2) WOAS AA Sec 4D
The accused was in close custody from 1200 hrs 23 July.43 until 26 July.43 (2 days 12 hrs)
Forfeits 5 days pay under FR&I 149 (1)(a)
Forfeits 12 days pay under FR&I 149 (2)
Forfeits 2 days pay under FR&I 149 (1)(c)
Total forfeiture 19 days pay.
G22304 Pte. Laviolette.J.J. (N Shore R)

(i) Was on 26 July.43 awarded 7 days F.P.&.Forfeits 7 days pay for (1) WOAS AA Sec 15(1) AWL from 1430 hrs 23 July.43 until 0800 hrs 24 July.43 (17 hrs) (2)WOAS AA Sec 40.
Forfeits 1 days pay under FR&I 149 (1)(a)
Forfeits 7 days pay under FR&I 149 (1)(b)
Total forfeiture 8 days pay.
F34953 Pte. Middleton.P.T ("est N S R)

(j) Was on 24 July.43 awarded 14 days F.P.&.Forfeits 14 days pay for WOAS AA Sec 15(1) AWL from 0800 hrs 22 July.43 until 1530 hrs 23 July.43 (1 day 7 hrs 30 mins)
Forfeits 2 days pay under FR&I 149 (1)(a)
Forfeits 14 days pay under FR&I 149 (1)(b)
Total forfeiture 16 days pay.
F97234 Pte. McNeil.J.W (Gen.List.)

(k) Was on 23 July.43 awarded 27 days Detention for WOAS AA Sec 15(1) AWL from 0800 hrs 22 July.43 until 1700 hrs 22 July.43 (9 hrs)
Forfeits 1 days pay under FR&I 149 (1)(a)
Forfeits 27 days pay under FR&I 149 (1)(b)
Total forfeiture 28 days pay.
F40636 Pte; Penney.R.A. (West N S R)

(l) Was on 24 July.43 reverted to the permanent grade of Pte for WOAS AA Sec 15(1) AWL from 1300 hrs 20 July.43 until 1445 hrs 23 July.43 (3 days 1 hr 15 mins)
Forfeits 4 days pay under FR&I 149 (1)(a)
F78524 L/Cpl. Ryan.J.T (C B Highrs)

17. AMENDMENT PUNISHMENTS

(a) D.O.14 d/24 July.43 pars 12(f) insofar as it relates to the u/m is amended to read "F30085 Pte.McKenzie.J.H."
F30085 Pte. McMenzie.J.H (Nth N S Highrs)

16. TRANSFER TO DETENTION

(a) Transferred to Cdn.Det.Brks. w.e.f. 26 July.43.

G17846	Pte. Alberts.H.C	(Carlt & York R)
G22239	Pte. Irvine.G.R.	(N Shore R)
F40024	Pte. MacMillan.W	(West N S R)
F86300	Pte. Parsons.S	(C B Highrs)
F40636	Pte. Penney.R.A.	(West N S R)
G17111	Pte. Wiseman.T.G.	(Carlt & York R)

/BPP

M J P Gleeson A/Capt.
(M.J.P.Gleeson) Record Officer
7 Cdn.Inf.Reinf.Unit.

"EXHIBIT "C""

LAST ORDER NO.144 27 JULY.43 | 7 CANADIAN INFANTRY REINFORCEMENT UNIT PART II DAILY ORDERS SHEET TWO | THIS ORDER NO.145 28 JULY.43

6. STRENGTH DECREASE

(a) S.O.S. to 1 CORU w.e.f. 27 July.43.
(Auth CMHQ (AG2a) AT4735 d/22 July.43.)
F59988 Pte. Longaphie.W.J. (Nth N S Highrs)

(b) S.O.S. to 1 CORU w.e.f. 26 July.43 pending transfer to RCOC
(Auth 408/Trans/"S"/2 d/13 July.43.)
G29046 Pte. Stirling.R.E. (Gen.List.)

7. ATTACHMENTS

(a) Cease to be att'd f.a.p. from 3 CIRU on going AWL w.e.f.29 June.43.
A22029 A/Cpl. Ball.H.D ("A"Wing)

(b) Ceases to be att'd f.a.p. to H.Q."D"Gp.CRU w.e.f. 2 July.43 on adm to 8 CG H.
F35397 Pte. Fraser.D.P. (P.L.Fus.)

8. AMENDMENTS ATTACHMENTS

(a) D.O.107 d/11 June.43 para 9(a) insofar as it concerns the u/m is hereby amended to read "A/Cpl."
A22029 Cpl. Ball.H.D (Essex Scot) "A"Wing.

9. ON COMMAND

(a) Proceeded on Command to OCTU Selection Centre w.e.f. 25 July.43
(Auth C/OCTU S.C/1 (AG6) d/19 July.43.)
F54912 Sgt. MacDonald.J.J. (West N S R)
F54712 Cpl. MacLean.J.R (C B Highrs)

10. HOSPITAL ADMISSION

(a) Admitted to 15 C G H w.e.f. 26 July.43.
F89016 Pte. Coffie.L.A (C B Highrs)

(b) Admitted to Hairmyers Hospital, Eastkilbride, Lanarkshire w.e.f. 25 July.43 while on leave.
F97443 Pte. Forbes.N.T (P.L.Fus.)

11. HOSPITAL DISCHARGE

(a) Discharged from 14 C G H w.e.f. 26 July.43.
G17257 Cpl. McDougall.E.G. (Carlt & York R)

12. LEAVE OF ABSENCE

(a) The u/m having been granted privilege leave as shown are granted money allowance in lieu of rations in accordance with Art 789 (3)&(4)PR&I (Overseas) as amended by C.R.O.2459.

G22119 Pte. Astles.S.A.	("A"Wing)	23 July to 1 Aug.43	(9)
H77056 Pte. Carswell.W	("A"Wing)	23 July to 2 Aug.43	(9)
F77267 Pte. Cleveland.G.K.	("A"Wing)	23 July to 1 Aug.43	(9)
B79374 Pte. Cruise.D.L.	("I"Wing)	23 July to 1 Aug.43	(9)
G23013 Cpl. Curwin.W.W.	("I"Wing)	23 July to 6 Aug.43	(14)
F87951 Pte. Fader.J	("I"Wing)	23 July to 6 Aug.43	(14)
F96361 Pte. Gallant.J.L.	("A"Wing)	20 July to 29 Jul.43	(9)
F79569 Pte. MacLean.J.J.	("A"Wing)	20 July to 29 Jul.43	(9)
F54697A/Cpl. Pickup.F	("A"Wing)	22 July to 5 Aug.43	(14)
G28384A/Cpl. Tronholm.L.G	("A"Wing)	23 July to 1 Aug.43	(9)

13. REVERSIONS

(a) Reverts to the permanent grade of Pte. w.e.f. 9 June.43.
G17111 A/Cpl. Wiseman.T.G. (Carlt & York R)

LAST ORDER NO.144 27 JULY.43

7 CANADIAN INFANTRY REINFORCEMENT UNIT
PART II DAILY ORDERS
ISSUED BY
A/COL. J.R. CALKIN M.C. COMMANDER

THIS ORDER NO.145 28 JULY.43

SECTION "A" OFFICERS

1. ATTACHMENTS

(a) Ceases to be att'd f.a.p. to CMHQ while on Special Course w.e.f. 26 July.43 (Auth CMHQ MS6147 d/12 June.43.)
Major. W.J.MacCallum. (N Shore R)

2. AMENDMENTS HOSPITAL ADMISSION

(a) D.O.135 d/16 July.43 para 4(a) insofar as it relates to the u/m Officer is amended to read "Admitted to 17 C G H".
Lt. J.R.Theakson. (Nth N S Highrs)

3. HOSPITAL DISCHARGE

(a) Discharged from 17 C G H w.e.f. 26 July.43.
Lt. J.R.Theakson. (Nth N S Highrs)

SECTION "B" OTHER RANKS

STRENGTH INCREASE

4. (a) T.O.S.from Carlt & York R X-4 List (HD) w.e.f. 25 June.43 on adm. to 17 C G H and cease to be att'd f.a.p.
(Auth D.O.9A d/14 July.43. Carlt & York R X-4 List (HD).
P88689 Pte. Campbell.C.A (Carlt & York R)

(b) T.O.S.from N Shore R w.e.f. 27 July.43.
(Auth Ech.Msg. EA7/4641 d/21 July.43.)
G22938 Pte. Hay.A.S. (N Shore R)

(c) T.O.S.from Reinf.Sec CPC w.e.f. 23 July.43.
(Auth 8/CPC/1 (AG2c) 8 Pers Adjust/1/11 d/22 July.43.)
G23339 Pte. Legacy.J.W (N Shore R)

(d) T.O.S.from 1 CERU w.e.f. 27 July.43.
(Auth 1G/McLean.W.A./2 (AG2c) 8/Pers Adjust/1/11 d/19 July.43.)
G22824 Pte. McLean.W.A. (N Shore R)

(e) T.O.S.from Carlt & York R X-4 List. (4 Bn) w.e.f. 24 June.43 on adm to Cartlock Hospital.
(Auth D.O.10/43 X-4 List.Carlt & York R)
G22933 Pte. McLenaghan. I.L (Carlt & York R)

5. AMENDMENTS STRENGTH INCREASE

(a) D.O.139 d/21 July.43 para 3 (a) insofar as it relates to the u/m is cancelled (Auth D.O.35/43 Nth N S Highrs)
P49775 Cpl. Baker.G.F. (Nth N S Highrs)

(b) D.O.140 d/22 July.43 para 6(b) insofar as it relates to the u/m is amended to read "B132216 Pte. Jenkins.W.A."
B132214 Pte. Jenkins.W.A. (Gen.List.)

(c) D.O.91 d/24 May.43 para 7(g) insofar as it relates to the u/m is cancelled.
F64018 Pte. Murrant.J.C (C B Highrs)

(d) D.O.46 d/1 Apr.43 para 7(g) insofar as it relates to the u/m is amended by deleting "Work Gp."C".
M68049 Cpl. Murray.J (R Regt C)

EXHIBIT "D"

Certificate under Army Act Section 163 (1)(a)

I, Peter Harold MAURICE certify that Ronald George GRAY, Corporal, F34646 of the 7th Canadian Infantry Reinforcement Unit Regiment 1600HRS. surrendered himself to Ch X 100584 Maurice Robert Franz HENDRY RM. Div. Provost. Coy at BOSCOMBE, Hants on the eleventh day of August 1943 as a deserter or absentee without leave.

Date. 12 August 43

Captain, R.M.
O.C. R.M.Div. Pro Coy.

CHARGE

Army Form B 252
(See King's Regulations)

7TH CANADIAN INF. REINFORCEMENT UNIT Regiment

Battery
Squadron
Troop or
Company

CHARGE against No F34646 Rank CPL

Name GRAY R.

Place CROOKHAM. Date of Offence

OFFENCE W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE FROM "HR" DATE" UNTIL SURRENDERING HIMSELF IN UNIFORM AT 1600 HRS 11 AUG 1943 TO MILITARY CUSTODY.

Names of Witnesses :—

CHX 100584 MARINE HENDRY, R.F.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

[illegible] R.O.

EVIDENCE

Documentary Evidence Attached

REMARKS

EXHIBIT "E"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 134646 Rank Cpl Name Gray, R. G. Unit 7 C.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Christchurch

Date	Particulars	Amount		
13 Aug 43	Escorts return fare from LONDON To Christchurch		15	11
	Prisoners single fare to LONDON From Christchurch		8	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	3	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CHP

C.M.H.Q. 1000:55
40/P & S/483

SUMMARY OF EVIDENCE

In the case of No. F 34646 Corporal Reginald George GRAY, Princess Louise Fusiliers, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION
Lt. G.W. Rahm, Cdn. Inf. Corps, 7 Cdn Inf Rft Unit, having been sworn states:

I am Lt. G.W. Rahm, Cdn. Inf. Corps, 7 Cdn Inf Rft Unit. I produce Certificate in accordance with Army Act. Section (I)(jj) which relates to the accused, this document is marked exhibit "A". I also produce Certificate of cost of apprehension C.M.H.Q. 1000: 55 which relates to the accused, this document is marked exhibit "B". I also produce Certified True Copy of 7 Cdn Inf Rft Unit Part II Daily Order No. 145 para(14a) dated 28 Jul 43 which relates to the accused states:"Absent without leave from 0950 hrs 22 Jul 43, F 34646 Cpl. Gray, R.G. (P.L.Fus)" this document is marked exhibit "C". I also produce Certificate under the army act section 163 (I)(j) which relates to the accused this document is marked exhibit "D". I also produce Certificate of cost of apprehension C.M.H.Q. 1000:55 which relates to the accused this document is marked exhibit "E".

Rahm Lt.

(The accused declines to cross examine this witness)

SECOND WITNESS FOR THE PROSECUTION
F 59643 Sgt. Henry, W.A., C.B. Highrs, 7 Cdn Inf Rft Unit.
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

Rahm Lt.
(Officer taking Summary)

(The accused does not demand the attendance of this witness for cross examination)

THIRD WITNESS FOR THE PROSECUTION
F 55662 Cpl. Collins, B., C.B. Highrs, 7 Cdn Inf Rft Unit, having been sworn states:

I am F 55662 Cpl. Collins, B., C.B. Highrs, 7 Cdn. Inf. Rft. Unit, on 22 Jul 43 I was Company Orderly Corporal of "A" Coy 7 C.I.R.U. at approximately 0900 hrs I went to the Guard Room and got Pte. Bernard, Cpl Gray and some other prisoners under close arrest and paraded them under escort to "A" Coy Orderly Room. After Orders were over at approximately 0950 hrs I moved the party off to return to the Guard Room, as we made a left wheel to go around the corner of the hut Pte. Bernard and Cpl. Grey broke away from the escort. The escort gave chase after the two prisoners but were unable to catch them.

B Collins Cpl.

(The accused declines to cross examine this witness)

Cpl

SUMMARY OF EVIDENCE

In the case of No. F 54646 Corporal Reginald George GRAY, Princess Louise Fusiliers, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By the direction of the Commanding Officer this Summary of Evidence is taken on oath.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of TWO pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(C),(D),(E),(F) and (G) have been complied with.

Baker Lt.
(Officer taking Summary)

In the Field
14 Aug 43.

Arthur S. Bethune, Major
President

1st Watmen

3

Sir:

I am F59643 Sgt Henry W. A. E Coy #7 C. I. R. G.

I was orderly serjeant of E Coy on 4 July 43.

I called the roll at tattoo on that date and found that F34646 Cpl Gray R. G. was absent. He reported to me at 0730 hrs 5 July 43 and I told him he was charged with absence without leave from 2300 hrs 4 July 43 to 0730 hrs 5 July 43.

While awaiting trial on 6 July 43 he again absented himself and I accordingly charged him with absence without leave as from 2300 hrs. at which time I called the roll and definitely established the fact that he was absent.

F59643

Sgt W. A. Dewey CHP

5 Sea in Litigation 17 Aug 43

Mr. President and Members of the Court

Sirs:

It all started with me becoming friendly with a young married woman whos husband lay in the army, has been stationed in Scotland for the past Two and a half years. She was living in Reading and when I went up to see her she informed me that she was about to become a mother and that she wished to get a divorce from her husband naming me as Co-respondent. Although I was keeping company with her I had no desire to marry her as I held the understanding that she was already married. I informed her of my intentions and tried to convince her not to get a divorce but no avail. She in turn insisted that I stay and see her husband who was supposed to be coming home in a day or two, on leave from Scotland. While I was waiting for him at Reading I was picked up by the Provost Corps and returned to my unit. While in the Guard Room awaiting trial I received a letter from her in which was enclosed a letter from her husband stating he would be home on the 24th July 43. to being terribly worried about all this and certainly wishing to get things straightened out regardless of cost I broke away or escaped from my escort and headed for Bournemouth where both he and his wife would be visiting his parents after talking to him and he gave me his views which make that he did not wish to grant his wife a divorce because during the time he was in

Scotland he also was running around with women and consequently he could understand his wife doing likewise or rather going out with men and thus did not blame her.

She still, however, could not be reconciled to the fact that she should remain his wife and still insisted on a divorce and I knowing it was useless to try to convince her otherwise told her I was breaking all connections and then turned myself in to the Royal Marine Div. Provost Corps.

Signed - [illegible] A.B.

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2963)

No. F 34646 Name Gray, Sqn., Battery, or Company Corps P.L. Fus. Date of enlistment 7 Sep 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet R.G. n/a No. and date of last drunk na Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Jun 43	Cpl.		WOAS AWL from 2359 hrs 23 Jun 43 till 0330 hrs 24 Jun 43 (absent 3 hrs 31 mins.) A.A. Sec 15(1)	Documentary	Reprimanded	3 Jul 43	J.A. McNaughton Major.	

Certified True Copy OF ORIGINAL MEMO.

Officer having custody of original document

[signature] 17 Aug 43

(C.M.G. Arthurs) Capt & Adjt.
7 Cdn. Inf. Bft. Unit.

Arthur S. Pettapiece Major

M.F.D. 358
22M—5-41 (372-2)
H.Q. 1772-26-620
A.F.D. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F 34646	Corporal	Gray, R.G.	P.L. Fus -7CIRU

1. The following is a fair and true summary of the entries in the Regimental ~~Service and General~~ ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15(1)	1 times	A.A. Sec 15(1)	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 9 days in ~~Air Force~~ military custody, making a total of 9 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 years 11 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 7 September 1939

7. The service which the accused is allowed to reckon towards discharge is 3 years 332 days

8. The accused is entitled to reckon 3 years 332 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

~~..... dated ....., and in his regiment (or corps), the rank of~~

~~..... dated .....~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

22 March 1942 Date of promotion.

In the rank of Corporal 1 years. 4 months.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number F 34646 Rank Corporal Name Gray, R.C. of P.L. Fusiliers- 7 C.I.R.U. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of Aug 43 Rahn Lt Asst Adjt 7 C.I.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Arthur S. Pettigrew, Major

1. I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Leipzic Barracks, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

R.G. Gray
.....
(Gray, R.G.)

Dated at
this 16 day of
August 194 3

2. I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at preliminary to my Court-Martial.

3. I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lt. D.M. Neish.

if he is available.

R.G. Gray
.....
(Gray, R.G.)

Dated at
this 16 day of
August 194 3

4R-105

Pte. Grey S.C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F 65183 Pte. Gray, S.C. R.H.L.I.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 8.)

Already present under sentence list ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B353 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer Field Punishment for twenty-eight (28) days and to forfeit all ordinary pay for a period of ninety (90) days.

(Sgd) ..... Judge-Advocate, if any. Date awarded. 19 Jan 45 (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(5), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not confirmed of [illegible]~~ (1. AA 57A. Delete if not used.)

(Sgd) .....

Date 21 Jan 45 A/ Commanding 4 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F 65183 Pte. Gray S.C. R.H.L.I.	23 Jan 45	[signature] Capt & Adjt. 1 Bn R.H.L.I.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4A-105

CPA/Can. to use in lieu of AF A6 (6 P.M.) 1698 (14056)

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of LT-COL J E C PANGMAN A/Comd 4 CDN INF BDE dated 16 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-65183	PTE	STANLEY CLYDE	GRAY	RHLI

PROCEEDINGS REVIEWED [illegible] 22 Feb 45 LEGAL OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 19 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant para ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ Gray Cancel

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to ..... as interpreter ?~~ Ans ~~Gray~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ?~~ Ans ~~Gray~~

~~The shorthand writer is sworn.(1)~~ Cancel

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Maj.	D. S. Beatty	R Regt C
Member	Capt	W A Burston	RHLI
Member	Capt	A J Hodges	Essex Scot.
Judge-Advocate	Capt	E. K. McDonald	HQ 2 Cdn Corps
Prosecutor	Lt.	B E Easton	RHLI
Defending Offr	Capt.	E L S Smith	RHLI

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DJ p 32.)

A8. The accused F 65183 Pte Gray, S.C. before arraignment make(s) (no) (~~a~~) plea(s) [illegible] (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form A 4c

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Volte Fol 5

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*E*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2). *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Character to witness
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Pay may Def Offr (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its premise, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F65183 Pte Stanley Clyde GRAY, 1 Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Section 6(2) (f) ARMY ACT

WHEN ON ACTIVE SERVICE, LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER,

in that he, after having been posted as a guard

in the field, at 205 FMC "A" ammunition dump, at approximately 2130 hrs 21 Dec 44, did leave his guard and went into a house adjacent thereto.

WD Whitaker
(WD WHITAKER) Lt-col,
Comd 1 Bn RHLI, CA(Os)

In the field
1 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

J E C Pangman
(J E C Pangman) Lt-Col
[redacted]
A/ Comd 4 Cdn Inf Bde

In the field
18 Jan 45

LIST OF WITNESSES
FOR THE PROSECUTION

K15711 L/Cpl JESSIMAN, R. — 1 Bn RHLI, CA(Os)

Capt GA MARRON — 1 Bn RHLI, CA(Os)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-05183	PTE		STANLEY CLYDE	GRAY	RHLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Jan 45 endorsed by me ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	D S Beatty	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	A Capt to be detailed by CO RHLI	
	A Capt to be detailed by CO Essex Scot	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	A Capt to be detailed by CO RHLI	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E K McDougall	2 Cdn Inf Div

On Active Service in the Fd

in HOLLAND (Country.)

Dat 18 Jan 45

(Signed personally. RP 105 fn 2.)

(J E C PANGMAN)

LT-COL (Rank.)

A/ Commanding 4 CDN INF BDE

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 2) 40/F & S/1697 (6142)

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate

This is to certify that I have examined P 65183 Pte Gray S.C. .....
and that he is fit ~~unfit~~ to undergo trial by Court Martial.

In the field
19 Jan. 45

G. Sovin Capt. .....

This is a Summary of Evidence directed to be taken on charge against F-65183 Pte. S.C. Gray, RHLI.

The commanding officer directs that the summary be taken under oath.

The accused is informed of his rights

First witness For the Prosecution - K-15711 L/Cpl Jessiman, R. of B. Coy RHLI having been duly sworn states:-

I am K-15711 L/Cpl Jessiman R. and know the accused, Pte Gray, S.C. On 21 Dec 44 our Coy was furnishing a guard for No. 205 FMC and was detailed to guard particularly 'A' Ann Dump. There were five sentry beats and two sentries were posted on each beat for a two hour guard. I myself posted the accused and Pte. Browning on No. 3 beat from 2000 hrs - 2200 hrs. Pte. Gray had had a previous guard the day before and was aware of his duties. The duties of the sentries were to guard the ann which was piled on each side of the road and their patrol was along the road.

R. Jessiman

The accused declines to cross-examine this witness.

Second witness For the Prosecution - Capt. G.A. Marran, 2/c B Coy RHLI. having been duly sworn states:-

I am Capt. G.A. Marran and am 2/c B Coy RHLI. Our coy was detailed to guard 'A' Ann Dump at 205 FMC and was on duty on 21 Dec 44. Along with the Coy comd, I visited the ann dump about 2100 hrs, 21 Dec 44 and noticed that the guards seemed very few and far between and came to the conclusion that two sentries on beat 3 were not on their beat which was the road we were driving over. Coming back along this road the coy comd stopped the jeep outside a house adjoining no 3 beat and ordered me to search the house for any sentries which may have gone there. I went around to the back door and as I was entering the door the accused Pte Gray and Pte Browning were coming out. The owner of the house was with them and these two men were talking inside with him. I asked the accused

what he was doing inside the house and off his beat and he said that he had gone into the house to use the toilet. I instructed him to return with me and I handed him over to the Coy Comd who placed the accused under close arrest and ordered them to return to their guard.

G.E. Harrison Capt.

Questioned by the accused.

Q1- Sir, do you think it was possible for two men to do a beat almost a mile long.

A.1 - No matter how long the beat was, you were to be on your beat on the lookout for paratps or any sabotage or enemy activity.

The accused having been duly cautioned in accordance with R.P. 4 (E) says:

"I wish to make a statement"
"All I can say is that I went to the toilet and stayed for a period of ten minutes"

In the event of my being tried by a Court Martial, I request Capt. E.L.G. Smith, R.H.&L. to be my defending officer, if available.

I hereby certify that R.P. 4 has been complied with.

E. Louis Foggett Maj
officer detailed to take Summary

In the Field
29 Dec 44

9/10

1st Char. Wit Corpt E.L.G. Smith sworn deposes.

Gray I know very well. Has been in my coy 2½ months. Joined RHM on 29 Jul 44 at Venieres. From then on to Nijmegen he has been in a rifle coy. In the Coy he was one of the few left who had been through everything. He has done a good job at all times.

No Cross Ex

Court 5 or 6 months in action.

B(2)

Mitigation

Acc is guilty of the charge but there are extenuating cases calling for leniency. The house is near the road, right on the road. Acc had met these people 2 days previous to this. Logical for him to go there to use the toilet – it was so close to his beat. He admits staying a little longer than the actual time needed but he was on his way out of the house when Capt Merron looked for him. This proves he had no intention of staying away for a long time.

SUMMARY OF EVIDENCE

In the case of F65183 Pte Stanely Clyde GRAY, 1 Bn Royal Hamilton Light Infantry, a soldier ofthe Canadian Army Overseas.

THE ACCUSED IS INFORMED OF HIS RIGHTS

THE CO DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS FOR THE PROSECUTION
K15711 L/Cpl JESSIMAN R. of B Coy 1 Bn RHLI having been duly sworn states:

I am K15711 L/Cpl JESSIMAN R. and knew the accused, Pte GRAY S.C. On 21 Dec 44 our Coy was furnishing a guard for No 205 FMC and was detailed to guard particularly "A" Amn Dump. There were five sentry beats and two sentries were posted on each beat for a two hour guard. I myself posted the accused and Pte BROWNING on No 3 beat from 2000 hrs - 2200 hrs. Pte GRAY had had a previous guard the day before and was aware of his duties. The duties of the sentries were to guard the amn which was piled on each side of the road and their patrol was along the read.

THE ACCUSED DECLINES TO CROSS EXAMINE THIS WITNESS

'R.Jessiman'

SECOND WITNESS FOR THE PROSECUTION
Capt G.A.MARRON 2 i/c B Coy 1 Bn RHLI having been duly sworn states:

I am Capt G.A.MARRON and am 2 i/c B Coy 1 Bn RHLI. Our Coy was detailed to guard "A" Amn Dump at 205 FMC and was on duty on 21 Dec 44. Along with the Coy Comd. I visited the amn dump about 2100 hrs, 21 Dec 44 and noticed that the guards seemed far and few between and came to the conclusion that two sentries on beat 3 were not on their beat which was the road we were driving over. Coming back along this road, the Coy Comd stopped the jeep outside a house adjoining No 3 beat and ordered me to search the house for any sentries which may have gone there. I went around to the back door and as I was entering the door, the accused Pte GRAY and Pte BROWNING were coming out. The owner of the house was with them and these two men were talking inside with him. I asked the accused what he was doing inside the house and off his beat and he said that he had gone into the house to use the toilet. I instructed him to return with me and I handed him over to the Coy Comd who placed the accused under close arrest and ordered them to return to their guard.

'G.A.Marron' Capt

QUESTIONED BY THE ACCUSED

Question - Sir, do you think it was possible for two men to do a beat almost a mile long.

Answer - No matter how long the beat was, you were to be on your beat on the lookout for paratps or sabetage or enemy activity.

The accused having been duly cautioned in accordance with R.P. 4 (e) says:

"I wish to Make a statement" All I can say is that I went to the toilet and stayed for a period of ten minutes".

'S.C.Gray'

In the event of my being tried by Court Martial, I request Capt E.L.G. SMITH, 1 Bn RHLI. to be my defending officer, if available.

'S.C.Grey'

I hereby certify that R.P. 4 has been complied with.

'E.Louis Froggett'Major
officer detailed to take summary

In the Field
29 Dec 44

916

In lieu of Army Form B.296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

No	Rank	Name	Regiment
F65183	Pte	Stanley Clyde GRAY	1 Bn RHLI, CA(Os)

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For AA Sec 15(1)	one times	four times
For AA Sec 10(4)	times	one times
For AA Sec 40	two times	two times

Number of instances of gallantry or distinguished conduct nil

2. The accused has not been previously convicted.

3. The accused at the present time is under sentence of 21 days Field Punishment beginning on 18 Dec 44.

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and..... days in military custody, making a total of .....44..... days, of which .....0..... days were spent in hospital.

5. The present age of the accused according to his record of service is ..... 21 years, 4 months.

6. The date of his attestation specified in his record of service is ..... 4 Mar 42.

10. The accused is in possession of or entitled to CVSM & Clasp

(WO AVERY) Capt & Adjt,
1 Bn RHLI, CA(Os)

Old sheet destroyed 4Sept42 C.M.Edwards Capt

No. F65183 Name GRAY S.C. Sqn, Battery, or Company Corps CIC Date of enlistment 4-3-42 GC Badges Service or Proficiency Pay N/A MFM 6 (AFB 122) 40/P&S/126 (3439)

Date of last entry in Company Conduct Sheet No and date of last drunk N/A Period not reckoning towards freedom from extra fine nil Sheet No One Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Yarmouth	1-5-42	Pte		A.W.L. from 0600 hrs 1-5-42 until 0815 hrs 4-5-42 Absent 3 days 2 hrs 15 min	Sgt Hunt R.E.G.	Awarded 96 hrs detention	5-5-42	Col U.G. Dawson	Forfeits 4 days pay F.R. & I
Fort Chebucto	27 Nov 43			1. Breaking out of Barracks Sec 10 para (4) A.A. 2. A.W.L. 19 hours Sec 15 para (1) A.A.	Sgt Tully A.L. L/Bdr Turpland	7 days C.B. 2 Days pay	29 Nov 44	A.A. Macdonald Major	Forf 1 days pay under F.R.&I149(1)a Total Forf 3 days pay
Fort Chebucto	26/22/43	Gnr		A.W.L. 2 days 20½ hrs. Sec 15 (1)	Sgt Purcell L/Bdr Sheaves	117 days C.B. 3 days pay Sec 46 para8 sub para 5	31Dec43	Major A.A. Macdonald	3 days forf FR&I 149 (a) (a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispensing with trial	By whom awarded	Remarks
Yarmouth, N.S.	17Feb44	Pte		An Act to the prejudice of good order and military discipline in that he at Yar N.S. on the 17 Feb 44 failed to carry out an order given by an NCO (A.A. Sec 40) Certified Correct as of 23 Jun 44	Cpl Schofield	7 days C.B.	17 Feb 44	Major Ings N.S.	
Field	13 Nov 44	Pte		A.A. Sec 40 Conduct etc Refused to go on Guard	L/Cpl Didmon	28 Days FP	25 Nov44	Lt-Col Whitaker	Forf 28 days pay
Field	6 Dec 44	Pte		A.A.Sec 17(1) AWL from 1630 hrs 5 Dec 44 to 1630 hrs 11 Dec 44 (Absent 5 dys 2 hours 30 min)	L/Cpl Didmon	21 Days FP	18 Dec 44	Lt-Col Whitaker	Forf 6 days pay for A.W.L. TotalForf. 27 days pay

Certified true copy of Regimental Documents held in my custody.

(W.G. Avery) Capt & Adj
1 Bn NSLI Jun Army O/S

SE-50

Lyn. Gray. T.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: 16941 Gnr Dixon. Tpr 2 Cdn Dn. Tp Lovat Scouts

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 723, and in lieu of viz see RP 44 fn 6.)

At present under [illegible] beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo six months detention

(Sgd) [illegible] Capt. 23 Nov 44 (Sgd) Wm D Schofield Maj.
Judge-Advocate, if any. Date awarded. President. (RP 46, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

23 Nov 44 (Sgd) [illegible] Major
Date Commanding COMD. ARMY TROOPS AREA. FIRST Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
16941 Gnr Dixon Gray	23 Nov 44	[illegible] Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

25 APR 1945 A.F.H.Q.

5E 50 4/38B

Convening Order of Brigadier R.R. Keyes Comd 1 Cdn Armd Bde dated 21 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 16941	Gnr	Dixon	Gray	2 Cdn Dn Tp Lovat Scouts RCE

PROCEEDINGS REVIEWED 25 Apr 45 [illegible] Lt
REVIEWING OFFICER, JAG BRANCH A.F.H.Q.

PROCEEDINGS REVIEWED Date

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 23 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14|24

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Columns do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see fmns for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for points and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet as attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0700 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 6C fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

~~The shorthand writer is sworn.(2)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 6B(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.D. Schofield	1 Cdn Lt Fd Regt
Member	Capt	W.F.R. Chisholm	3 Cdn Inf Bde
Member	Lt.	R.W. Kennedy	4 Cdn Armd Bde
Judge-Advocate	Capt	[illegible]	HQ, 1 Cdn Army
Prosecutor	Capt	R.T. Baird	2 Cdn Inf Bde
Defending Offr	Capt	G.R. Dowdell	2 Cdn Inf Bde

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See RP 89 fn 2.)

A8. The accused [illegible] before arraignment make(s) (no) (2) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (severally) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B 6C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans No .....[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) (his) (their) plea(s) to ..... on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whats or parts not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by continuing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A) see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B as C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans Both Nott gave evidence & called 3 character witnesses
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 5. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to a soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 5 and Ex 6 respectively.(2)
(*1. MFB 355 or AFB 296. 2. MFM s. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s), Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Wish to say Silver Star & Diller .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas AO 309, 2322, MML p 80, 757-759. As to sentences assigned the civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

WHLS

CHARGE SHEET

The accused, H-6941 Cfn. Gray, I., 2 Cdn Inf Tps Wksp, RCEME, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SEC. 40
ARMY ACT

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at approximately 1800 hrs November 19, 1944 was in improper possession of public property, namely 2 cans of petrol.

(G.M. Hunter), Major,
Officer Commanding,
2 Cdn Inf Tps Wksp, R.C.E.M.E.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field
21 Nov 44

(JRR Gough) Brig
Comd 4 Tps Area,
First Cdn Army

Wpl.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/P&S/1697 (2952)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.6941	Cfn	Cfn	I	GRAY	2 Cdn Inf Tps Wksp RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and ~~one~~ (*date*) 21 Nov 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) W.D. SCHOFIELD (Must be named. RP 106.) 1 Cdn Gen Tps Wksp (Unit.)

MEMBERS.

Capt. W.F.G. WILLIAMS 3 Cdn Inf Tps Wksp

Lieut. (Rank.) R.W. KENNEDY (Named or detailed. RP 106.) 4 Cdn Armd Tps Wksp (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

Capt. (Rank.) D.G. DEAN, ADJA (Must be named, if any. RP 106.) HQ A Tps Area (Unit.)

On Active Service in the Fd

in Belgium (Country.) R Gough (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(JRR Gough)

Date 21 Nov 44 Commanding A Tps Area, First Cdn Army Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

I certify that I have this day examined

H 6944 Cfm. Gray, I. 2 Cdn Int. Tps Wkshp.

and that he is fit to undergo trial by Court Martial.

23 Nov 44

A R Wright, Capt.
RCAMC.

wkd.

B8559 SSgt. Sheaf F sworn states -
Gr Gray has been under me for 4 months. He is one of my most efficient & willing workers. I have had no reason to doubt his honesty.

RP 83(B) complied with

B110025 Cpl. Smith E. sworn states

I have known Gray since June 44. He has been in my section. He has given no trouble & has proved a willing worker.

RP 83(B) complied with.

Def Officer in Mitigation -

Gray has been in the army about 4 years. He has had only one minor charge. I ask for leniency.

W104

SUMMARY OF EVIDENCE IN THE CASE OF H-6941 CFN. GRAY, I., 2 CANADIAN INFANTRY TROOPS WORKSHOP, ROMME, CHARGED WITH CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE (A.A. SECT. 40)

BY DIRECTION OF THE COMMANDING OFFICER THE EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS:- M-62304 ARMT. S/MAJOR MILLAR, R.R. 2 CDN INF TPS WKSP ROMME, SWORN STATES:

I am Armt. S/Major of 2 Cdn Inf Tps Wksp. On November 19th at approximately 1800 hrs I was leaving the billet. I saw two men in front of me each carrying two Jerricans, proceeding toward the front gate. As they were going through the gate I called to them. The first man through the gate broke into a run down the street. I called again. One man stopped approximately 15 feet outside the gate. I identified him as Cfn Woods, H.C. I called again to the other man. He dropped the Jerricans and continued running. The Jerricans contained petrol. Pte. Gnadt R.L. and Pte. Tattrie, L.D. came on the scene and I instructed them to pick up the Jerricans and follow me. Pte. Tattrie and Cfn Woods carried the Jerricans into the Orderly Officers Office. I warned Cfn. Woods he was under open arrest. At approximately 2300 hrs on instructions from the Commanding Officer I placed Cfn. Woods under close arrest.

The accused declines to cross-examine the witness. R Millar

SECOND WITNESS:- L-9464 PTE. GNADT, R.L., 2 CDN INF TPS WKSP, SWORN STATES:-

I am L-9464 Pte. Gnadt R.L. of the Stores Section of 2 Cdn Inf Tps Wksp. When returning to the barracks 19 Nov 44 at approximately 1830 hrs. I was about to enter the gate I heard someone call me so I, in company with Pte. Tattrie L.D., went over to the person that called and found it was Sgt. Major Millar. He shined his light on two cans of petrol lying in the street and gave me the order to pick them up. Pte. Tattrie went to where they were lying and picked them up. He then brought the petrol into the Orderly Officers Office and I went to the billet. I noticed there was someone with Sgt. Major Millar but I did not recognize him in the dark.

The accused declines to cross examine the witness. R. L. Gnadt

THIRD WITNESS:- R-52224 PTE. TATTRIE, L.D., 2 CDN INF TPS WKSP, SWORN STATES:-

I am R-52224 Pte. Tattrie, L.D. of the Stores Section of 2 Cdn Inf Tps Wksp. On 19 Nov. at approximately 1830 hrs, my friend Pte. Gnadt and I were proceeding to our billets from a Cafe and approximately 100 yds from the front gate to the billets a person shouted, "Come here" On going to him I was given an order to go down the street and bring back two Jerricans which were full. I brought them back up and followed him inside the Officers' Mess building. I set them down on the floor, turned around and recognized S/Major Millar. I made a left turn and went to my billets. There was somebody with the S/Major but I did not notice who it was.

L.D. Tattrie

The accused declines to cross-examine this witness.

FOURTH WITNESS:- CAPT. J.L. ELDER, 2 CDN INF TPS WKSP, SWORN STATES:-

I am Capt. J.L. Elder of 2 Cdn Inf Tps Wksp. On the evening of Sunday Nov 19, it was brought to my attention that one of my personnel had been apprehended and put on charge. This man was Cfn. Woods, H. C. I immediately inquired for Woods at the billets and had a conversation with him regarding the incident as it had been reported that two men were involved. I immediately asked Woods to procure Cfn. Gray I. This having been done I had a talk with Gray and received information to the effect that he had been with Cfn Woods at the time of the incident. Subject to the remark by the Commanding Officer that the man should be under close arrest and having found the second party involved, I gave instructions to the Orderly Sergeant, Sgt. MacIsaac, to place both Woods and Gray under arrest. I then returned to my quarters.

The accused declines to cross-examine this witness. J. Elder Capt

FIFTH WITNESS:- K-11066 A/SGT. Q.M.S. PORTINGALE, H.D., 2 CDN INF TPS WKSP SWORN STATES:-

I am K-11066 Armt. QMS Portingale of Vehicle Section 2 Cdn Inf Tps Wksp. On the morning of 20 Nov at about 1000 hrs. I asked Cfn Gray whether or not he was with Cfn. Woods at the time when Cfn. Woods was apprehended the previous evening. He said "I was with Woods". I then told him to report to Capt. Elder.

The accused declines to cross-examine this witness. H. Portingale

SIXTH WITNESS:- B-8559 S/SGT. SHEA, J.F., 2 CDN INF TPS WKSP, SWORN STATES:-

I am B-8559 S/Sgt. Shea, J.F. of Vehicle Section 2 Cdn Inf Tps Wksp. On the morning of 20 November at approximately 1000 hrs I accompanied AQMS Portingale to the Guard House to see Cfn Gray. AQMS Portingale asked Cfn. Gray if he had anything to do with the incident involving Cfn. Woods the previous evening. He told us he had something to do with it and we sent him to see Capt. Elder.

The accused declines to cross-examine this witness. J. Shea

THE ACCUSED ~~WAS~~ WAS CAUTIONED AS FOLLOWS:

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. Cfn. Woods - "No."

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I Certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) have been complied with.

(L.T. Baird), Capt.,
2 Cdn Inf Tps Wksp, R.C.E.M.E.

IN THE FIELD
20 NOV 44

MFM 6
(APR 122)
[illegible]/136 (3438)

No H-6941 Name GRAY I. Sqn, Battery, or Company Corps R.C.O.C. Date of enlistment 26 Apr 41 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet - No and date of last drunk - Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
New sheet in accordance with O.R.O. 2084									
Awarded One Good Conduct Badge wef 26 Apr 43 (D.O. # 19 d/18 Jun 43)									
U.K.	29 Jul 43	Pte.		Sec.15(1) A.A. WOAS A.W.L. i.e., he was absent without leave from Tattoo at 2315 hrs 29 Jul 43 until 0025 hrs 30 Jul 43, Total time absent 1 hr and 10 mins.	DOCUMENTARY	5 days C.B.	(W.L. Thompson(30 Jul 43 Lieut-Col		
Awarded the Canadian Volunteer Service Medal and Clasp wef 15 Jan 44.									

CERTIFIED TRUE COPY (20 Nov 44)

(G.M. Hunter) Major
Officer Commanding
2 Cdn Inf Tps Wksp RCEME

(PTO)

N.F.B. 169 [illegible]
22M—5-41 (372-2)
H.Q. 1772-20-620
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-6941.	Cfn	Gray, I.	2 Cdn Inf Tps Wksp RCEME

1. The following is a fair and true summary of the entries in the [illegible] Regimental and Squadron, Battery [illegible]s or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [illegible] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Absent Without Leave 1	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

[illegible]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [illegible]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [illegible] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil [illegible] days in civil custody, and one [illegible] days in military custody, making a total of one days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [illegible] attestation paper is 26 years 1 month

6. [illegible]

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 7 months

8. [illegible]

9. The accused is [illegible] entitled to no [illegible] military decoration, or [illegible] military reward [illegible]

10. [illegible]

[illegible]

11. [redacted]

[redacted]

[redacted]

12. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

[redacted]

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number H-6941 Rank Cfn

Name Gray, I of 2 Cdn Inf Tps Wksp RCEME Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N I L		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of November, 1944 [signature] O/C Records 2 Cdn Inf Tps Wksp RCEME

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [redacted] signed by the president, and annexed to the proceedings.

6A-31 Pte. Gray W.A. Despatched DND by AGSA



KK-150
SPR GRAY W.J.

805/7 CCC/10
M5208 Spr. Walter John GRAY
7 C.C.C., N.C.E.

KK-150

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY- SECOND day of JULY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "F" GROUP, CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

Proceedings Reviewed by Sec'y
Reviewing Officer [illegible]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W.E. Bawden	1 C.O.R.U.

Members.

Rank.	Name.	Regiment.
Lieut.	G.N. Roberts	1 C.S.O.R.
Lieut.	R.M. Simpson	20 Army Tank Regt
	WAITING MEMBER	
Lieut.	G.E. Murray	20 Army Tank Regt.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Col.
(HAROLD M BAILEY) Colonel
A/ Commanding "F" Group, C.R.U.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M5208 Spr. Walter John GRAY 7 C.C.C., R.C.E.	Sect 15(1) Army Act.	Guilty	Guilty 90 Days Detention ~~[illegible]~~ major [illegible] 23 Jul 43	Sentence reduced to 56 days and Confirmed as such. Hon. Co. Wm. Daily Col. A/Comdr. F. Group. 23 July 43
	(See Attached Charge Sheet)			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [signature] Col. (Signed) [signature] Major
(Harold M. Bailey) Colonel (W. E. Bowden)
A/Commanding "F" Group, C.R.U. 1 C.C.R.U.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
~~*(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 23rd day of July 1943.

[signature] major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

*See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of July 1943.

[signature] Col.
Confirming Officer. A/Comdr. F. Group.

Promulgated and extracts taken in the case of M5208 Spr. Walter John Gray.

(a) (Dated) 24 July 43 (Signed) R. A. M. Gearby, Lieut.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt.[illegible] [illegible] 2-43 A.&E.W.Ltd. Gp.[illegible]

7 CDN CONSTRUCTION COY RCE

CHARGE SHEET

The accused, M-5208 Sapper Walter John GRAY, RCE, on strength 7 Cdn Construction Coy RCE, a soldier of the Canadian Army Overseas, is charged with, When on Active Service:

First Charge
Sec 15 (1)
Army Act

"ABSENCE WITHOUT LEAVE, in that he in the FIELD, at 2300 hours 25 Jun 43, did absent himself without leave until he returned to Camp at 1630 hours 19 Jul 43."
(Total Absence of 23 days, 17 hours and 30 minutes)

H.B. Stuart

H.B. STUART, Major RCE,
Officer Commanding,
7 Cdn Constr Coy RCE.

BORDON, Hants,
21 Jul 43.

To be tried by Field General Court Martial

Col.
(HAROLD M. BAILEY) Colonel
A/Commander
3rd Group, C.R.E.

BORDON, Hants
22nd July 1943

Pres. F.G.C.M.

Medical Officers' Certificate
K.R. (Can) para 557.

I certify that I have this morning examined NO. M 5208

Spr. (rank) Gray W.J. (name) and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 23 Jul 43.

[illegible] major
Pres FGCM

(Sgd) [illegible] Capt.
(Medical Officer)

BORDON 28th JULY 1943

TRIAL OF:- No. M5208 SPR WALTER JOHN GRAY Unit 7 C.C.C., R.C.E.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.R. 22 & 23.

The accused is brought before the Court.

Prosecutor:- Lt W.E. HILLIARD 7 C.C.C., R.C.E.

Defending Officer:- Lt R.A. M'GEACHY 7 C.C.C., R.C.E.

At [illegible] hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q.1 Do you object to be tried by me as President or by any of the officers whose names have been read over? A.1 - NO

The President, [illegible] (if any) are duly sworn.

The following constitutes the Court:

MAJ. W.E. BAWDEN ... Unit 1 C.O.R.U.

LIEUT. G.H. ROBERTS ... Unit 1 C.B.O.W.

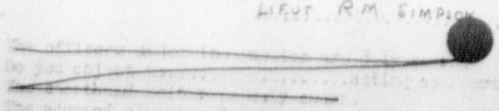
LIEUT. R.M. SIMPSON ... Unit 20 ARMY TANK REGT

~~The officers [illegible]~~

Q.2 Do you object [illegible] writing as Northam writer? A.1.

~~[illegible]~~

The accused pleading [illegible] to the charge in the above mentioned charge sheet, R.P.35(B) is duly complied with.



The summary of evidence is read, signed by the President and attached to the proceedings.

Court is adopted by [illegible] its [illegible] is re-opened.

Name LIEUT W.E. HILLIARD Unit 7 C.C.C., R.C.E.

[illegible]

A.8 YES, (STATEMENT ATTATCHED)

Q.9 Do you [illegible] to character?

A.9 NO.

[illegible] Major
President

PLEA FOR MITIGATION IN CASE OF M-5208
Spr. WALTER JOHN GRAY 7 COC

MADE BY LIEUT R.A. McGEACHY, DEFENDING OFFICER FOR THE ACCUSED

Gray enlisted 15 Sept 39 and thus will have four full years service 15 sep this year. He came overseas with the 13 Fd Coy (Calgary) 2 Aug 40 making three years of his service right in England.

He became ill and after hospitalization was SOS his unit to 1 CERU where due to his recovery being slow it was recommended he come to a Construction Company rather than return to a field unit.

He came with 7 COC 11 Jul 42 and qualified as Carpenter "C" 5 Nov 42. He has been considered for trades pay and as soon as this affair is cleared up will be considered again. In fact he appeared in Pt II's for T.P. which was deleted as he went AWL as it was being published.

He is a steady workman with this unit giving no trouble to his Section Officer and N.C.O.'s. In civil life he held the same job 12 years before enlisting. He was with a survey party of the C.P.R. on their irrigation projects out of Calgary. (Strathmore).

He is a married man but has no children.

It is true that Gray's Record shows some A.W.L. In fact previous to this one a total of 6 in over 3½ years, but none of them have been serious and there is nothing of a mean or vicious aspect to any of these absences.

The present charge could have been handled in the unit if it hadn't been over the 21 day period.

It is realized that there must be punishment for A.W.L. but I would ask the court to give consideration to the fact that Gray has been in the Army practically four years, 10 months Canada, the rest here, and that is a long time for troops not to have action.

Gray realizes the error of his ways - he is determined to stop going A.W.L. any more and to stay on the job and be a good soldier.

This unit as you know is engaged on Construction work in this Area and at the present time needs personnel for the large volume of work on hand. It is requested that the court consider awarding Gray a fine rather than detention as his services will be more useful in this unit than in Headley Detention Camp.

In this connection I would ask the court to consider that he has already lost 28 or 9 days due to absence and close arrest and that it takes two days of work to make up one days pay award as the assignments are approximately half a man's pay.

In conclusion the court is requested to give consideration to the following:

(i) Gray's fundamentally good character in the light of his only crimes being A.W.L. which heretofore have been for very short periods.

(ii) His determination to be a good soldier and stay on the job.

(iii) That his services will be of more value to this unit than in the Detention Camp.

(iv) That all possible consideration be given to the amount of the award the Court sees fit to impose.

R.A. McG.

SUMMARY OF EVIDENCE

A Summary of Evidence, consisting of one page, in the case of M-5208 Sapper Walter John GRAY, a member of 7 Cdn Construction Coy RCE, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken under Oath before Lieut. W.E. Hilliard, RCE.

First Witness: For Prosecution

A-99006 L/Sjt Carter, J.G., of 7 CCC.RCE, having been duly sworn, states:

I was Orderly Serjeant on 19 Jul 43, and at approximately 1630 hours, Spr Gray entered Camp of his own free will and surrendered to me. He was properly dressed, clean, sober and of a soldierly manner. I placed him under Close Arrest.

J G Carter
A-99006 L/Sjt Carter, J.G.

The accused declines to cross-examine this witness.

W J Gray
M-5208 Spr Gray, W.J.

Second Witness: For Prosecution

A-20531 Sjt Jardine, H.A., of 7 CCC.RCE, having been duly sworn, states:

The morning of 26 Jun 43, on the 0800 hour Parade, Spr Gray was reported Absent. Having searched his quarters and made inquiries, I found that he had returned from Leave and turned in his pass at 1700 hours 25 Jun 43, but had not been seen from that time on, until he reported to the Orderly Serjeant at 1630 hours 19 Jul 43, at which time I was notified. This concludes my evidence.

H A Jardine Sgt
A-20531 Sjt Jardine, H.A.

The accused declines to cross-examine this witness.

W J Gray
M-5208 Spr Gray, W.J.

The accused, M-5208 Spr Gray, W.J., was asked:

"Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused reserves his defence.

W J Gray
M-5208 Spr Gray, W.J.

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence and in the hearing of the accused and that Rules of Procedure 4 C, D, E, F, and G (as the case may be) have been complied with.

W.E. Hilliard
W.E. Hilliard, Lieut RCE
7 Cdn Constr Coy RCE.

SUPPLEMENTARY SUMMARY OF EVIDENCE

A Supplementary Summary of Evidence, consisting of one page, in the case of M-5208 Sapper Walter John GRAY, a member of 7 Cdn Construction Coy RCE, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Supplementary Summary of Evidence is taken under Oath before Lieut W.E. Hilliard, RCE.

Third Witness: For Prosecution

D-16660 Spr Kennedy, J.L., a member of 7 CCC.RCE, having been duly sworn, states:

I sleep in the same room as Spr Gray, the front up-stairs room of House No. 66. The night he was supposed to come back from leave, he didn't sleep in his bunk. The next time I saw him, was the day after he returned from AWL, that would be Tuesday of this week.

J.L. Kennedy
D-16660 Spr Kennedy, J.L.

The accused declines to cross-examine this witness.

W.J. Gray
M-5208 Spr Gray, W.J.

The accused, M-5208 Spr Gray, W.J., was asked:

"Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused reserves his defence.

W.J. Gray
M-5208 Spr Gray, W.J.

I certify that the foregoing Supplementary Summary of Evidence consisting of one page was taken down by me in the presence and in the hearing of the accused and that Rules of Procedure 4 C, D, E, F, and G (as the case may be) have been complied with.

W.E. Hilliard
W.E. Hilliard, Lieut RCE
7 Cdn Constr Coy RCE.

A

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-5208	Sapper	Walter John GRAY	7 CCC.RCE

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Ramy ~~Service and General~~ Ramy Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Ramy Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Sec 15(1) Army Act	two times	Sec 15(1) Army Act	four times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct N/A

or,

There are no entries in the conduct sheets of the accused. N/A

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~XX~~ Ramy

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

N/A

3. The accused is not under sentence at the present time.

~~XXX~~ Ramy

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and two days in ~~Air Force~~ Ramy military custody, making a total of two days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ Ramy attestation paper is 35 years of age

6. The date of his ~~confession~~ Ramy attestation specified in his ~~record of service is~~ Ramy attestation paper 15 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 3 Years 6 Months

8. The accused is entitled to reckon 3½ years service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit N/A dated ....., and in his regiment (or corps), the rank of N/A dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of N/A years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Army~~ RAM9 Act, and of cases in which trial has been dispensed with of accused, Number M-5208 Rank Sapper Name Walter John GRAY of 7 Cdn Construction Coy RCE ~~Regiment~~ Unit RAM9

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	N/A			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 day of Jul 43 RAM Geachy Lieut

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked A signed by the president, and annexed to the proceedings.

[signature] Major
Pres F.G.C.M.

M.F.M. 6
A.F.B. 179
HBM—7-41 (2329-M)
H.Q. 1772-39-3832

No. M-5208 Name GRAY, W.J. Sqn., Battery, or Company Corps RCE Date of enlistment 15 Sep 39 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. Character H.B. STUART, Major RCE

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original Destroyed 15 Mar 40 (CARO 2084) 6 Mths Service.					
FIELD	10Sep 41	Spr		AA Sec 15(1) AWL	L/S Daines	14 DAYS C.B.	13Sep41	Capt J.E. Brown	1 DAYS PAY FR&I 149-1a
FIELD	7Oct41	Spr		AA Sec 15(1) AWL	L/S Daines	3 DAYS PAY FR&I 149-2	11Oct41	Capt J.E. Brown	1 DAYS PAY FR&I 149-1a
FIELD	26Dec41	Spr		AA Sec 15(1) AWL 6 days 2 hrs	L/S Daines Cpl Orr	14 DAYS PAY FR&I 149-2	5Jan42	Capt J.E. Brown	7 DAYS PAY FR&I 149-1a
FIELD	18Apr42	Spr		AA Sec 15(1) AWL 1 dy 19 hr 30 Min	Cpl Friesen L/C Waite	13 DAYS PAY FR&I 149-2	21Apr42	Major J.E Brown	2 DAYS PAY FR&I 149-1a
FIELD	11Feb43	Spr		AA15(1)AWL from 0200 h 11 Feb43 to 2250h 14Feb43(3d 20h 50m)	DOCUMENTARY	ADMONISHED	15Feb43	Major H.B StuartRCE	4 DAYS PAY FR&I 149-1a
FIELD	19Apr43	Spr		AA15(1)AWL from 0200h 19Arp43 to 1400h 23Apr41(4 days 12 hours)	Sjt Jardine L/C Bell	10 DAYS PAY FR&I 149-2	27Apr43	Major H.B StuartRCE	5 DAYS PAY FR&I 149-1a

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED A TRUE COPY OF THE ORIGINAL IN MY POSSESSION.

R A McGeachy

R.A. McGEACHY, Lieut RCE
Adjutant,
7. Cdn Constr Coy RCE.

[illegible] major
Pres. FGCM.

LIST OF WITNESSES

FOR PROSECUTION

1.	A-99006	L/Sjt Carter,	J.G.	7 CCC.RCE
2.	A-20531	Sjt Jardine,	H.A.	7 CCC.RCE
3.	D-16660	Spr Kennedy,	J.L.	7 CCC.RCE

FOR DEFENCE

NIL

7 CDN CONSTRUCTION COY RCE

OC. 7 CCC.RCE. 21 Jul 43.

I, M-5208 Spr Gray, W.J. request that Lieut R.A. McGeachy, 7 CCC.RCE, if available, be appointed for my defence at Court Martial if same is convened.

W J Gray

M-5208 Spr Gray, W.J.

CCC-73 (case #2)
SPR GRAY W.J.
see KK-152 for 1st case

CCC-73

FIELD GENERAL COURT-MARTIAL

(Page 1) Rev of AF A3) W. P. & S. 1658 (2804)

Convened by Order of P.R. Shiela, Brig Comd "B" Gp CMU dated 7 Feb 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-5208	Spr	Walter John	GRAY	1 CMRU

PROCEEDINGS REVIEWED

J Ruljgieslow Capt
23 Feb 44

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 8 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp. 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(C). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter ? Ans

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Lt-Col.	D.L. Kydmga, V.D	H.Q. C.R.E.
Member	Capt.	F.C. Small	7 C.I.R.U.
Member	Lieut.	A.M. Kennedy	4 C.I.R.U.
~~Judge-Advocate~~			
Prosecutor	Lieut.	J.W. McCormon	1 C.E.R.U.
~~Defending Offr~~	Lieut.	C.L. Dunn	1 C.E.R.U.

~~Questions by President~~: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 15

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-5208 Spr Walter John GRAY 1 CMRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1) AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of Eight (8) months.

8 Feb 44 (Sgd) [signature] President. (RP 45, 50.)

(Sgd) ~~Judge-Advocate, if any.~~ Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~Direct that this accused be not committed to prison or detention barracks until further orders.~~(1) 7

(1. AA 57A. Delete if not used.)

(Sgd) H.G. Tyner Br
"B" Gp Comd
Confirming Officer.

Date 14 Feb 44 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

M-5208 Spr Gray W J 16 Feb 44 [signature] Adjt. 1 Tpt Wing 1 C. Eng. R.U.

ENTERED PART II ORDERS

DATE 17/2/44 PAGE No. 40.

[signature] Lieut
for OC RECORDS
No. 5 Cdn. Engineers Holding Unit. C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not charged the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea; and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. SF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *State the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ..... Witness as a character
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy [extract] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C2 and Ex C3 respectively.(3)
(*1. AFB* 355 *or AFB* 296. 2. *MFM* 4. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Would like to say, Witness - NOTE - AIT (2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP* 95(*b*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see matters on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused M-5208 Spr GRAY, Walter John, Ro yal Canadian Engineers, on strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
AA 15(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, absented himself without leave from 2200 hrs 26 Sep 43 until surrendering himself at 2200 hrs 1 Feb 44.

(Total Absence 127 days)

128 days!

(A.S. RUTHERFORD) Lt.Col.,
A/Commanding Officer,
No. 1 C.E.R.U.

In the field
3 Feb 44.

To be tried by Field General Court Martial.

7 Feb 44

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units

CFA05 (In lieu of AFA3)
40/P&S/1697 (2663)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-5208	Spr		Walter John	GRAY	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Feb 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	7 CERU
Lieutenant	to be detailed by	4 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)

(P.R. Shields) Brig

Commanding "B" Gp CRU

Convening Officer.

Date 7 Feb 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R.(Can) para 557

I certify that I have this morning examined No. H5208 Spr Gray W J ~~(rank)~~ ~~(Name)~~ of No 1 C.E.R.U. and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station Cove

Date 8 Feb 44

Sgd [signature] (Medical Officer)

PLEA OF MITIGATION

Before the court passes sentence on the accused, Spr Gray W.J., I would like to submit a plea of mitigation.

Spr Gray has been in the Canadian Army for a period of approximately four years. He is thirty five and category A. He left his job as a rodman with the C.P.R. and joined the army on 15 Sept. 1939. He arrived overseas with 13th Field Coy and for a period of eight months was a driver. He became very nervous, his eyesight became poor and he lost considerable weight so that he was forced to give up driving in the army.

In April 1942 he was admitted to No 1 Neurological hospital at Basingstoke where he spent six weeks. He was then discharged as a psycho-neurotic and sent to No 1 C.E.R.U., from there he was posted to 7 Const. Coy as a carpenter "C".

At the beginning of the year 1943 letters and parcels stopped coming from his wife who is in Canada and he suspected her of unfaithfulness. He sought the advice of the Padre at 7 Const. Coy but he received no definite action with regard to his trouble. Following that he wrote his sister asking her to send him any information she could regarding his wife's actions. In June 1943, he received a letter from his sister saying his wife was keeping company with another man and that she was going to try and obtain a divorce.

The fact of his wife's unfaithfulness, Spr. Gray's poor health and neurotic disposition, have been instrumental factors preventing him from adjusting himself to normal army life.

Army routine did not keep him sufficiently occupied and along with his personnal problems was the reason for him going absent without leave.

Spr Gray has expressed a desire to be transferred to an active field of operations which would keep him fully occupied.

A full investigation into Spr Gray's problems and disposition would possibly clear up a lot of his trouble and be the means of adjusting himself to Army life. If on the other hand it showed he was unsuitable as a soldier and as his former position with the C.P.R. is being held open, a discharge would give him an opportunity to hold down a responsible position and so aid his country in a civilian capacity.

Owing to his disposition the certainty rather than the severity of punishment would prove more benificial. May these factors and the report from the Selection Personnel Officer at 1 CERU be taken into consideration in the case of the accused.

C.S. Dunn 1 CERU

(C.S. Dunn) Lieut. No 1 CERU
Defending Officer.

NOTE E.D.
MM

Note E-4

Trial of M.5208. Lfr. N. J. Gay. 1 C.E.R.U.

M.5095. ~~Sgt~~ E. F. Howe, 1 C.E.R.U. being duly sworn states:-

I have known the accused since September 1939 when I was a Transport Corporal at 12 Fd. Coy. I found him a very reliable man at that time. The only thing ~~I noticed~~ was wrong was that his nerves were bad, and he could not use to drive at night. He gave us no trouble in any way and was very reliable. He continued in this capacity with me until I left in February, 1942. I have no knowledge of him since that date.

Selection of Personnel Office
7 February, 44.

ASSESSMENT REPORT

M.5298 Spr. GREY, W.J.

No 'M' test score available.

Education: Completed grade 7 at age of 16. Doesn't seem to be anything abnormal about school history. Missed one year through sickness.

Occupational History: Worked as redman for engineer in charge of construction camps for C.P.R. during summers of 1927 to 1939. In winters, worked as vehicle maintenance man for the same company. Work record seems to have been steady.

Personal History: Married 1931. Since then has been separated from wife who developed Polio. Her hospitalization cost him a considerable amount of money. There appears to be no marked emotional feeling in regard to this separation. Has drunk heavily for periods. Has no health complaints but is in a noticeable nervous condition. Has difficulty in controlling tremour of hands and voice. Would say this man finds life very difficult to face and when he finds himself in an unpleasant situation, takes the easiest way out. Has not adapted himself to the army and seems to have lost all confidence.

Opinion

Consider that there may be psychopathic traits present in his personality, perhaps inadequate, maybe with some addiction to alcohol. It is believed that he will never make an efficient soldier and will continue to cost the army expense, time and trouble, and in the opinion of this S.P.O., this man, in his present state of emotional upset, will never render service to the Army of such a nature that would necessitate his retention overseas.

J.A. Clarkson Lieut

(J.A. Clarkson) Lieut.
S.P. Officer No. 1 C.E.R.U.

W1.

STATEMENT OF CHARACTER

I am m-5234 L/Sgt McRae L.A. instructor attached to I Wing No 1 C.E.R.U.

From Sept 1939 until April 1942 Spr Gray W.J. and myself were members of 13 Cdn Army Fd Coy, R.C.E. I was Spr Gray's Corporal.

I found that he was of an erratic disposition. One day he seemed happy and normal, the next day he would be despondent and wouldn't have much interest in his work, although he carried out his work thoroughly and never questioned any order or gave trouble.

By taking a personnal interest in him and talking to him, I was able to cheer him up and he would take a more normal interest in the army.

I believe his trouble was caused by personnal family problems at home.

L. A. McRae

M-5234 L/Sgt McRae L.A.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M-5208 Spr GRAY, Walter John, Royal Canadian Engineers, No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

DOCUMENTARY EVIDENCE for the prosecution — Declaration of Court of Inquiry held at No 1 CERU on 18 of October 1943 that M-5208 Spr GRAY W.J., illegally absented himself without leave at 2200 hrs 26 Sep 1943 from No 1 CERU and was still absent on 18 Oct 1943. Marked "Exhibit A".

FIRST WITNESS for the prosecution — B-27588 Cpl HEDGER W.J. on the strength of No 1 Canadian Engineer Reinforcement Unit, as a soldier of the Canadian Army (overseas) having been duly sworn in states:-

I,B-27588 Cpl HEDGER W.J. of No 1 CERU was in charge of the Unit Guard Room from 1600 hrs 1 Feb 44 to 2359 hrs 1 Feb 44, when said Spr Gray W.J. M-5208 reported in at 2200 hrs. He was sober and properly dressed. I placed him under close arrest and escorted him to Detention. I have nothing further to say.

W J Hedger Cpl
B-27588 Cpl HEDGER W.J.

The accused declines to cross examine the Witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C)(D)(E)(F) have been complied with.

J W McCammon Lt
(J.W. Mc CAMMON) Lieut. RCE
Officer detailed to take the Summary of Evidence.

In the field
3 Feb 44.

Exhibit "A"
JM

RECORD of the Declaration of a Court of Inquiry assembled at No 1.C.T.R.U. on the 18th day of October 19 43 for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. M-5208 Spr. Gray, WJ

D E C L A R A T I O N

The Court declares that M-5208 Spr. Gray WJ illegally absented himself without leave from No.1.C.T.R.U. at 2200 hrs on the 26th day of Sept 19 43, that he is still so absent, and that on the 27 Mon day of Sept 19 43 he was deficient, and that he is still deficient of the following articles to the value of $ 24.68 (75% of vocab rate. See list below

			$	$
Badges, Capr RCE		1	.09	.06
Badges, shoulder	prs	2	.10	.06
B.D.Trousers	prs	1	6.24	4.68
Boots, ankle	prs	1	4.81	3.61
Greatcoats,drab		1	17.22	12.92
Discs, Identity		2	.02	.02
Capes, A/G		1	4.48	3.32
			32.91	24.68
			100%	75%

Signed at No.1. C T R U this 18 day of Oct 19 43

H.Kaffer Lieut PRESIDENT
No.1. C T R U

M.Shendro Lieut MEMBER
No.1. C T R U

J.P.Elwell Lieut MEMBER
No.1. C T R U

Signature of Commanding Officer A.S.Rutherford Lt.Col.
No.1. C. Eng. R.U.

Certified true copy
Signature of officer having custody of original record Adjt.
No. 1 C. Eng. R.U.

SUB for MFB 375
8/165

LIST OF WITNESSES

List of witnesses in the case of M-5208 Spr GRAY, Walter, John, Of No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (overseas).

FOR THE PROSECUTION

(1) B-27588 Cpl HEDGER W.J. No 1 CERU

FOR THE DEFENSE Nil.

LIST OF EXHIBITS

FOR THE PROSECUTION

(1) Declaration of Court of Inquiry assembled at No 1 C.E.R.U. on 18 October 1943 which declared that M-5208 Spr GRAY, W.J. illegally absented himself without leave from No 1 C.E.R.U. at 2200 hrs on 26 Sep 1943 and was still absent on 18 Oct 1943. Marked "Exhibit A".

FOR THE DEFENSE Nil

RECEIPT FOR CHARGE SHEET AND SUMMARY OF EVIDENCE

I, M-5208 Spr GRAY, W.J. hereby acknowledge receipt of one copy of the Charge Sheet and one copy of the Summary of Evidence concerning my approaching trial by Field General Court Martial.

W J Gray

M-5208 Spr GRAY, W.J.

APPLICATION FOR DEFENDING OFFICER

I, M-5208 Spr GRAY, W.J. desire to have an officer assigned by the Convening officer to defend me at my forthcoming Court Martial.

W J Gray

(W.J. Gray) Spr.

SPECIALIST'S REPORT No. X-21-11

Department of B.N. & P.S. Hospital

No. M-5208 Rank Spr. Name Gray, W.J. Unit No. 1 CERU

Date 12 Feb 44

Report:- Born 1908

Enlisted 15 Sep 1939

Oversees July 1940

History:- Report from No. 1 Neuro Hosp - discharged 20 May 42.

Then no crimes till:-

19 Apr 43 - A.W.L. 4 days - 10 days pay

25 Jun 43 - A.W.L. 23 days - served 3d days detn.

30 Aug 43 - A.W.L. 3 days - 14 days F.P.

About 27 Sep 43 A.W.L. 4 months - court martialed - has asked for mitigation of sentence on account of anxiety neurosis and sent for exam for that reason.

This may seems to have a profound sense of inadequacy - under army strain he becomes nervous and rattled, he says. He is always out of place in a crowd. His condition is probably not much different from what it has been for years. He has vague ideas of reference - but not delusions - he says he knows people don't pay asx much attention to him as he thinks they do. He is defendent and immature. He is mildly depressed - but only m mildly so. He says that what started him going wrong after almost a year's good conduct was wife's behaviour. He wanted to get her allowance stopped.

Diagnosis:- Psychopathic Personality (Inadequate)

Recommend Reboard - B-5

This soldier is fit to stand trial and undergo punishment - but he is not likely to be benefitted thereby and is not likely to be a useful soldier.

Certified True Copy ??????????????????Maj
Specialist RCAMC

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

No. M-5208 Name GRAY, W. J. Sqn., Battery, or Company Corps R.C.E. Date of enlistment 15 Sep 39 Badges Service or Proficiency Pay 20

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No. 1 Signature O.C. Company, etc. H.B. Stuart Major RCE Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				ORIGINAL DESTROYED 15 MAR 40 CARO 2084(6 Months Service)					
Field	10 Sep 41	Spr		A.A.15(1) AWL	L/S Daines	14 Dys C.B.	13 Sep 41	Capt. J.E. Brown	1 Dys Pay FR&I 149(1)(a)
Field	7 Oct 41	Spr		A.A.15(1) AWL	L/Sgt Daines	3 Dys Pay FR&I 149(2)	11 Oct 41	Capt J.E. Brown	1 Days Pay FR&I 149(1)(a)
Field	26 Dec 41	Spr		A.A.15(1) AWL 6 hrs 2 hrs.	L/S Daines Cpl Orr	14 Dys pay FR&I 149(2)	5 Jan 42	Capt J.E. Brown	7 Dys Pay FR&I 149(1)(a)
Field	18 Apr 42	2Spr		A.A.15(1)AWL 1 Dys 19 hrs 30mins)	Cpl Friesen L/C White	13 Dys Pay FR&I 149(2)	21 Apr 42	Maj. J.E. Brown	2 Dys Pay FR&I 149(1)(a)
Field	11 Feb 43	Spr		A.A.15(1) AWL from 0200 hrs 11 Feb 43 to 2250 hrs 14 Feb 43. (Absent 3 Dys 20 hrs 50 mins)	Doc	Admonished	15 Feb 43	Maj. H.B. Stuart RCE	4 Dys Pay FR&I 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Apr 43	Spr		A.A.15(1) AWL from 0200 hrs 19 Apr 43 to 1400 hrs 23 Apr 43. (Absent 4 Dys 12 hrs)	Sjt Jardine L/C Bell	10 Dys Pay FR&I 149(2)	27 Apr 43	Maj. H.B. Stuart RCE	5 Dys Pay FR&I 149 (1)(a)
Field	25 Jun 43	Spr		A.A.15(1)AWL from 2300 hrs 25 Jun 43 to 1630 hrs 19 Jul 43. (Absent 23 Dys 17 Hrs 30 mins)	L/Sjt Carter Sjt Jardine Spr Kennedy	56 Dys Detn	23 Jul 43	F.G.C.M.	56 Dys Pay 149(1)b 4 Dys Pay 1491 (c) 24 Dys Pay149 1(d)

RELEASED from the DETENTION BARRACK Field on Aug. 28 1943 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons 18 days. COMMANDANTS Initials.????????

Field	30 Aug 43	Spr		A.A.15(1)AWL from 0800 hrs 30 Aug 43 to 1430 hrs 2 Sept. 43. (Absent 3 Dys 6 hrs 30 mins)	Doc	14 Dys F.P.	4 Sep 43	Major A.E. Chalmers	Forf 4 Dys Pay FR& I 149 (1)(a)

VERIFIED TO DATE M.F.M. 4 -- C.Taylor, Lt. No. 1 C.E.R.U. 31 Sep 43.

EXC

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT.

4 Feb 44

Officer having custody of the original document.

M.F.B. 353
22M—5-41 (372-2)
H.Q. 1772-39-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-5208	Sapper	GRAY, Walter, John.	No. 1 C.E.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A.15(1)	3	times	A.A.15(1) 7	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~ ~~or~~

Previous convictions of the accused by a court-martial or a ~~civil court~~ ~~A.F.A. 73~~, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 7 days in ~~Air Force~~ military custody, making a total of 7 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ ~~attestation paper~~ service & Casualty form is -- 35 3/12 Yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ ~~attestation paper~~ service & casualty form 15 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 4/12 Yrs

8. The accused is entitled to reckon 4 4/12 Yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~no air force decoration, or air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. Canadian Volunteer Service Medal

~~10. (If the accused is a warrant officer.)—The accused before he was made a warrant officer last held the regimental rank of ----------~~ ~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ....., and in his regiment (or corps), the rank of dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number M-5206 Rank Sapper

Name GRAY, Walter John of No. 1 C.E.R.U. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	23 Jul 43	A.A.15(1) AWL 23 Dys 17 hrs 30 mins)	56 Dys Detn 18 Dys	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 day of FEBRUARY 1944 [illegible] asst adjutant

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Ex "B"

5 H-129

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

Spr. Greaves, R.C.

1/14 CMHQ 40-1
40 P & S
(Strips of 5)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 77070 Spr Ronald Crawther GREAVES

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1)AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To forfeit all ordinary pay for a period of Forty (40) days.

7 Dec/45 (Sgd) [signature] President. (RP 45, 50.)
(Sgd) ..... Judge-Advocate, if any. Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct~~ (the accused be not committed to prison or detention barracks until further order) (1)
(1. ~~Strike out~~ the form not used.)

Date DEC - 8 1945 (Sgd) [signature] Col
Commanding ~~Confirming Offr~~

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H77070 Spr Ronald Crawther Greaves	12 Dec 45	[signature] Commanding Officer "A" Wing 6 Cdn Repat Depot
	6 Cdn Repat Depot Part II Orders No 165 d/13 Dec 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 169 ? 2 H 129

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40, P & S Lond (7144) 4/38B

Convened by Order of Col K S Biorn, OBE Comd A Gp CRU dated 4 Dec 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names. Surname.	Unit.
H 77070	Spr	Ronald Crawther GREAVES	6 Cdn Repat Dep

PROOF READ AND REVIEWED
27 Dec 45 A J Brody Maj
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 7 Dec 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if~~ any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~now~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you~~ object to ..... as interpreter? Ans .....
~~The Interpreter is sworn.(1)~~ Do you object to E1904491 L/Cl O'NEILL JF as shorthand writer? Ans No SIR
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN VD	HQ CRU
Member	CAPT	E A GAIN	1 CG RU
Member	LIEUT	J A DUBE	1 CG RU
~~Judge Advocate~~			
Prosecutor	LIEUT	H V BATEMAN	6 CDN REPAT DEP
Defending Offr	LIEUT	P E SHEPPARD	6 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (now) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or J A, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO - I M (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement as evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in paras E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO - I M
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(I) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans BY C/M NOTE AT
(*1. RP 37(C), 40(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything been or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(2)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 116, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-758. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LIST OF EXHIBITS

In the case of H 77070 Spr Ronald Crawther GREAVES

"EXHIBIT "A" - Certified true copy of extract of Part II orders No 136 d/9 Nov 45.

"EXHIBIT "B" - Certified true copy of extract of Part II orders No 152 d/28 Nov 45

LIST OF WITNESSES

For Prosecution Lieut R Lortie "1" Wing No 6 Cdn Repat Depot

For defence: NIL

This is to acknowledge that I have received free of charge the following papers in connection with my forthcoming trial by FGCM.

1 copy of charge sheet
1 copy of summary of evidence
1 copy of list of witnesses
1 list of Exhibits.

R. C. Greaves.

(R C Greaves) H 77070

I request the services of an English speaking Officer, to be detailed by the Commanding Officer, to defend me at my forthcoming trial by FGCM

R. C. Greaves

(R C Greaves) H 77070

Aldershot, England
30 Nov 45

CHARGE SHEET

The accused, H 77070 Spr Ronald Crawther GREAVES, Transient Strength No 6 Canadian Repatriation Depot, a soldier of the Canadian Army, Overseas placed on active service is charged with:

CHARGE
AA Sec 15 (1) WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave from 1500 hrs 4 Nov 45 until 1500 hrs 26 Nov 45.

TOTAL ABSENCE: 22 Days

(W N Havey)Lt-Col
T/Comd, No 6 Cdn Repat Depot

In the Field
30th day of November
1945.

To be tried by Field General Court Martial.

(K S Bjorn)Col
Comd A Gp CRU

4 Dec 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 77070	Spr		Ronald Crawther	GREAVES	6 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Dec 45 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~[illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A capt	to be detailed by CO 1 CGRU	
A Lt	to be detailed by CO 1 CGRU	

~~[illegible]~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~[illegible]~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 4 Dec 45

Commanding (K S Bjorn) Col Comd A Gp CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CPA6 (In Dept of APAS) 40/P & S/1697 (4831)

I certify that I have this morning examined No: H.77070...

SPR. GREAVES.....R.C.....of....6 CDN REPAT. DEPT.....

and in my opinion, he is...Fit.....to undergo trial by Court Martial.

Station. ALDERSHOT, HANTS.....

Date....7 DEC 45.....(Sgd). [illegible] (Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3 para 27, d/6 Jan 42)

Plea of Mitigation in the case of the accused H-77070 Spr Greaves, R.C., held for Court Martial on this seventh day of December 1945.

Mr. President and members of this court, I ask that consideration be given H-77070 Spr. Greaves, R.C., in that three years and three months of his total of four and half years service has been spent overseas. Thirteen months of this service has been served in the North West theatre of operations. In all this time he has had only three minor crimes.

I feel sure that the persuasions of the people he was staying with while on his last leave and his infatuation of the English countryside from which he had been away so long, have led to the overswaying of his better judgement.

Spr Greaves who is thirty-eight years old and has been married nine years is most desirous to get back to his wife in Canada, who following an operation a short time ago is still not feeling well and is still being treated by her doctor.

I ask the court for leniency so that Spr Greaves may put on draft again and sent back to his wife as soon as possible.

I ask that the punishment be in forfeiture of pay & not in imprisonment

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H 77070 Spr Ronald Crawther GREAVES, on transit strength "1" Wing No 6 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath:

FIRST WITNESS

For the Prosecution

Lieut R Lortie C I C, on strength "1" Wing No 6 Canadian Repatriation Depot, having been duly sworn states:

I am Lieut R Lortie C I C, Asst-Adjt "1" Wing No 6 Canadian Repatriation Depot. According to the records of No 6 Canadian Repatriation Depot, I produce as Exhibit "A" a certified true copy of extract of Part II Orders No 136 d/ 9 Nov 45 and showing the accused absent without leave from 1500 hrs 4 Nov 45. I also produce as Exhibit "B" a certified true copy of extract of Part II Orders No 152, d/ 28 Nov 45 showing the accused as having returned from absence without leave at 1500 hrs 26 Nov 45.

R Lortie Lieut

(R Lortie)Lieut

The accused declines to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing summary of evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e) and (f) have been complied with.

J C Tremblay Lt

(J C Tremblay)Lieut
Officer Detailed to take summary.

IN THE FIELD
29 NOV 45

E.3

Exh "A"

LAST ORDER
NO 135
8 Nov 45

NO 6 CANADIAN REPATRIATION DEPOT
PART II DAILY ORDERS
Issued by
LT-COL W N HOVEY T/COMMANDER

THIS ORDER
NO 136
9 Nov 45

SECTION "B" OTHER RANKS

23. ABSENT WITHOUT LEAVE

23-A AWL from 1500 hrs 4 Nov 45 (1st day)

H 77070 SPR GREAVES R C (MD 10)

CERTIFIED TRUE COPY

(W A Leask)Major
Records Officer
No 6 Cdn Repat Depot
Offr having custody of original

Exh "B"

LAST ORDER
NO 151
27 NOV 45

NO 6 CANADIAN REPATRIATION DEPOT
PART II DAILY ORDERS
Issued by
LT-COL W N HOVEY T/COMMANDER

THIS ORDER
NO 152
28 NOV 45

SECTION "B" OTHER RANKS

ABSENT WITHOUT LEAVE

AWL from 1500 hrs 4 Nov 45. Ret 1500 hrs 26 Nov 45.

H 77070 SPR GREAVES R C (MD 10)

CERTIFIED TRUE COPY

(W A Leask) Maj
Records Officer
6 Cdn Repat Depot
Offr having custody of original

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
H77070	Spr	GREAVES R C	No 6 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Absence without leave — 2 times.
For Drunkenness — 1 times.
For N/A — times.
For N/A — times.

Date of first entry in Field Conduct Sheet 15 Nov 42
Date of last entry in Field Conduct Sheet 26 Dec 44

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*3. ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

*State fact if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~Nil~~ days in military custody, *i.e.*, Nil days in open arrest, ~~Nil~~ days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 38

6. The date of his attestation is 20 May 41

7. ~~The service which the accused is allowed to reckon is .....~~

†State the military decorations (if any) held by accused.

8. The accused is in possession of: CVSM & Clasp - 1939-45 Star France & Germany Star Defence Medal.

9. *(If the accused is a warrant officer or N.C.O.).* The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(P28072) Wt.30721/3701 25,000 9-44 A. & E. W. Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 7th day of December 1945

(H L Johnstone) Capt OIC Transit Str
88 6 Cdn Repat Depot
Offr having custody of original

No. H77070 Name GREAVES RC Sqn, Battery, or Company 18 (Man) Armd Car Regt Corps CAC Date of enlistment 22/5/41 GC Badges Services or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/136 (5-43)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
North anger	15 Nov 42	L/Cpl		AA Sec 15(1)AWL from 2200 hrs 15/11/42 to 1930 hrs 16/11/42 (21 hrs 30 min)	L/Cpl Petrie	Reprimanded			Automatic Forf 1 days pay
Field	10 Feb 43	L/Cpl	1	Drunkenness: In that he was drunk on 10 Feb 43 whilst AWL	Major R S Street	Reduced to Perm grade	11 Feb43	Mjr Street	
Field	26 Dec 44	Spr		AWL from 0830 hrs 26 Dec 44 to 1015 hrs 26 Dec 44 (1 hr 45 min)	Cpl Crozier Cpl Morrison	7 days CB	27 Dec 44		

Certified true copy. R J Gradlestone Lt 25 Nov 45
for (W.A. Leask) Major
Records Officer, 6 Cdn Repat Depot

Exc

GGG-73

PTE GREEN A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.83992 Pte. A. Green, 18 Cdn Fd. Amb.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As provisional evidence for [illegible] beginning on [illegible]~~ EKM

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for eighteen(18) months and to be put under stoppages of pay until he has made good the sum of £5-13-5 and until he has made good the value of the following articles:- 2 Boots ankle 1-16-7; 1 jersey, 6s; 1 brush button, 10d; 1 shining brush, 1/s; 1 polishing brush, 11d; toothe brush, 4 d; holdall 7½d; clasp knife 2/9; Braces W.D. 1s; ~~[illegible]~~ 6s -- Total £2-16-3½

(Sgd) Errol K. McDougall, Judge-Advocate, if any. Capt. — 21 Feb 44, Date awarded. — (Sgd) "J.D. Fairhead" Major, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760)

Date — (Sgd) "JES" Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 45. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn f.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ "JES"

(1. AA 57A. Delete if not used.) "JES"

(Sgd) "J.E. Sager" Brigadier

Date 23 Feb 44 — Commanding 4 Cdn Inf Bde. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 570, 577.)

Accused.	Date.	Signature of Offr.
B.83992 Pte. A. Green 18 Cdn Fd Amb.	25 Feb 44	H.D. ???? Capt A/Adj.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GGG-73

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA31 40/F & H/1898 - 40/701) 4/38B

Convened by Order of Lt-Col A.M. YOUNG A/ Comd 4 Cdn Inf Bde dated 19 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B83992	Pte		A.	GREEN	18 Cdn Fd Amb RC AMC

Certified true copy of original proceedings herein. [illegible]

PROCEEDINGS REVIEWED "W.C. Inch" Lieut 6 Apr 44 Rev. 3 REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED Date 2 Apr 44 "W. Bredin" Major for AJAG FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 21 Feb 44

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for words and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) EKM The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and EKM each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 47, fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

EKM

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The prosecutor applies for court [illegible] accused should be tried by court separately, instead of [illegible]~~ EKM

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to the Interpreter?~~ Ans ~~No, sir~~ EKM

The Interpreter is sworn.(1) Do you object to C30016 Sgt. CARBONNEAU, R.J. ~~the shorthand writer?~~ Ans No, sir

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.D. FAIRHEAD	R. Regt C
Member	Capt	J.M. FLEMING	11 Cdn Fd Amb RC AMC
Member	Capt	K.G. SINGLETON	R. Regt C
Judge-Advocate	Capt.	E.K. McDOUGALL	HQ 2 Cdn Inf Div
Prosecutor	Lt.	L. DALLAIN	18 Cdn Fd Amb RC AMC
Defending Offr	Major	R. BLAIS	18 Cdn Fd Amb RC AMC

Questions by President: Is the Prosecutor a lawyer? Ans [illegible] Is the Defending Offr a lawyer? Ans [illegible] (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea EKM (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 1a, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All ranks and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. EKM

(1. RP 21, 112. See para 1 of Instrs p 2. 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~severally~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty as to ~~FIND~~ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (D).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by comparing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Do you intend to call witnesses on your behalf ? Ans. Are they witnesses as to character only ? Ans.

(*1. RP 115. 2. RP 40(A), see 40(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 7.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 48Z. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record and Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No sir

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, through my Defending Officer (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 43(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see letters on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"JDP"

The Defending Officer makes the following statement in mitigation of punishment:

Pte Green, the accused, is 38 years of age. He enlisted in September 1939 and came overseas on the 7 Feb 40 leaving a wife behind who has been ill since 1933 and a child who is six. He was married 13 years ago and was in civil life a commercial traveller and was making good money. He never drank until he came overseas and he has been worrying quite a while now about his wife. He asked twice for compassionate leave but has been refused. In February 1943 he was in hospital and he had a blood examination and was found sufferring from syphillis. It was a surprise for him and quite a bad surprise. He lost about thirty pounds in weight in 1943. As to his AWL, he pleaded guilty. Why did he go AWL? He does not know himself. He was worried about his illness, his wife and troubles. He wanted to forget. To-day he is tried by Court Martial. He is fit to undergo the trial. I do not want to try and influence the Court but physically at the present time he is not fit for full military duties. Personally, as an MO, I would not sign a medical report stating that he was fit for full military duties. If I can make a suggestion to the Court, I would suggest the man be sent to a hospital to see what extent this syphillis had been spreading recently. To conclude I ask the Court to forget Pte Green's past. He has had some offences and he has been punished. Pte Green has now definite intentioned to be an efficient good soldier. I ask the Court to consider the fact besides pleading guilty to the two charges Pte Green is at the moment a sick man physically and I should say mentally.

Officers Under Instruction

Maj. C.N. Clarke, Essex Scot.

Lt. W.N. Callaghan, Tor. Scot. Att'd HQ 4 C.I.B.

CHARGE SHEET

The accused No: B 83992 Pte Green A., 18th Cdn. Field Ambulance, R.C.A.S.C. attached, Cdn. Army Overseas, is charged with:

A.A.Sec 15(1) W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE, in that he in the field, on 19 Nov 43 absented himself without leave from 2000 hrs 19 Nov 43 until he was apprehended by C.M.P. at about 1730 hrs 8 Feb 44.
Absent 79 days, 21 hours and 30 minutes.
(A.A. Sec. 15(1)). Cost of apprehension £5-13-5

A.A. Sec 24(2) W.O.A.S. LOOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES, in that he, in the field, on 14 Feb 44 was defficient of the following articles:

Quan.	Designation	Vocal Price	Less 25% Total
2	Boots, ankle w/laces	£2-8-10	£1-16-7
1	Jersey, Pullover	8-0	6-0
1	Brush, button brass	1-2	0-10
1	" shaving	1-8	1-3
1	" shoe, polishing	1-3	0-11
1	" tooth	0-6	0-4
1		0-10	0-7½
1	Holdall	3-10	2-9
1	Knive, clasp	1-4	1-0
1	Brace W.D. Right	8-0	6-0
1	Haversack W.E.Patt'37		
xx		£3-15-5	£2-16-3½

of a total value of £2-16-3½ (Two Pounds, sixteen shillings and three pennies half penny)

"J.E. Bundock"
(J.E. Bundock) Major
A/O.C. 18 Cdn Fd Amb. R.C.A.M.C.

Date: 16 Feb 44

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

"A.M. Young"
(A.M. Young) Lt-Col.,
A/Comd - 4 Cdn Inf Bde

In the Field
19 Feb 44

"J.D. Fairhead" Major
President

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-83992	Pte.		A.	GREEN	18 Cdn Fd Amb RCAMC

"J.D. Fairhead" Major
President

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Feb 44 endorsed by me, ~~(or by an offr of my staff for me)~~ "AMY", "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~ AMY
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

AMY 4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.D. FAIRHEAD	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.M. FLEMING	11 Cdn Fd Amb
Capt	K.G. SINGLETON	R Regt C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Major	C.N. CLARKE	Essex Scot

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	E.K. McDOUGALL	HQ 2 Cdn Inf Div

On Active Service in the Fd

in ENGLAND (Country.)

"A.M. Young"
(A.M. YOUNG)
(Signed personally. RP 105 fn 2.)

Lt-Dol (Rank.)

Date 19 Feb 44

A/ Commanding 4 CDN INF BDE
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFASS (In lieu of AFA2) 40/P & S/1697 (4031)

"JDF"

MEDICAL OFFICER'S CERTIFICATE
K.R. (Can) Para 557

I certify that I have this morning examined

No. B-83992 Rank Pte Name Green, A. of 18 Cdn Fd Amb (RCASC attd RCAMC)

and in my opinion he is fit/xxxx to undergo trial by Court-Martial.

Station Field

Date 21 Feb 44

"R.D. Landry" Capt.
(Medical Officer) A.D.S.
18 Canadian Field Ambulance
R.C.A.M.C. C.A. (O).

E/R

Summary of Evidence in the case of B.83992 Pte. Green, A. 18th Cdn. Field Ambulance R.C.A.S.C. attached, C.A.C.

"J.D.Fairhead" Major President

The Commanding Officer directs that the evidence be taken on oath.

First Witness for prosecution

B.15131 Sgt. Bedard, R., 18th Cdn Fd. Amb. RCAMC having been duly sworn states:-
I am the Orderly Room Sgt., I know Pte. Green, A. I produce as exhibit "A" a certified true copy of court of enquiry - Mil Bk 68 - 55 or Bks - 6 - 41(940) HQ 1772 - 61 - 48 and as exhibit "B" Army Form B 252 - apprehension of the accused: as exhibit "C" and "D" cost of apprehension for £0-8-0 and £5-5-5

The accused declines to cross-examine.

"Robert Bedard" Sgt.

Second Witness for prosecution

B.15036 Q.M.S. Gagnon, J.W. 18th Cdn Fd Amb RCAMC having been duly sworn states:
I am the R.Q.M.S. in 18th Cdn Fd Amb RCAMC. On the 14 Feb 44 I took a kit inspection of Pte. Green's kit and I found the following to be deficient. 2 prs Boots ankle, 1 jersey pull-over; 1 brush button brass; 1 shaving brush; 1 polishing brush; 1 tooth brush; 1 holdall; 1 knife clasp; 1 braces W.D. Right; 1 haversack W.E. Pack'37. The total value is £3-15-5 less 25% which makes a total value of £2-16-3½.

The accused declines to cross-examine. "J.W. Gagnon"

The accused after being duly cautioned says, "I have no statement to make".

The accused does not wish to call any witness for the defence.

I certify that the foregoing summary of evidence consisting of one page (1) was taken down by me in the presence of the accused and that rules of procedure 4(c),(d),(e) and (f) have been complied with.

15 Feb 44.

"L. Dallain" Lieut.
18th Cdn Fd. Amb. R.C.A.M.C.

"A" Summary of Evidence

"JDF"

RECORD of The Declaration of a Court of Inquiry assembled at Field England on the 13 day of December 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in tha Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. B.83992 Pte. Green, A. 18 Cdn Fd. Ambulance R.C.A.S.C. attd' illegally absented himself without leave from 2000 hrs at Field England on the 19 day of Nov 43 that he is still so absent; and that on the 21 Nov 43 he was deficient, and that he is still deficient of the following articles:-

Articles	Vocab price	Value	Articles	Vocab Price	Value
Battle dress Blouse 1	£ 1-3-6	0-17-7	Comb hair 1	£0-0-2	0-0-1
Boots ankle 2 prs £1-4-5	2-8-10	1-16-7	2 Identity discs	0-0-1	0-0-0½
Drawers woollen 1	0-5-4½	0- 4-0	Holdall 1	0-0-10	0-0-7½
Gloves knitted drab 1 pr	0-2-1	0- 1-6	Knife clasp 1	0-3-10	0-2-9
Greatcoat 1	2-10-7	1-17-9	Razor Safety 1	0-0-3	0-0-2
Jersey pullover 1	0- 8-0	0- 6-0	Patches disting 2	0-0-3	0-0-2
Shirt angola Drab 2 (9/1)	0-18-2	0-13-6	Towels,hand 2(1/5)	0-2-10	0-2-0
Socks Waster 2 prs (1/8)	0- 3-4	0- 2-6	Badge shoulder 2	0-0-3	0-0-2
Battle Dress trousers 1	1-4-1½	9-18-0	Braces rt.1937 Ptrn 1	0-1-4	0-1-0
Shirts woollen 2 (5/4½)	0-10-9	0- 8-0	Haversack Ptrn 1	0-6-0	0-6-0
Badge Cap RCASC 1	0-0-4½	0- 0-3	A/G Cape 1	0-12-4	0-9-3
Braces 1 pr	0-1-4	0- 1-0	Ground sheet mk 1 VIII	0-13-2	0-9-9
Brass cleaning 1	0-0-2	0- 0-1	Bottle oil mk V I	0-0-3	0-0-2
Brush button brass 1	0-1-2	0-0-10		£ 12-4-9½	
-- shaving 1	0-1-8	0- 1-3			£ 9-2-3
-- shoe polishing 1	0-1-3	0- 0-11			
-- tooth	0-0-6	0- 0-4			

Signed at Field England

this 13 day of Dec 1943

Ray Blais Maj. President

S.M. Burris Capt Member

J.G. Desbiens Lt Member

Signature of Commanding Officer C.Letourneau Lt-Col.

Mil. Bk.68
5500 Bks.-6-41 (940)
H.Q.1772-61-48

Certified true copy "L. Dallain" Lieut.
(L. Dallain) Lieut-
A/Adj 18 Cdn Fd Amb. RCAMC

Exhibit "B" Summary of Evidence

CHARGE "JDF" Army Form B 252 (See King's Regulations)

R.C.A.S.C. Regiment

(att) 18 Cdn Fld Amb.R.C.A.M.C. Battery / Squadron / Troop or Company

CHARGE against No. B-83992. Rank Pte.

Name Green.A.

Place Edinburgh. Date of Offence 8-Feb-44

OFFENCE W.O.A.S.Was A.W.L.from...? until apprehended by the Cdn Provost Corps at 72 Tron Square at about 1730 hrs on the 8-Feb-44.(2)Wearing rank and badge of a Lance Corporal to which he was not entitled to,same time,date,and place.

Names of Witnesses :— "L.S. Grayson" Capt
L.S.GRAYSON D.A.P.M.
LONDON AREA

Cpl. Horton.L.A.#6(Area)Coy.Cdn Provost Corps.

Sgt Thomson.L.#6(Area)Coy.Cdn Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

Statement of **EVIDENCE** in the case of
B-83992.Pte.Green.A.
R.C.A.S.C.(att) 18 Cdn Fld Amb.R.C.A.M.C.

Sir:

At Edinburgh at about 1730 hrs acting on information received, I proceeded to 72 Tron Square accompanied by Sgt Thomson.L.were I saw the a/m soldier.

I approached him and asked to see his pass, he could not produce one and admitted he was A.W.L.

I questioned him on the rank he was wearing, he admitted he was not a Lance Corporal and was a Private.

I arrested and escorted him to the "Barrier Gate Guard room were he was handed over to the N.C.O. i/c guard to be detained.

Edinburgh.
8-Feb-44.

"L.A. Horton" Cpl
(M-85276. Horton.L.A.)

Sir;

I have read over and corroborate the above statement.

Edinburgh.
8-Feb-44.

"L. Thomson" Sgt.
(M-17179.Thomson.L.)

REMARKS

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr.42. "JDF"

I Certify that No. B-83992 Rank Pte. Name Green, A.

Unit RCASC "att" 18 Fld Amb R.C.A.M.C. was arrested at Edinburgh (Place)

at 1730 hrs (hour) on 8 Feb 44 (date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxx Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or the non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable),

"L.S. Grayson" Capt
(L.S. Grayson), D.A.P.M.,
London Area.

London
11 Feb 44.

Exhibit "D" Summary of Evidence "JDF"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B.83993 Rank Pte. Name Green, A. Unit 18 Fld. Amb.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Edinburgh

Date	Particulars	Amount		
10 Feb 44	Escorts return fare from LONDON To Edinburgh	3	0	8
	Prisoners single fare to LONDON From Edinburgh	1	10	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		14	5
	Total £	5	5	5

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

"L.S. Grayson" ~~F.T.S.~~ Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/38
40/P & S/483

Exhibit "C" summary of evidence

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 "JDF"

Reg. No. B.83992 Rank Pte. Name Green, A. Unit 18 Fld.Amb.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars ($\frac{1}{2}$ portion)	Amount		
12 Feb 44	Escorts return fare from LONDON To Brighton		4	0
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Brighton		4	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	0

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

"L.S. Grayson" ~~Lieut~~ Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/480

Ex "B" "JDFairhead" Major
President

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B.83992	Pte.	GREEN, A.	RCAMC 18th Cdn Field Ambulance RCASC Att'd

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. - A.A. Sec. 15(1) 8 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 19-August 1940

Date of last entry in Field Conduct Sheet 14-May 1943

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ N.A. ~~beginning on the~~ ~~day of~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for ~~days in civil custody~~; and for 14 days in military custody, i.e., N.A. days in open arrest, 14 days in close arrest; of which N.A. days were spent in hospital.

5. The present age of the accused is 38

6. The date of his attestation ~~calling up for military service~~ is 11 Sept 1939

7. ~~The service which the accused is allowed to reckon is~~

8. ~~The accused is in possession of:~~

§State the military decoration (if any) held by accused.

9. ~~(If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date~~

Date of Promotion.

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(11114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.699
(22459) Wt.29256/1872 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	23 Jul. 41 Field	A.W.L. Sec. 15(1) 20 days 16 hours	60 days Detention	20 remitted
F.G.C.M.	31 Oct 42 Field	A.W.L. Sec. 15(1) 20 days 19 hours 35 mins.	120 days Detention	40 remitted
F.G.C.M.	14 May 43 Field	A.W.L. Sec. 15(1) 21 days 14 hrs 31 mins	6 mos detention but remitted to 120 days detention	40 days remitted.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 21st day of February 1944

"L. Dallain" Lieut.
A/Adjutant - 18th Field Amb.
R.C.A.M.C. C.A.S.F.

B-83992 GREEN, A.
No Name

Sqn, Battery, or Company: N.A. Corps: Royal Canadian Army Service Corps
Date of enlistment: 11-9-39 GC Badges: Ex."C" "J.D. Fairhead" Major
Service or Proficiency Pay: President N.A. MFM 6 (AFB 122) 40/P&S/150 (3428)

Date of last entry in Company Conduct Sheet: N.A. No and date of last drunk: N.A. Period not reckoning towards freedom from extra fine: N.A. Sheet No 1 Signature OC Company, etc: Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Aug 40	Pte.		A.A. Sec. 15(1) A.W.L.? 0600 hrs 19 Aug 40 until 0600 hrs 17-8-40		28 Days Det. 25 days pay		Forf:	28 Days pay 149(1)(b)
				TTA - 8 days	Documentary	under Sec46AA	3-10-40		8 days pay 149(1)(a)
									25 days pay 149(2)
Field	23 -2-41	Pte.		AA Sec 15(1) A.W.L., 2200 hrs 23-2-41 to 1800 hrs 12-3-41					28 days pay 149(1)(A)
				TTA - 16 days 20 hours	Documentary	28 days Detn	14-3-41	Forf:	17 days pay 149(1)(a)
Field	23-7-41	Pte.		Sec15(1) AA AWL 2359 hrs 23-7-41 to 1600 hrs 13-8-41	F.G.C.M. 5-9-41	xxxxxxxxx 60 days Detn	5-9-41	FGCM Forf	60 days pay 149(1)(a)
				TTA 20 days 16 hours.					44 days
				Sec 15(1) AA AWL 23 days 8 hours whilst under close arrest TTA 44 days	Remission				149(1)(a) (PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-12-41	Pte.		Sec. 15(1) AA AWL 2359 hrs 15-12-41 to 2359 hrs 21-12-41 TTA 6 days		7 days CB	7-1-42	Forfeits 6 days pay	
Field	24-1-42			Sec 15 AA A L 2359 hrs 24-1-42 to 2359 hrs 25-1-42 TTA 1 day		12 days CB 14 days pay	26-1-42	Forf:	14 days pay 149(1)(a) 1 day's pay 149(1)(a)
Field	12-6-42	Pte		Sec. 15(1) AA AWL 2230 hrs 12-6-42 to 9-7-42 TTA 26 days 17 hours 50 minutes	Documentary	28 days Detn	14-7-42	Forf:	28 days pay 149(1)(a) 3 days pay 149(1)(c) ii
						Cost of app 2/9 172(8)			

B-83992 Green, A.
No Name

Sqn, Battery, or Company

Corps R.C.A.S.C.

Date of enlistment 11-9-39 GC Badges

Service or Proficiency Pay

MFM 6
(AFB 122)
40/PAS/136 (34200)

Date of last entry in Company Conduct Sheet 7-1-42

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No 2

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Offr	By whom awarded	Remarks
									Forf. 120 dayspay
Field	31-10-42		Pte.	Sec.15(1) AA AWL 2300 hrs	FGCM				149(1)(b)
				31-10-42 to 2200 hrs 18-11-42	Date of trial 28 nov 42				21 days pay
				TTA 17 Days 23 hours	Finding: Guilty 28-11-42	FGCM			149(1)(a)
				Sec 15(1) AA AWL while under	Sentence 120 days Detn.				6 days pay
				arrest from 0730 hrs					149(1)(c)11
				21 Nov 42 to 0215 hrs 24 Nov 42					
				TTA 2 days 18 hours 45 minutes		Cost of appr 12/4 FR'I 172(80			
				Sec 40 AA 2 charges					
Field	15-5-43		A/L/Cpl	Sec 15(1) AA AWL 2359 hrs 14 May	Tried by FGCM				Forf: 22 days pay
				43 to 1430 hrs 5 Jun 43	Date of trial 16 Jun 43				149(1)(a)
				TTA 21 days 14 hours 31 minutes	Finding: Guilty				11 dys pay 149(1)(c)
					Sentence 6 months Detn				120 days pay 149(1)(b)
					but remitted to one of 120 detn				
					by Cmd "B" Group				

Certified true copy

"L. Dallain" Lt.
A/Adjutant - 15th Fd Amb
R.C.A.M.C. C.A.S.F.

VVV-73

Sgt. Green, A.C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instructions.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 69 to 40	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in lieu of Kit see RP 44 (n 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2nd days, of which 2nd days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Reduction to the Ranks and ~~[illegible]~~ to undergo 120 days detention [illegible]

(Sgd) ..... 19 Jun 44 (Sgd) [signature] President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be attested before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 21 Jun 44 Commanding 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 573, 577.)

Accused P21406 Sgt GREEN A.C. Date 23 June 44 Signature of Offr. [signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 6 SEP 1944 JAG BRANCH C.M.H.Q.

J.102

RECORDED AT CMHQ IN AB 160. WW73

CFA96 (In lieu of AFA3) (C.P.S.S. 1000—3364)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig I.S. Tilson Comd 2 Cdn Inf Bde dated 17 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apparnt. A/rank or A/appmt, if any, see AA 132, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Permt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P21406	Sgt		Alvin Charles	Green	PPCLI

PROCEEDINGS REVIEWED [signature] Lt Col

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 19 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns from RDs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(1), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 8. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1 p.m. 5 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans N.O.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	Lt Col J.S. Tilson	Comdg 2 Cdn Inf Bde
Member	Capt.	Lt E.M. Jarvis	1 C.I.B. Sqdn (Sml)
Member	Lieut	D. Grayson	1 C.I.B. Sqdn (Sml)
Judge-Advocate			
Prosecutor	Lieut	E.D. McPhail	PPCLI
Defending Offr	Capt	L.G. Burton	PPCLI

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused Sgt Alvin Charles Green before arraignment make(s) (no) ~~no~~ plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 52(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 70), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to A&P cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. 3. If otherwise. Delete A10. Where more than one Charge Sheet see RP 82 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. Where necessary make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The ~~Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) The ~~Court is closed, and considers the submission.~~(3) The ~~Court is re-opened, and the President announces that the submission is disallowed on the~~ ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, ~~the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Give evidence Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans No
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(B).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ..... (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, compound of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 208, 330, 563-564, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 138. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, P21406 Sergeant Alvin Charles GREEN, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, CMF, is charged with:-

1st CHARGE
A.A Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at approximately 2000 hrs on the 31 May 44, during an attack under enemy fire, left his Platoon without ~~permission~~ from his superior officer and returned to "A" Echelon, PPCLI.

E.R. Ware
(E.R. Ware) Lt Col
OC, PPCLI

In the Field
9 Jun 44

To be tried by FGCM

17 Jun 44

Robertson Brig
Comd 2 Can Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/PAM/1697 (2663)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
P21406	SERGEANT	Alvin Charles	Green	P.P.C.L.I.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~xxx~~ committed the offence(s) set forth in the Charge Sheet(~~x~~ attached and on (date) endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~xxxx

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined No. P21406 Sgt GREEN, A.C., Princess Patricia's Canadian Light Infantry, and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station In the Fd

Date 19 Jun 44

(Medical Officer)

Sgt. Green had been sick for some time before going in to the line. The medical orderly stated definitely that Sgt Green was very sick, too sick to go on as he told Sgt. Green to go back. Before leaving he reported to the senior N.C.O. and told him to tell the Pl. Comdr. this, the N.C.O. could not do until 30 minutes later. I consider that Sgt. Green was a casualty who most definitely required medical treatment by a R.A.P. The place where he returned to, that is Rear Bn. H.Q. was under shell fire on the night of 31st Sgt. Green did not at any time leave the dangerous area of fire.

By defending Officer

Case of Sgt Green. 1st Wit.

(Sworn)

Pros. Cpt Denman, tell the court of what happened on the 31st May.

Wit. I am Cpt Denman N.G., as section [illegible] in 17 Pl. Bn Coy P.P.C.L.I. On the 31st May 44, we were in a temporary defensive position, and had been under shell and mortar fire, when an order was passed back that we were to move farther forward. My section was in near, near ~~the~~ Pl. H.Q., Pl. Cmdr. My hangout was farther forward with the leading section. Upon being ordered to move forward, Sgt Green ordered me to give a message to the Pl. Cmdr. that he was too sick to carry on, and would make his way back, ~~[illegible]~~ to rejoin the Pl. when he felt better. Prior to this, he had been sick at the stomach and had remitted. When we consolidated again, something like a half hour later, I gave the Pl. Cmdr the message. Sir.

Def. What was the posn. of the coy at the time that this message was given by Sgt Green.

W. We were the second coy. from the front.

Def. How long previously had you ~~[illegible]~~ noticed that Sgt Green was sick?

W. About an hour previous.

P.T.O

Pres. How far ahead was the
Pe. Cmdr. when you were
told to give the message
to him?

Ans. — About 400 yards.

Lt. Dougall (sworn) 2nd Nat

Pros. Tell the court who you are & what you do.

W. — I am Lt. Dougall, I am Pl. Cmdr 17 Pl. D. Coy P.P.C.L.I. ~~On~~ ~~3rd~~

Pros. Tell the court what happened on that day.

W. — On the 31st May I was Pl. Cmdr of 17 Pl. D. Coy P.P.C.L.I. — Sgt Green my Pl. Sgt. About 1700 hrs our forward coy jumped into the enemy and we were the second coy. Our boy took up a defensive position, same as other coys. After I put my Pl. in a defensive position I told Sgt Green I would be up front with the leading section.

Then we got the order ~~[illegible]~~ to move Pl. Approximately 2000 hrs we moved to another position. Now, approximately one half hour later Cpl Denman reported to me that Sgt Green had been taken ill and was going to Bn. H.Q. I reported the matter to Coy H.Q. and made Cpl Denman acting Pl. Sgt.

Def. Why was the coy moving forward?

Wit. — We were taking over positions from 11 - C.I.B.

Def. — What type of enemy fire was coming down on you?

W. — On our left, mortar & shell fire

Def - Was there anything in Dray area?

W - Not much shrapnel. We did not suffer any casualties.

Pres - Before you left to go forward did you see Sgt Green?

W - Yes.

Pres - Did he seem to be okay?

W - Yes, he seemed to be perfectly alright.

Pres - Was there any reason why Sgt Green couldn't have received permission from you to leave?

~~Pres - Have you seen you from Sgt Green at the time?~~

W - No as I was only about 100 yards from him.

Pres. That was the position of the leading section?

W - Yes.

Capt Jarvis - Was the area you were moving into under enemy area?

W - Nothing at the time. Just told to look out for snipers.

3rd Inst

Capt Gamble Adjt. (Sworn)

Pros. Tell the court who you are and how you are employed.

Wn. I am Capt Gamble & Adjt PPCLI.

Pros. Tell the court what happened on the 31st May.

Wn. I am now and was the adjt of the PPCLI on the 31st May. On those dates I was ~~[illegible]~~ at near Bn HQ which was situated with "A" echelon. The main body of the Bn was ahead of us, advancing towards Frosinone. On the 1st June, I saw Sgt Green when I recognize as the accused at "A" echelon. I asked him why he wasn't forward with his coy. He told me ~~that~~ he was afraid that he ~~was~~ ~~[illegible]~~ going to break, and thought that if I did so, it would have an adverse affect upon the new troops. On the storming of the Hitler line which suffered heavy casualties we had a great number of green troops with us who had come up since the Hitler line. Sgt Green also told me that he was sick. I asked him if he had permission from either his coy cmdr or Pl cmdr to leave his ~~[illegible]~~ coy. He said he had not, but had sent a message to his Pl cmdr that he was leaving

Pres. Did he appear to be sick at the time?

W — He appeared to be nervous.

Def — When did he mention about being afraid of breaking?

W — The first time I saw him in the morning.

Def — Did you have a long conversation with him?

W — Not long, about five minutes.

Pres — Did you take any further action?

W — I told him to remain there, and not to return to Bachelor, and at the time I did not know where the Bn was and did not know how he was. I did not lay a charge, as I wanted to see the CO first before doing so.

1st Witness for the Defense ~~[illegible]~~

Sgt Green, having been duly sworn states:

On May 3rd I was in 17 Pl D Coy R.R.C.L.I. At approximately 2000 hrs I was taken ill at the stomach, Also felt very weak. The coy was stopped and on the order to move off I could not keep up. I told Cpl Dunman to take a message to the Pl. Comdr that I was falling away. Then that I would catch up as soon as possible. I made my way back to rear Bn. H.Q. to seek the R.A.P. I arrived there about midnight. The air R.A.P. was not there. I saw the C.O.M.S. of D Coy and got a blanket and slept there for the night. The next morning I saw Capt Grimmell whom I knew to be the adjt. I told him that I was reporting to him as I had fallen out of the line of march the evening before to report sick. I talked to him after reporting to him, as man to man, telling him the action of men under a person who was sick. He said he will not give me a blast as I knew the score. He told me to stay around until I could go to air R.A.P. I then reported to Cpl Embelton. I reprised the coy the following morning.

Def. What was the state of your nerves?

W - I was nervous - being sick.

Def. Were you likely to break under ~~[illegible]~~ fire?

W - I do not think so, sir.

Def. What reason did you give Capt Gamble for coming back?

W - I told him that I was sick in the stomach, and also that I was nervous.

Def. How long had you been sick before leaving the Coy?

W - I had been sick two days before.

Pres - Did you report sick to the M.O. at all?

W - No sir.

Pres. You did not go forward to ask permission to go back?

W - No sir.

Pres. - Did you make any inquiries as to where the R.A.P. was?

W - I was told, after looking around that there was no R.A.P. in the area, as one of the attendants was wounded.

Pres. - When did you rejoin your Coy?

W - 2nd June sir.

Capt Jarvis, - Did you at any time before all your Recommendations that you were sick?

W - Yes on the 30th May

(witness having been sworn) 2nd ~~#~~ witness for Defense

Def - Tell the court who you are -

W - My No. is H 101553 Pte Brouwer, H.

Def - Tell the court about Sgt Green.

W - On the night of 31st May we were advancing up a gulley. We stopped for a few minutes. As we stopped I was called over by Sgt Green. He asked me if I had any aspirin. As a medical orderly, I asked him how he felt. I had known him to vomit after meals. I gave him some tablets as I had been told by the medical officer to do.

As we were sitting Sgt Green was holding his head, and said it was throbbing.

Then we started out. He told me he could not go on as he was too sick

I told him that I did not know where the RAP was and told him that he would have to make his way to Bn HQ. as best he could. He left for Bn HQ. I could not go with him as I was too busy

Def - How ill did Sgt Green appear to be to you

W - He was quite sick and I am sure he could not have carried on

Def - Can you state if Sgt Green was sick?

W - I saw him several days before vomiting after meals

Def - Was Sgt Green sick before going to the front line

W - Yes R P [illegible] complete [illegible]

Character witness

H 16558 Cpl. Lowen, C.A.W.

Sir, since landing in Italy on the 3 Sept 43 until after the capture of Ortona. I was under the leadership of Sgt Green who was Platoon Sgt of 17 Platoon, D Coy. P.P.C.L.I.

In that time on several different occasions I saw outstanding leadership and courage displayed by Sgt Green.

In all my army career I have never been under a commander who displayed better leadership, both in action and training than Sgt Green, — Sir.

I will further state that if I ever have to go into action again, I would not hesitate to do so under command of Sgt Green.

Army Form B.196

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number Rank Name Regiment (or as the case may be)

P21406 Sgt GREEN, A.C. PPCLI

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

Within last 12 months. Since Enlistment.

For ..... Times .....

For NIL Time Previous sheet destroyed 28 Jan 41

For ..... Times .....

For ..... Times .....

For ..... Times .....

[redacted]

2. The accused has not been previously convicted.

Previous convictions of the accused by a court martial or civil court summary awards under section 47 of the Army Act and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [redacted]

[redacted]

4. The accused has been in confinement, awaiting trial on the present charges for Nil days, in civil custody and Nil days in military custody, making a total of ..... days of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years days.

6. The date of his attestation specified in his attestation paper is [redacted] 2 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is [redacted]

8. [redacted]

9. [redacted]

10. The accused is in possession of [redacted] Cdn Volunteer Service Medal & Clasp.

11. [redacted]

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

No. P21406 Rank Sergeant Name GREEN, A.C. of PPCLI Regiment (or as the case may be).

(INSTRUCTION - A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted).

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial or summary award under A.A. 47 or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
	N I L			

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of June 1944

C B Ware

(C.B. Ware) Lt Col
CO, PPCLI

Information may be collected from such sources as are available and the paragraphs concerned amended accordingly.

Last Sheet lost 28-1-41

M.F.M. 6
(A.F. B.122)
10/P & /2336 (2965)

No. P21406 Name GREEN A.C. | Sqn., Battery, or Company 3 Coy Corps PPCLI | Date of enlistment | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk NIL | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. signed R. Waterman, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks

Certified to be a true copy from the Regt'l books in my custody.

C.B. Ware

(C.B. Ware) Lt, Col.
Commanding, PPCLI

(P.T.O.)

Summary of Evidence in the case of
P21406 Sgt GREEN, A.C.

The Commanding Officer directs that the Evidence be taken on oath.

FIRST WITNESS for PROSECUTION

K85207 Corporal W. G. Dennon D. Coy P.P.C.L.I. having been duly sworn, states:-

"I am a section leader in #17 Platoon D Coy P.P.C.L.I. On the 31 May I was Senior Corporal in 17 Platoon. At about 2030 hours we were spread out and in a temporary defensive position, we had been under mortar fire for an hour and a half. The shelling ceased in our area and an order came to move. The platoon Commander, Lieut Dougal was in charge of the platoon and was with the leading section. My section was in rear near Platoon H.Q. Prior to this I had been near Sgt Green and he appeared to me to be quite sick, on one occasion I had seen him vomitting. When the order came to move Sgt Green ordered me to give a message to Mr Dougal at the first opportunity that he was too sick to go any further and would make his way to the rear and catch up as soon as he was well enough. At the time Sgt Green gave me this message we were not under fire. At this time the platoon had not to my knowledge been given an order to attack when I saw

The accused declines to cross-examine this witness.

SECOND WITNESS for PROSECUTION

LIEUT T. DOUGAL PPCLI having been duly sworn states:-

On 31st May 1940 I was Platoon Commander of 17 Platoon D Coy P.P.C.L.I. P 21406 Sgt Green A.C. was Pl sgt. At about 1100 hrs while the company was marching as the second coy in a Battalion advance, we stopped because the leading coy had bumped the enemy. Shortly after this mortar fire fell in our area. I put the platoon in a defensive position and moved to the head of the platoon to be ready for orders, leaving Sgt Green with platoon HQ. At approximately 2000 hrs

SECOND WITNESS for PROSECUTION

(Continued) I received an order to continue the move. I passed the order down the platoon by word of mouth. When we arrived at our next stopping place, at about 2045 hrs and when the rear section came up Cpl Denman reported to me that Sgt Green was sick and was making his way to the rear. I appointed Cpl Denman acting platoon Sgt and reported the occurance to Coy HQ. Up to the time Cpl Denman gave me the message I had received no order to attack.

The accused declines to cross-examine this witness.

THIRD WITNESS for the PROSECUTION

Capt R.G.M. Gammell P.P.C.L.I. having been duly sworn states:- I am adjutant PPCLI. On the morning of the 1st of June 1944 I was at Rear HQ. Rear HQ south East of Frosinone. Tactical HQ and the rifle coys were forward in contact with the enemy I saw P 21406 Sgt Green A.C. whom I knew to be a Platoon Sgt of D Coy. I asked Sgt Green what he was doing there, he stated that he felt that he was going to break under fire, and that rather than make a bad example in front of new troops, he considered that it was his duty to leave. I asked Sgt Green if he had permission of either his Coy or Pl Commander to leave. He stated that he had not, but had sent a message to his Platoon Commander stating that he was leaving.

R.G.M. Gammell Capt.

The accused declines to cross-examine this witness.

The accused was cautioned as follows:-
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:

First Witness for Defence

The accused P 21406 Sgt Green, A.C. D Coy PPCLI having been duly sworn states:-
On 31st May 1944 I was platoon Sgt of 17 Platoon D Coy PPCLI. Having been feeling ill for some time at approximately 2000 hrs I felt I could no longer keep up to the coy & therefore told the next senior NCO in the platoon Cpl Denman that I was going to the rear and that told him to inform the Platoon Commander. On ~~the~~ arriving at Rear BHQ I could not find the R.A.P. So I got into a vehicle and slept. Next morning I met Capt Gammell the Adjutant and I told him how I felt and he suggest I had better stay around for a while to see if I felt better. Later in the day I saw Cpl Embleton of the RAP and got some more pills. Next day I reported back to the Coy.

Sgt Green.

Second Witness for Defence

H 101553 Pte. BRANNER A. PPCLI having been duly sworn states:-
I am a First Aid orderly attached to 17 platoon D Coy PPCLI. On the morning of 31st May 1944 I noticed Sgt Green was not well, I had seen him vomitting the night before and he was still gagging and complained of a head ache. Later in the day ~~there~~ was he was still feeling ill and I gave him some aspirin and sulfa-guinadine. After breakfast that day there was no food all day. At about 2000 hrs Sgt Green ~~returned~~ to me to be too weak to carry on and I told him to take the pills I had given him and if these did no good he had better go back to the R.A.P.

I certify that the foregoing Summary of Evidence was consisting of 3 pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (F) and F) were complied with.

In the Field
7 June 1944

Officer taking Summary

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Reduction to the Ranks and to undergo 120 days detention

(Sgd) ..... 19 Jun 44 (Sgd) "HWJ Patterson" Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : CONFIRMED

[I direct that the accused be not required to undergo the detention awarded by the Court.] "TGG"
(1. AA 57A. Delete if not used.)

(Sgd) "T G Gibson" Brig

Date 21 Jun 44 Commanding 2 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
P21406 Sgt Green A.C.	23 Jun 44	"David Rosser" Maj.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY Spare copy - VVV 73
(D.W. ROSSER) LIEUT.

FIELD GENERAL COURT-MARTIAL

CPA98 (To face of AFA81) 40/P & S 18868 (40000) 4/38B

Convened by Order of Brig T.G. Gibson Comd 2 C I B dated 17 Jun 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P21406	Sgt		Alvin Charles	GREEN	P P C L I

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 19 Jun 44

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 761 to 779. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1405 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1)
"MAP" The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : Do you object to ..... as interpreter ? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	H.W.J. PATTERSON	SEAFORTH OF C
Member	Capt	L.E.M. JARVIS	1 CIB Sp Gp (S.L.I.)
Member	Lieut	D. GREYEYNS	1 CIB Sp Gp (S.L.I)
Judge-Advocate			
Prosecutor	Lieut	E.D. McPhaie	P P C L I
Defending Offr	Capt	L.G. Burton	P P C L I

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Ent p 3.)

A8. The accused Sgt Alvin Charles GREEN before arraignment make(s) (no) ~~fal~~ plea "NWJP" (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references as fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, P21406 Sergeant Alvin Charles GREEN, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, CMF, is charged with:-

1st CHARGE
A A Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at approximately 2000 hrs on the 31 May 44, during an attack under enemy fire, left his Platoon without permission from his superior officer and returned to "A" Echelon, PPCLI.

"C B Ware"
(C.B. Ware) Lt Col
CO, PPCLI

In the Field
9 Jun 44

TO BE TRIED BY FGCM

"IG Gibson Brig"
Comd 2 Cdn Inf Bde

17 Jun 44

"LCroft"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF&S) 40/P&S/1697 (1962)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P21406	SERGEANT		Alvin Charles	GREEN	P.P.C.L.I.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) ..... endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ([illegible])
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible] attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

"TGG"

PRESIDENT.

MAJOR	H.W.J. PATERSON	SEAFORTH OF C
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

CAPT	L.E.M. JARVIS	1 CIB Sp Gp (S.L.I.)
LIEUT	D. GREYEYES	1 CIB Sp Gp (S.L.I.)
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

LIEUT	J.R. McNAMARA	SEAFORTH OF C
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

"T G Gibson" (Signed personally. RP 105 fn 2.) (Rank.)

(T.G. Gibson) Brig

Date 17 Jun 44

Commanding Second Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"LCroft"

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined No. P21406 Sgt GREEN, A.C., Princess Patricia's Canadian Light Infantry, and in my opinion he is fit to undergo trial by Court Martial.

Station in the Fd
Date 19 Jun 44

"Undecipherable"
(Medical Officer)

CASE OF SGT GREEN 1st WIT

PROS.- Cpl Denman (Sworn) tell the court of what happened on the 31st May.

WIT - I am Cpl Denman W.G., as section cmdr in 17 Pl D Coy PPCLI. On the 31st May 44, we were in a temporary defensive position, and had been under shell and mortar fire when an order was passed back that we were to move farther forward. My section was in rear. rear Re H.Q. Pl Cmdr Mr Dougall, was farther forward with the leading section. Upon being ordered to move forward, Sgt Green ordered me to give a message to the Pl Cmdr. that he was too sick to carry on, and would make his way back, to rejoin the Pl. when he felt better. Prior to this, he had been sick at the stomach and had vomitted. When we consolidated again something like half hour later, I gave the pl comdr the message, Sir.

DEF - What was the posn of the coy at the time that this message was given by Sgt Green.

W - We were the second Coy from the front.

DEF - How long previously had you noticed that Sgt Green was sick?

W - About an hour previous.

PTO

PROS - How far ahead was the Pl Cmdr when you were told to give the message to him?

W - About 400 yards

R.P. 83(b) complied with.

LT. DOUGALL (SWORN) 2nd Wit

PROS - Tell the Court who you are & what you do.

W - I am Lt. Dougall, I am Pl Cmdr 17 Pl D Coy PPCLI.

PROS - Tell the Court what happened on that day.

W - On the 31st May I was Pl Cmdr of 17 Pl D Coy PPCLI - Sgt Green my Pl Sgt. About 1700 hrs our forward Coy bumpted into the enemy and we were the second coy. Our coy took up a defensive position, same as other coys. After I put my Pl in a defensive position, I told Sgt Green I would be up front with the leading section.

Then we got the order to move. At approximately 2000 hrs we moved to another position. Now, approximately one half hour later Cpl Denman reported to me that Sgt Green had been taken ill and was going to Bn H.Q. I reported the matter to Coy H.Q. and made Cpl Denman acting Pl Sgt.

DEF - Why was the coy moving forward.

W - We were taking over position from 11 - C.I.B.

DEF - What type of enemy fire was coming over on you?

W - On our left, mortar & shell fire.

DEF Was there anything in D coy Area?

W - Not much shrapnel. We did not suffer any casualties.

PRES - Before you left to go forward, did you see Sgt Green?

W - Yes

PRES - Did he seem to be OKay?

W - Yes, he seemed to be perfectly alright.

PRES - Was there any reason why Sgt Green couldn't have received permission from you to leave?

W - No, as I was only about 100 yards from him.

PRES - That was the position of the leading section?

W - Yes

Capt Jarvis - Was the area you were moving into under enemy area?

W - Nothing at the time. Just told to look out for snipers.

R.P. 83 (b) complied with.

Capt Gimble Adjt 3rd Wit (Sworn)

PROS - Tell the court who you are and how your are employed

W - I am Capt Gimble @ Adjt P P C L I.

PROS - Tell the court what happened 31st May.

W - I am now and was the Adjt of the PPCLI. On the 31st May. On those dates I was at rear Bn H.Q. which was situated with "A" Echelon. The main body of the Bn was ahead of us, advancing forwards. Frosinone. On the 1st June, I saw Sgt Green whom I recognize as the accused, at "A" Echelon. I asked him why he wasn't forward with his Coy. He told me he was afraid that he was going to break, and thought that if I did so, it would have an adverse affect upon the new troops. On the storming of the Hitler line, which suffered heavy casualties, we had a great number of green troops with us who had come up since the Hitler line. Sgt Green also told me that he was sick. I asked him if he had permission from either his Coy Comdr or Pl Cmdr to leave his Coy. He said he had not, but had sent a message to his Pl Cmdr that he was leaving.

PROS - Did he appear to be sick at the time?

W - He appeared to be nervous

DEF - When did he mention about being afraid of breaking?

W - The first time I saw him, in the morning.

DEF - Did you have a long conversation with him?

W - Not long, about five minutes.

PRES - Did you take any further action?

W - I told him to remain there, and not to return to "A" Echelon, and at the time I did not know where the Bn was and did not know how he was. I did not lay a charge, as I wanted to see

the C.O. first before doing so.

R.P. 83 (b) complied with.

1st WITNESS FOR THE DEFENCE

Sgt. Green, having been duly sworn states:-

On May 31st I was in 17 Pl D Coy PPCLI. At approximately 2000 hrs I was taken ill at the stomach. Also felt very weak. The coy was stopped and on the order to move off I couldnot keep up. I told Cpl Denman to take a message to the Pl. Cmdr. that I was falling out. Also that I would catch up as soon as possible. I made my way back to rear Bn. H.Q. to seek the R.A.P. I arrived there about midnight. The R.A.P. was not there. I saw the CQMS of D Coy and got a blanket and slept there for the night. The next morning I saw Capt Gimble whom I knew to be the Adjt. I told him that I was reporting to him as I had fallen out of the line of march the evening before to report sick. I talked to him after reporting to him, as man to man, telling him the action of men under a person who was sick. He said he need not give me a blast as I knew the score. He told me to stay around until I could go to an R.A.P. I then reported to Cpl Embelton. I rejoined the coy the following morning.

DEF - What was the state of your nerves?

W - I was nervous - being sick.

DEF - Were you likely to break under fire?

W - I do not think so, Sir.

DEF - What reason did you give Capt Gamble for ~~YM~~ coming back?

W - I told him that I was sick in the stomach, and also that I was nervous.

DEF - How long had you been sick before leaving the coy?

W - I had been sick two days before.

PROS - Did you report sick to the M.O. at all?

W - No Sir.

PROS - You did not go forward to ask permission to go back?

W - No Sir.

PRES - Did you make any inquiries as to where the R.A.P. was?

W - I was told, after looking around, that there was no R.A.P. in the area, as one of the attendants was wounded.

PRES - When did you rejoin your Coy ?

W - 2nd June, Sir.

Capt Jarvis:- Did you at any time before tell your Pl Cmdr that you were sick?

W - Yes, on the 30th May.

R.P. 83(b) Complied with.

WITNESS HAVING BEEN SWORN **2ND WITNESS FOR DEFENCE**

DEF - Tell the court who you are.

W - My No is #101553 Pte Browner, A.

DEF - Tell the Court about Sgt Green.

W - On the night of 31st May we were advancing up a gully. We stopped for a few minutes. As we stopped, I was called over by Sgt Green. He asked me if I had any Asperins. As a medical orderly, I asked him how he felt. I had known him to vomit after meals. I gave him some tablets as I had been told by the Medical Officer to do.

As we were sitting Sgt Green was holding his head, and said it was throbbing. Then we started out. He told me he could not go on as he was too sick.

I told him that I did not know where the R.A.P was and told him that he would have to make his way to Bn H.Q. as best he could. He left for Bn H.Q. I could not go with him as I was too busy.

DEF - How ill did Sgt Green appear to be to you.

W - He was quite sick, and I am sure he would not have carried on.

DEF - Can you state if Sgt Green was sick?

W - I saw him several days before vomitting after meals.

DEF - Was Sgt Green sick before going to the front line.

W - Yes.

R.P. 83 (b) complied with.

CHARACTER WITNESS
H 16558 Cpl Lowen, C.A.W.

Sir, since landing in Italy on the 3 Sept 43 until after the capture of Ortona, I was under the leadership of Sgt Green who was Platoon Sgt of 17 Platoon; D coy PPCLI.
In that time on several different occasions I saw outstanding leadership and courage displayed by Sgt Green. In all my Army Career I have never been under a Commander who displayed better leadership, both in Action and training, than Sgt Green, Sir.
I will further state that if I ever have to go into action again, I would not hesitate to do so under Command of Sgt Green.

~~DEF - ////////Hon ill did Sgt G~~

Substitute for
Army Form B 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

P21406 Sgt GREEN, A.C. P P C L I

The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trail has been dispensed with:-

Within the last 12 months	Since Enlistment
Nil	Previous sheet destroyed 28 Jan 41.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges for nil days, in civil custody and nil days in military custody, making a total of nil days of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years

6. The date of his attestation specified in his attestation paper is 2 Sep 39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 years 272 days.

10. The accused is in possession of Cdn Volunteer Service Medal & Clasp.

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

P21406 Sergeant GREEN, A.C. P P C L I

N i l

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my charge.

Signed this 9th day of June 1944 "CB Ware"
(C.B. Ware) Lt Col
CO, PPCLI

MFM 6
(AFB 122)
40/PAM/135 (3438)

No P21406 Name GREEN A.C. Sqn. Battery or Company 3 Coy Corps PPCLI Last Sheet lost 28-1-41 Date of enlistment GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No and date of last drunk NIL — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc signed R.Waterman Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award of other charge with trial	By whom awarded	Remarks
				Certified to be a true copy from the Regt'l books in my custody. "C B Ware" (C.B.Ware) Lt-Col. Commanding, PPCLI.					
"LCroft"									

(PTO)

CIC-90
GNR GREEN A.G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B15632 Gnr. ALFRED GEORGE GREEN

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of nil days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : 150 days detention

(Sgd) ..... 17 Mar 44 (Sgd) J.S. Dumphy Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings & Sentence

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) W.H. Hewetson Brig

Date 19 Mar 44 Commanding 1 Cdn Army Grand R.A. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

W.H. Hewetson Lt. Col.

B.15562 Sjt Alfred Seymour 19 March 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AG 160 [illegible] 98

FIELD GENERAL COURT-MARTIAL (CFA96 (To Sheet of AFA2))

Convened by Order of BRIG. WE. HUCKVALE Comd 1 CAG RA dated 15 MAR 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B15632	GNR.	ALFRED GEORGE	GREEN	2 CDN MED REGT.

PROCEEDINGS REVIEWED E.S.S.
R. Beaulieu Capt
27 Apr 44

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 17 MAR 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0955 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	J.S. DUMPHY	1 MED REGT
Member	LIEUT	J.J. HOSKIN	5 MED REGT
Member	LIEUT	J.C. AHLEN	2 MED. REGT
Judge-Advocate			
Prosecutor	RA LIEUT	K.M. BECKETT	2 MED REGT.
Defending Offr	LIEUT	A.H. MALOUF	2 MED REGT

Questions by President : Is the Prosecutor a lawyer ? Ans YES. Is the Defending Offr a lawyer ? Ans YES. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(no)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your pleas. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st & 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 2nd charge(s), and allowed on the 1st charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ~~I give evidence only, which I mean~~ Do you intend to call witnesses on your behalf ? Ans. yes Are they witnesses as to character only ? Ans. No.

(1. *RP ~~105~~ 115* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF ARS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 8a(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. No.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. *MFM 353 or MFB 290.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No.

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 103e. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, As to sentences assigned for civil offences by law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. As to assembly and disposal of record after trial see instrs on back of Convening Order.) MML p 90, 757-759. Confirming Offr see KR Can 567.* 2. *RP 50. As to release from arrest by* 2. *RP 37(F) fn 7.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JSD

CHARGE SHEET

The accused No.B-15632 Gunner Alfred George Green, 2nd Canadian Medium Regiment, R.C.A., a soldier of the Canadian Army placed on Active Service is charged with:-

FIRST CHARGE
AA Sec 19

WHEN ON ACTIVE SERVICE DRUNKENNESS

in that he

in the Field at approximately 2330 hours on the 3rd March 1944 was drunk.

SECOND CHARGE
(ALTERNATIVE)
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field at approximately 2300 hours on 3rd March 1944 was in an unfit condition to perform his duties due to previous indulgence in alcoholic beverages.

W C Leggat LT.-COL.
(W. C. LEGGAT)
C.O. 2nd Canadian Medium Regiment, R.C.A.

In the Field,
9th March 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

W E Huckvale

(W. E. Huckvale) Brigadier
Comd 1 Cdn Army Group, RA

In the Field
15th March 1944.

FIELD GENERAL COURT-MARTIAL

CFA 35 (In lieu of A.F.A.D. 40/P&S/1497 (Instdl))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-15632	Gunner	Alfred George	GREEN	2 Cdn Med Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Mar 44 endorsed by me, (~~A.A.A. s.49(2)(a) and (b)~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is expedient in the interests of discipline that such offence(s) should be tried~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I direct that upon the finding of guilty of the charge(s) or any of them the accused be sentenced to be~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I appoint~~ the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.S. Danphy	1 Cdn Med Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieut	To be detailed	5 Cdn Med Regt
Lieut	To be detailed	2 Cdn Med Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	To be detailed	2 Cdn Med Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in Italy (Country.)

Date 15 March 44

W.E. Huckvale

(W. E. Huckvale) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 1 Cdn Army Group, RA
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use at trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B-15632 Gnr. Green A.G. 2 Cdn Med Reg't. RCA
has this morning been examined by me and
of ~~xxxxxxxxxxxxxxxxxx~~ is in a good state of health,
and fit to undergo Trial by Court martial.

CAPT RCAMC
Medical Officer
(J. P. PEARCE)

Station In the Field

Date 17 Mar 44

M. F. B. 246

NOTES

B-15632 GNR GREEN A.G.

D3 First Witness for the prosecution

D14625 ⅘gt Wilson H.C. 2 MED. REGT.

at 1100 hrs orders were issued to move. at 1930 hours I went to the new position with the gun. Gnr Green was left behind to ride up later. at ~~2330~~ 2230 hrs I was informed (in the presence of the accused) that Gnr Green was under the influence of liquor. I saw Gnr Green when he was helped out of the truck. He was unsteady on his feet. He went to bed. He is a layer. Someone else had to do his duties. He was left behind to get the remainder of the equipment ready. He was sober at 1800 hrs.
R.P 83 b complied with.
Cross-examination postponed.

Second Witness for the prosecution.

B17631 ⅘Bdr Neville J.F 2 Med Regt.

Gnr Green is a member of my subsection. The crew were preparing the gun at 1830, at which time I returned to the gun position. at 2330 I returned to the old gun position. I found Gnr Green under the influence of liquor, unable to perform his duties. I did not see him. I saw Gnr Green loaded into the truck. He couldn't be wakened on arrival at the new position. I saw him taken from the truck. He was unfit for duty. I can't say he was drunk. He fought with the men taking

him from the truck. He did no duties that night.
Someone else had to do his duties.

Cross-examination.

I first saw Gnr Green at the old position being loaded in the truck. It was quite dark. I was not close to him. He was not given any duties to do. He was able to walk at the new position. I was never close enough to see his facial expression. I was never closer to him than 10 yds

Re exam.

I have known Green for 2 yrs. I can recognise Gnr Green without seeing his face.

R.P. to be completed with.

Third Witness for the prosecution.

B17640 A/BSM Hook E.A. 2 Med Regt.

I ordered the gun to move. I returned to the old position and found Gnr Green sleeping in the Matador. I could not waken him. I tried to waken him again at the new position He was taken out of the truck. He had no control over himself. I ordered a charge to be laid against him. He was dazed, unsteady on his feet. I would say he was drunk. His breath smelled of liquor. There was enemy shelling in the new Area.

Cross examination.

I was close to Green - I even shook him when I tried to waken him. I saw Green about 2230 hrs at the old position when I returned to the old position.

It took about 4 hrs for the tractor to return to the old position.

Exam by Court Lyreen was in the Matador when I returned to the position. I had him charged because he was unable to carry out his duties.

R.P. 83-b complied with

Submission by defending offr

D4 The 1st witness did not state that the accused was drunk or under the influence of drink. He gave no reasons for believing the man was under the influence of liquor. He gave no reason to show that the accused was unable to perform his duties.

Neither the 1st or second witnesses could say that the accused was given a duty to perform.

The 3rd witness did not detail the accused for any duty. There is no evidence to show that the accused was on duty or detailed for duty during the period that he was supposed to be under the influence.

R.P. 83-b complied with

The Court disallows the submission on the 2nd charge but allows the submission on the first charge. Accused found NOT GUILTY on first charge.

Cross-examination of first Witness.

D14625 Sgt Wilson H.C.

Gnr Lyreen is in my subsection. He had been on duty for some time. Shifts were 6 hrs on and 6 hours off. Several times those off shift were required to double man the guns

during that day and the previous day and night.

Re-exam.

All members of my sub worked under the same conditions as Gnr Green. All the crew ~~were~~ not ~~in the same condition~~ as Gnr Green. 1 man of my subsection was fit for duty and carried out their duties that night.

Exam by Court.

All my men were in fit condition to carry out their duties when the order to evacuate was given out.

BSM Hook told me that the accused was under the influence of liquor. This was said in the presence of the accused. The accused was 30 yds away. It was said in an ordinary voice.

P.P. 83-b complied with.

The court adjourned at 1200 hours.

The court re-opened at 1330 hrs

D6 First Witness for the defence.

B17515 Gnr Eastaugh W.F. 2 Med Regt.

I am motor mech. C troop. On 3 Mar 44 I saw Gnr Green at the Cmd. Post at about 2245 hours. He was sober. He said he was tired

Cross Exam

I did not see Green before 2245 hrs I saw him at the gun position. I helped load the tractor. I told him to get into the tractor when he said he was tired. I travelled to new gun position in back of truck with Gnr Green. I did not see him then. I did not see the BSM say to arouse Green. I did not assist Green from the tractor. I saw him

get out of the vehicle after the next load I did not hear the BSM ~~[illegible]~~ detail men to remove Green from the truck. He helped unload the vehicle on the last trip about 0030 hrs. He was in the truck for the 2 trips. He got out on the last trip. About 2345 hours we made the last trip from the old to the new position. I was in the kitchen of the Comd. Post building from 2245 until 2330

Re-exam

I saw Green walk away from the truck unassisted. He was not under the influence of liquor

Exam by Court. ———

R.P. 83 b complied with.

Second Witness for the defence

B18645 Gnr Ward B.G. 2 Med Regt.

I am a driver in C troop. I drive for D Sub. On Mar 3 about 2330 I saw Gnr Green walking down from the CP. I did not speak to him. He seemed to be normal. I did not see him again. I did not speak to him. I also saw Green about 2000 hours. He was carrying out his duties. He was normal.

Cross Exam

I helped unload the truck on the Second Trip. Green did not help.

R.P. 83 b - complied with.

JSW

JSW

SUMMARY OF EVIDENCE
in the case of
B-17518 Gnr. Allen, J.A.
F-88371 " Currie, F
B-15632 " Green, A.G.
all of the 25 Med Bty.,2 Cdn Med Regt,R.C.A.
Taken under oath by order of the Commanding Officer.

FIRST WITNESS D-14625, Sgt. Wilson, H.C., 25 Med Bty., 2 Cdn Med Regt,RCA, having been duly sworn, states;

On 3 Mar 44, at approximately 1930 hrs "D" sub-section was preparing to move to a new gun position. We got an order from Lieut. Hollam over the tannoy system to be prepared to move at last light at approximately 1700 hrs. I went to the new gun position at 1930 hrs leaving the three accused behind with intention that they should ride up with the next load of equipment. On the arrival of that equipment I found that only Gnr. Green had come with it. BSM Hook informed me, in the presence of Gnr. Green, that he was under the influence of alcoholic beverages. On the arrival of the next load of equipment, Gnrs Allen and Currie came. This was about 0200 hrs, 4 Mar 44, and I found Gnr. Allen and Gnr. Currie under the influence of alcoholic beverages.

Question by Gnr. Allen, J.A.

1. Q. Would you say I was drunk on arrival at the new gun position?
   A. I did not state that Gnr. Allen was drunk, but that he was under the influence of liquor.

The Accused Gnrs Currie and Green decline to cross-examine this witness.

Questioned by officer taking the summary.

1. Q. Were the accused or any of these present when you received the order to move from Lt.Holland?
   A. They were all present.

2. Q. Did they hear or know about the order?
   A. The order was given over the tannoy and I repeated the order.

3. Q. These men are all members of your gun detachment?
   A. Gnr. Allen and Gnr. Green are. Gnr. Currie is LMG man for the troop and when not on that duty is on duty at my gun position.

4. Q. On what do you base your statement that these men were under the influence of liquor?
   A. They were not too steady on their feet.

5. Q. Were they fit to carry out their duties that night?
   A. They could have done so with a lot of persuasion. They might have been able to do their duties on the gun but I would not take the chance.

6. Q. Was it necessary to employ other men to take their place?
   A. Yes.

7. Q. What did you do with the men when they arrived?
   A. They took their kits, made their beds and went to sleep.

Re-examined by Gnr. Allen, J.A.

1. Q. On arrival at the gun position could you say I was incapable of carrying out my duty and is it not here that I started to unload the truck?
   A. Yes, you started to unload the truck and could have carried out your duties with a lot of persuasion.

2. Q. Do you know that I was told by one of the crew to leave the truck and go to bed?
   A. No.

The Accused Gnrs Currie and Green again decline to cross-examine the witness.

D.14656 Lt. H.T. Wilson Sgt.
(Wilson, H.C.) D-14625

SECOND WITNESS B-17631 L/Bdr. Neville, J.F., 25 Med Bty, 2 Cdn Med Regt, RCA, having been duly sworn, states;

I am the N.C.O. 2 i/c of "B" sub-section, commanded by Sgt. Wilson. On the night of 3 Mar 44 I left the gun position at approximately 1730 hrs and went to "B" Echelon. I returned at approximately 1900 hrs and the detachment was busy winching out the gun to move it to its new location. The whole crew was busy working on the gun, including the accused. The gun was moved onto the road near the Command Post and taken to the new position by the crew that was there at the time. The accused were left at the old position. I went up with the gun and came back with the matador to get the remainder of the gun stores and the ammunition. This was approximately 2330 hrs. As a result of a conversation with Gnr. Delaney, I saw Gnr. Allen and Gnr. Currie. Currie was walking around the position and Allen was lying in a dugout where a pup tent had been. Gnr. Currie was in no condition to load ammunition but was capable of carrying out light duties. I could tell by the manner of speech and his unsteadiness on his feet that he was under the influence of liquor. I did not speak to Gnr. Allen, but I saw him. He was sick when I saw him and I did not think he was fit to work. Some drivers helped us to load the equipment and ammunition on the matador. Gnr. Green went up on that load. He was helped on by Gnr. Eastaugh and one other man. I went up with the load. After we got there, they pulled Green out of the front seat and had some trouble to get him aroused. He was asleep. After they got him out, he went to bed. I don't think he was fit to carry out his duties.

Questioned by Gnr. Allen, J.A.

1. Q. When you found me in the dugout would you say I was drunk?
   A. I couldn't exactly say you were drunk. I was not talking to you. All I know is that you were sick. It might have been from anything.

2. Q. Is it not true that a few days previous to this incident I had been sick with diarrhoea and upset stomach?
   A. Yes.

3. Q. On arrival at the new gun position did I not start to unload the truck?
   A. Yes.

SECOND WITNESS

Questioned by Gnr. Allen, J.A. (Cont'd)

4. Q. Did you know that one of the crew told me not to bother unloading the truck but go to bed?
A. Yes, I remember that.

The accused Gnrs Currie and Green decline to cross-examine the witness.

Questioned by officer taking the summary.

1. Q. What are the normal duties performed by these men on the gun detachment?
A. Gnr. Green and Gnr Allen are both layers.

2. Q. Where did you first see Gnr. Green?
A. The first place I saw him plainly was at the new gun position where they were taking him out of the truck.

3. Q. Who was taking Green out of the truck?
A. Gnr. Eastaugh mainly with the assistance of Gnr. Ward. BSM Hook went first to try to get Gnr. Green awake but gave it up and told the men to get him out of the truck.

4. Q. Was it necessary to detail other men to perform the duties of these men?
A. Yes sir. Gnr. Delaney was the only men left behind able to work.

(Neville, J.F.) L/Bdr. S-17631

Question to the Accused.

Q. Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence?

Q. "Gnr. Allen"? A. "No sir."
Q. "Gnr. Currie"? A. "No sir."
Q. "Gnr. Green"? A. "No sir."

All Accused decline to make a statement.

Certified that;

Rules of Procedure 4(c), 4(d), 4(e), 4(f) complied with.

F.N. Beckett Lieut.
(F.N. Beckett)
Officer directed to take the summary by the Commanding Officer.

Exhibit A [illegible]

ARMY FORM B 200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-15632	GUNNER	GREEN, A.G.	2 CDN MEDIUM REGIMENT, R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheet† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be excerpted from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provided these do not contain more than the most serious offence in each entry, and to any remaining specific acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absence without leave	Four times	Nine times.
For Drunkenness	One times	Two times.
For Creating a disturbance	One times	One times.
For Remaining in bed after Reveille	times	One times.
For Neglecting to obey Sty orders	times	One times.

Number of instances of gallantry or distinguished conduct, N/A

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 22 yrs 10 mos. 6 dys.

6. The date of his attestation specified in his record of service is 5 June 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 Yrs 9 Mos. 13 dys.

8.

9.

10. The accused is in possession of, or entitled to, no military decoration or military award.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated N/A and in his regiment (or corps or department) the rank of N/A dated N/A

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-15632 Rank Gunner Name Green, A.G., of 2 Cdn Med RCA Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.
		- NIL -		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of March 1944

CAPT & ADJT.
(A. M. CAMPBELL)
2 Cdn Medium Regiment RCA

23 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	N/A	
In the rank of	N/A	
In the rank of	N/A	

(Instructions.—If any answer to any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by Field general court-martial the information may be obtained from such sources as are available and the paragraph answered accordingly.)

MFM 6
(AFB 122)
40/P&S/136 (3438)

No B.15632 Name GREEN, A. Sqn. Battery or Company Corps R.C.A. Date of enlistment 5-6-41 GC Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk One 31-1-42 Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26-2-43	Gnr	-	A.A.Sec 15 (1) AWL from 0200 hrs 26 Feb 43 to 0100 hrs 28 Feb 43. (absent 1 day, 23 hrs)	L/Bdr Saunders, G.	7 days F.P. 7 days pay	1 Mar 43	Lt-col WA Townsley	Forf. 2 days pay F.R.&I. 149 1 (a)
Field	4-7-43	Gnr	-	A.A.Sec 15 (1) WOAS AWL from 2300 hrs 2-7-43 to 0900 hrs 4-7-43. (absent 1 day, 10 hrs)	Bdr Beattie, WG Bdr Beattie, W.G., L/Bdr Brodeur, R.	21 days F.P.	5 Jul 43	Lt-col WC Leggat	Forf. 2 days pay F.R.& I.
Field	16-Oct 43	Gnr	-	A.A.Sec 15 (1) WOAS AWL from 0630 hrs 16-10-43 until 0930 hrs 18-10-43. (absent 2 days, 3 hrs)	Bdr Beattie, W.G., L/Bdr Rennie, M.	28 days F.P.	18 Oct 43	Lt-col WC Leggat	Forf. 28 days pay. Forf. 3 days pay. Total forf. 31 days pay.
Field	20 Nov 43	Gnr	-	A.A.Sec 15 (1) WOAS AWL from 2100 hrs 20 Nov 43 until 2230 hrs 20 Nov 43. (absent 1 hr 30 mins).	L/Sgt Mandeno, R.J., Sgt Sharp, S.G.	7 days F.P. 7 days forf. of pay F.R.&I.	22 Nov 43	Lt-col WC Leggat	

(PTO)

	Date of offence	Rank	Name	Date of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Dec 43	Gnr	-		A.A.Sec 15 (1) WOAS AWL from 2130 hrs 14 Dec 43 until 2155 hrs 14 Dec 43.(absent 25 mins)	Lt.G.A.Rumble Sgt Dixon,R.G. L/Sgt Brown,H.	7 days C.B.	15 Dec 43	Major W.H. Young	
Field	21 Dec 43	Gnr	[illegible]		A.A.Sec 19.WOAS drunkenness in that he on 21 Dec 43 at 1615 hrs was drunk. FIRST CHARGE A.A.Sec 40. Conduct to the prejudice etc. in that he on 21 Dec 43 between 1600 hrs and 1700 hrs did creat a disturbance in a public place. SECOND CHARGE	L/Sgt Wood, N.J., L/Sgt Brown, H.D. L/Sgt Wood, N.J., L/Sgt Brown, H.D.	7 days F.P. Forf. 7 days pay F.R.& I.	23 Dec 43	Lt-col WC Leggat	

Exhibit B

"Certified to be a true copy,

[signature]

Capt & Adjt
2 Cdn Medium Regiment, R.C.A.
Offr having the custody of
the regimental books."

MFM 6 (AFB 122) 40/P&S/136 (9438)

No B.15632 Name GREEN, A. Sqn, Battery or Company Corps R.C.A. Date of enlistment 5-6-41 OC Badges Service or Proficiency Pay N/A

Character

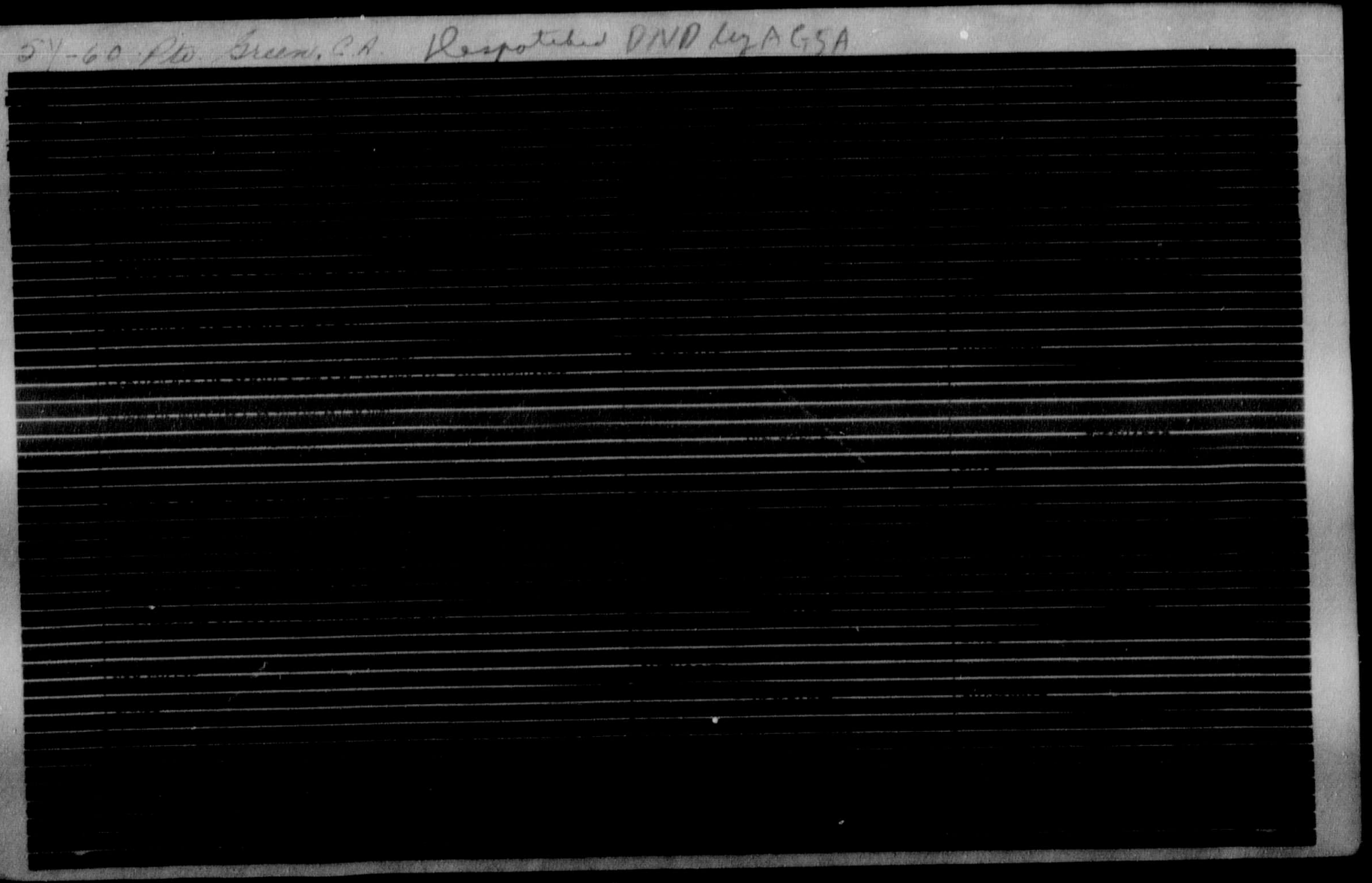
Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1. Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa Ont.	4-2-42	Gnr.		A.A. Sec 40 WOAS conduct to the prejudice of good order & military discipline in that he remained in bed 10 mins. after the Trumpeter sounded Reveille	Sgt. Prince H.W.	3 days C.B.	4-2-42	Capt. Johnston	
Petawawa Ont.	31-1-42	Gnr.	/	Drunkenness, Pembroke	L/Cpl. McGillvary L/Cpl. Williams	Admonished	4-2-42	Lt-Col.W.A Townsley	
Petawawa Ont.	5-2-42	Gnr.		A.A. 15(1) AWL while under open arrest from 1330 hrs 5-2-42 until 0630 hrs 24-2-42 (Absent 18 Days 17 hrs)	Sgt.Ewing A. Bdr.Watson H	28 dys detn	24-2-42	Lt-Col W.A. Townsley	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Huron Camp	15-4-42	Gnr	-	AWL from 2200 hrs 15-4-42 until 2359 hrs 15-4-42 (absent 1 hr 59 mins)	L/Bdr Saunders, G.	5 days C.B.	16-4-42	Capt. J.M. Watson	
Field	18-6-42	Gnr	-	WOAS conduct to the prejudice etc. in that he did leave a place of parade without permission	Sgt Giles, W.C.S. Bdr Jones, W.	3 days C.B.	19-6-42	Major J.G. Osler	
Field	31-12-42	Gnr	-	AA Sec 15 (1) AWOL from 0200 hrs 31-12-42 until 0130 hrs 2-1-43. (absent 1 day, 23 hrs, 30 mins)	Sgt Church, K.V. L/Bdr Saunders, G.	7 days C.B.	2-1-43	Major E.F. McCordick	Forf. 2 days P & A
Field	11-2-43	Gnr	-	A.A.Sec 11 WOAS neglecting to obey Bty Order, para no.117 of 21 Jan 43 in that he did light a fire in quarters before 1600 hrs.	T/BSM Dickinson, W.J.	7 days C.B.	11-2-43	Major E.F. McCordick	

5Y-60 Pto. Green, C.A. Despatched DND by AGSA



MM-91
GNR GREEN F.J.

H-62626 Gnr GREEN, F.J.
2 CARU

Correspondence to be PINNED here.

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this FOURTEENTH day of AUGUST , 1943 .

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

*Omit if not applicable.

President.

Rank.	Name.	Regiment.
LT-COLONEL	D.L. HEDMAN	H.Q. CRU

Members.

Rank.	Name.	Regiment.
LIEUTENANT	F.A. ITTER, RCA	R... Leadier,
CAPTAIN	J.E. DUFOUR, RCA	...lts
CAPTAIN	N.C. McLEOD, RCA (...)	...

*Sig...

Co...

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the names, &c., of the members of the Court, as constituted will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

H-62626 Gnr GREEN, F.J.
2 CARU

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of AUGUST , 1943 .

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [redacted]

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the rank, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COLONEL	D.L. REDMAN	HQ CRU

Members.

Rank.	Name.	Regiment.
LIEUTENANT	F.A. ITTER, RCA	1 CARU
CAPTAIN	J.E. DUFOUR, RCA	3 CARU
CAPTAIN	N.C. McLEOD, RCA (Waiting Member)	2 CARU

*Signed [redacted] Brigadier,

Commanding "C" Gp, Cdn Rft Units
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-62626 Gnr GREEN, F.J. (RCA) 2 CARU	FIRST CHARGE A.A. Sec.15(1)	Guilty	Guilty Confirmed Desertion To undergo Detention for a period of One Hundred and Twenty (120) Days. 16th Aug 1943 VMS	

See Charge Sheet attached.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer. (*to be recorded on separate sheet if necessary*) —

(Signed) J Stewart Brigadier, (Signed) [illegible]
Commanding "C" Gp, Cdn Rft Units.
Convening Officer (c) President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

were duly sworn.

Signed this 16th day of Aug 1943

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 795 M.M.L. 1929.

*~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of 19~~ ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19 day of August 1943.

J Stewart C. STEWART, Brigadier, Commanding "C" Group, Cdn. Reinforcement Units.
Confirming Officer.

Promulgated and extracts taken in the case of [illegible]

(a) (Dated) 17 August 43 (Signed) [illegible] COL.
C.O. 2 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2)671: (1) A617/9/243 300,000 7/42 A.G.R.H.Q.(1) Gp.565
(2)594: (1) 1112/271 100,000 5/43 " "

CHARGE SHEET

The accused, H-62626 Gnr. Green, F.J., "A" Trg Bty, "P" Trg Wing, 2 Cdn Arty Rft Unit, a soldier in the Canadian Army, placed on active Service, is charged with:-

FIRST CHARGE: WHILE ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE

ARMY ACT SEC 15 (1)

in that he

At No. 1 Cdn Base Rft Depot, did absent himself without leave from 2230 hrs 18 Jun 43, until apprehended by the Cdn Provost Corps, in Glasgow, at 1200 hrs 14 Jul 43.
(Total absence 25 days, 13 hours, 30 minutes)

dated at Jasper Camp,
Witley, Surrey,
this 11 day of Aug 43.

(Mackenzie Waters) Col, RCA,
Commanding Officer,
2 Cdn Arty Rft Unit,
Cdn Army (Overseas).

To be tried by Field General Court Martial,

14 AUG 43.

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

2 CARU Form 202

Medical Officer's Cert.
K.R.(Can) para.557

I certify that I have this morning examined No. H 62626.....

Gnr. GREEN, F.J. ..... and in my opinion he is fit to ~~unfit~~
(rank) (name)

undergo trial by Court Martial.

Station Jasper Camp, Witley.

Date 16 Aug 43.

(Sgd) J P Nielsen Capt.....
(Medical Officer)
No 2 Cdn Arty Reinf Unit
Cdn Army (Overseas).

2 CARU Form 202

Medical Officer's Cert.
K.R.(Can) para.557

I certify that I have this morning examined No. H 62626

Gnr. GREEN, F.J. and in my opinion he is fit to undergo
(rank) (name)

undergo trial by Court Martial.

Station Jasper Camp, Witley.

Date 14 Aug 43.

(Sgd) [illegible]
(Medical Officer)
No 2 Can Arty Reinf Unit
(Overseas).

Dated at Jasper Camp.

Medical Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT ST LUCIA BKS
ON THE 16 DAY OF AUG. 1943

The accused. H 62626 Gm. Green. F.J. Unit... 2 C.A.R.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt. Col. D.L. Redman Unit..... C.R.U.....

Members.... Capt. J.E. Dufour..Unit..... 3 C.A.R.U..

... Lieut. F.A. Ittner..Unit.... 1 C.A.R.U.

The officers under instruction are duly sworn:-

Capt. Sistschler.....Unit. Wks. Cyclt. Inf.

.....Unit.....

Prosecutor. N.C. Malloch.....Unit.... 2 C.A.R.U.

Defending Officer. [illegible].....Unit.... 2 C.A.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~Makes a statement in mitigation of punishment.~~
(b) ~~Calls witnesses as to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer. attached

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

[illegible]

16 Aug 43.

To the President and
Members of the Court.

H 62626 Ann Green F.I.

1. The following plea in mitigation of sentence is presented on behalf of the accused.

2. Although Ann Green has a fairly long list of entries on his conduct sheet, they are, in the main, of a trivial nature. His offence in January 1943, for which he served 28 days detention, arose out of his being sick and refusing to attend a parade. Other than this instance, he has no serious offences recorded against him.

2. On his transfer to C.B.R.D., he became somewhat restless and bored. ~~and~~ doing odd jobs, and as a result he went absent without leave. His youthfulness should be taken into account and one allowance be made on that account. He should learn his lesson after this period of detention and return to his unit, and turn out to be an efficient soldier.

Respectfully Submitted
D. Chamberlain
On behalf of the accused.

MM

1. STRENGTH DECREASE (Continued)

(bm) S.O.S. to 2 C.A.R.U. w.e.f. 18 Jun 43 whilst A.W.L.

from 2230 hrs 18 Jun 43

Auth - ESD/0080 d/27 Jul 43

H-67626 Gnr Green, F.J.

Certified true copy of REAR PARTY 1 CDN BASE RPT DEPOT
Part II Orders issued by
CDN SEC GHQ 2nd ECHELON DET AT CAN RECORDS
Section "B", Para 1, Sub-para (bm)

M C Malloch

(N.C. Malloch) Lieut, R.C.A.
for Adjutant,
"P" Wing, No 2 C.A.R.U.

CERTIFICATE IN ACCORDANCE WITH P.C. 2794 of 10 Apr 42.

I CERTIFY that No. [illegible] Rank Pte. Name Green, F.J.

Unit [illegible] was arrested at Glasgow (Place)

at 1200hrs (hour) on 14-7-43 (date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian Clothes). Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

M. Smith

Capt.

M.R. Smith. R.C.O. i/c

No. 42nd Provost Detachment.

Can Provost Corps.

2 CDN ARTY RFT UNIT

12 Aug 43

I, H-62626 Gnr Green, F.J. request that Lt. D.L. Silverberg defend me at my forthcoming trial by F.G.C.M.

F.J. Green

H-62626 Gnr Green, F.J.,
2 Cdn Arty Rft Unit.

SUMMARY OF EVIDENCE

in the case of

H-62626 Gnr. Green, F.J., "A" Trg Bty "P" Trg Wing, 2 Cdn Arty Rft Unit, a soldier in the Canadian Army, placed on Active Service.

Under Army Act Sec 163 (1) (h) I submit a certified true copy of Sub para (bm) para 1 Section "B" of Rear Party 1 Cdn Base Rft Depot Part II Orders No. 1 d/27 Jul 43; to establish the absence of the accused from 2230 hrs 18 Jun 43. (Marked Exhibit "A")

N.C. Malloch

(N.C. Malloch) Lieut. RCA,
2 Cdn Arty Rft Unit,
(Officer detailed to take down Summary of Evidence)

Under Army Act Sec 163 (1) (h) I submit a Certificate of Arrest signed by Sgt. N.R. Smith, N.C.O. i/c No. 2 Provost Detachment, Cdn Provost Corps, to establish the time and place at which the accused was apprehended, and I read this evidence to the accused.
(Marked Exhibit "B")

N.C. Malloch

(N.C. Malloch) Lieut. RCA,
2 Cdn Arty Rft Unit,
(Officer detailed to take down Summary of Evidence)

Being duly cautioned in accordance with Rules of Procedure 4 (e), the accused declines to make any statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence, and hearing of the accused; and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

N.C. Malloch

(N.C. Malloch) Lieut. RCA,
2 Cdn Arty Rft Unit,
Cdn Army (Overseas)

Jasper Camp,
Witley, Surrey,
11 Aug 43.

No H62626 Name Green F J | Sqn., Battery, or Company | Corps R C A | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
UK	13Jan 43	Gnr		A.A.Sec.9.2		28 days detn	13Jan43	OC P Wing 2 CARU	forfs 28days pay FR&I 149 1.b
						Granted 4 days remission			
UK		Gnr		A.A.Sec.15.1. WOAS AWL		5 days F P	22May43	CO CBRD	forfs 4 days pay FR&I 149. 1.a
									forfs 5 days FR&I 149.1.b
UK		Gnr		A.A.Sec. 40		forfs 2 days pay FR&I 149.2.	8 Jun43	CO CBRD	

(P.T.O.)

Temp MFM 6 compiled fm extracts fm MFM 2 9 Aug 43

No H62626 Name Green, F.G. | Sqn., Battery, or Company | Corps R C A | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
Can	16.6. 42	Gnr		A.A.Sec.15.1.WOAS AWL from 0130 hrs 16 Jun 42 to 0050hrs 22 Jun 42 (5 days 23 hrs 20 mins)		14 days detn	22Jun 43	CO A4 CATC	forfs 6 days forfs 14 days pay FR&I 149.1.b
Canada	2 Aug 42	Gnr		A.A.Sec.15.1.WOAS AWL FROM 2145 hrs 2 Aug 42 to 0420hrs 3 aug 42 (6 hrs 35 mins)		3 days C B	3 Aug 42	CO A4 CATC	forfs 1 days pay FR&I 149. 1.a.
Canada	90ct 42	Gnr		A.A.Sec.15.1.WOAS AWL from 2130 hrs 9 Oct 42 to 0615 10 Oct 42 8hrs 45 mins		forfs 3 days pay FR&I 149.2	10 Oct 42	CO A4 CATC	forfs 1 days pay FR&I 149. 1.a.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
UK	11Jun 43	Gnr		1. A.A.Sec.15.1.WOAS AWL from 1900hrs 16 Jun 43 to 0600 hrs 17 Jun 43 (11 hours) 2. A.A.Sec. 40		7 days F P forfs 7 days pay FR&I 149.2	18Jun43	CO CBRD	forfs 1 days pay FR&I 149.1.a

CERTIFIED TRUE COPY OF TEMP MFM 6 IN MY POSSESSION

N. C. Malloch 16 Aug 43.

(N.C.Malloch) Lieut. R.C.A.
for Adjutant
"P" Wing, No 2 C.A.R.U.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Canada		Gnr		A.A.Sec.9.2. disobeying a law/ful command given by a superior officer		168 hrs detn	20 Oct 42	CO A4CATC	forfs 7 days pay FR&I.149.1.b
						granted 2 days remission of sentence			
UK		Gnr		A.A.Sec.15.1. WOAS AWL		7 days C B	14 Dec42	CO 2 CARU	
UK	8Jan43 11Jan43	Gnr		1. A.A.Sec.40 2. A.A.Sec. 9.2 3. A.A.Sec.40		7 days F P forfs 7 days pay FR&I 149.2. for 1st offence. 14 days FP & forfs 14 days pay FR&I 149.2 on 2nd offence. 14 days FP & forfs 14 d.p. FR&I 149.2. sentences concurrent	11 Jan43	OC P Wing 2 CARU	

continued Pg 2

M.F.B. 385
22M—5-41 (373-3)
H.Q. 1773-39-(02)
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-62626	Gnr	Green, F.J.	2 C.A.R.U.

1. The following is a fair and true summary of the entries in the ~~Regimental and Garrison~~ Regimental nett Signalman, Battery Gnr Conduct sheets ~~of Company Conduct sheets~~ Gnr of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15 (1)	Four (4)	times	A.A. Sec 15 (1) Six (6)	times
For A.A. Sec 9 (2)	Three (3)	times	A.A. Sec 9 (2) Three (3)	times
For A.A. Sec 40	Four (4)	times	A.A. Sec 40 Four (4)	times
For		times		times

~~Number of instances of gallantry or distinguished service~~ Gnr

~~or~~

~~There are no entries in the conduct sheets of the accused.~~ Gnr

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~ Gnr

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 70 and dispensations with trial under A.A. 70 are set out in the Schedule~~ Gnr ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~ Gnr

4. The accused has been in confinement awaiting trial on the present charges, for N/L days in ~~Air Force~~ civil custody, and 32 days in military custody, making a total of 32 days in custody, ~~of which ..... days were spent in hospital~~ Gnr.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 years, 139 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 5 Mar 1942

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~ Gnr

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension etc.~~ Gnr

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~which is in possession of or entitled to~~. ~~(State any air force distinction or award)~~ Gnr

~~10. (If the accused is a warrant officer.) The earliest before he was made a warrant officer that he held~~ Gnr ~~Air Force~~ the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		Pm		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of Aug 43 Rotanis Lt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Officer i/c Records
No. 2 Can. Artillery Holding Unit
R.C.A. Canadian Army

YY-143

GNR GREEN FJ.

H62626, Gnr, Green, F. J.,
3 Bn., 1 Cdn Base Rft Depot.

YY-143

B113

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty first day of December, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of No. 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[illegible]~~ GB

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[illegible]~~ GB

PROCEEDINGS REVIEWED

[illegible] Lieut
18 Jan 44 Reg

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J. T. Lambert,	RCA, 1 Bn 1 CBRD.

Members.

Rank.	Name.	Regiment.
Captain	R. G. Thexton,	CIC, 1 Bn 1 CBRD.
Captain	R. A. Timmins,	RCA, 3 Bn 1 CBRD.
Captain	Waiting Member B. D. Madden,	CIC, 1 Bn 1 CBRD.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Colonel
Commanding Commandant, 1 Cdn Base Reinforcement Depot
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H62626, Gnr. GREEN, F. J., 3 Bn 1 CBRD	FIRST CHARGE AA SEC 15 (1) (FOR FULL DETAILS OF CHARGE SEE CHARGE SHEET)	NOT GUILTY	NOT GUILTY J F Lambert major	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (to be recorded on separate sheet if necessary) :— No

(Signed) G Hilary Dasher. Colonel
Commandant, Cdn Base Reinforcement Depot
Commanding Convening Officer (e)

(Signed) J F Lambert major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET
ELECTS Trial by Court Martial

The accused H/62626 GUNNER Fredrick, John, GREEN RCA, 3 Bn 1 CBRD, a soldier in the Canadian Army Overseas is charged with--

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field in North Africa,
at 1330 hours on the 14 December 1943, did absent himself without leave from a place of parade until 1700 hours 14 December, 1943.
(Total Absence 3 and ½ hours)

Vincent McKenna
(VINCENT MCKENNA) Lt-Col,
Commanding Officer 3 Bn,
1 Cdn Base Rft Depot.

In the field
18 Dec, 43.

To be tried by I.G.C.M.

21 Dec 43.

G Harry Barker Colonel
Commandant, 1 Cdn Base Reinforcement Depot

J Lambert major
Pres. of Court Martial

I hereby certify that I have this morning examined H-62636.....

Gor...GREEN F.T.....3 Bn., 1 C.B.R.D. and that in my opinion

he is fit to undergo trial by Court Martial.

W.P. Sumner Capt

This 23rd..day of

December..1943.

J.T. Lambert major

Pres. of Court Martial

I hereby certify that I have this morning examined H-62636.....

Gor. Green F.T..... 3 Bn., 1. C.B.R.D. and that in my opinion

he is fit to undergo trial by Court Martial.

W.P. Sumner Capt

This 23rd.. day of

December..... 1943

J.T. Lambert major

Pres. Court Martial

Accused H62626 GNR. FREDRICK JOHN GREEN RCA 3 BN. 1 CBRD
(Number) (Rank) (Christian Names) (Surnames) (Unit)

Held in the Field in N AFRICA on 22 Dec 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT	Major	J. T. Lambert	RCA 4 A/Tk. REGT.
MEMBERS	Capt	R. G. Thexton	CIC 1 Bn. 1 CBRD
	Capt	R. A. Timmins	RCA 3 Bn. 1 CBRD

JUDGE ADVOCATE (if any)

OFFICERS UNDER INSTRUCTION:

PROSECUTING OFFICER Capt A. H. Hoole Lawyer? Ans. Yes

DEFENDING OFFICER Lt. K. W. West Lawyer? Ans. No

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(a)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members and the Court satisfy themselves that it is properly convened (A.A.49;R.P.105) and constituted that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P. 106).

The accused is (are) brought before the Court, and at 1430 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

~~President to the Accused:~~
Do you object to _____ as interpreter? Answer _____

The interpreter is duly sworn

Do you object to _____ as shorthand writer? Ans. _____

The shorthand writer is duly sworn (Forms of Oath on Page "D").
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10

President to the accused:

Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Answer No

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page "D"))

(PTO)

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has~~(has not)~~ elected trial by Court Martial (A.A. 46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs 62(E), 108); or as to the jurisdiction of the Court (R.P.34) or in bar of trial (R.P. 36) or as to accused's mental fitness to stand trial (A.A. 130, R.P.57), record such pleas and evidence (if any) on separate sheet (s) to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112) He pleads as follows.

FIRST CHARGE NOT GUILTY

~~SECOND CHARGE~~

THIRD CHARGE

FOURTH CHARGE

FIFTH CHARGE

SIXTH CHARGE

SEVENTH CHARGE

EIGHTH CHARGE

NINTH CHARGE

~~TENTH CHARGE~~

ELEVENTH CHARGE

TWELFTH CHARGE

THIRTEENTH CHARGE

FOURTEENTH CHARGE

FIFTEENTH CHARGE

SIXTEENTH CHARGE

~~(For procedure on alternative charges, see R.P.37, fn 2)~~

Further proceedings are recorded on Pages hereto attached.

PAGE "B"

(For use when accused pleads "Not Guilty" to all Charges

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to the accused
Q. Do you wish to apply for any adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P. 39(A)). Ans. no

2. The Prosecutor's opening address(if any)(R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.(See RECORD OF EVIDENCE on Page "D").

3. The Prosecution is closed.(If submission that there is no prima facio case established, see R.P.40 fn1;R.P.70 fn 1).

4. The accused is informed that he may, if he wishes, give evidance but if he does so he will be liable to cross examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined.(R.P.40(D)(ii)(a)).

5. President to the accused:
Q. Do you apply to give evidence yourself as a witness?Ans yes
Q. Do you intend to call any other witnesses in your defence? Ans. yes
Q. Is he a witness as to character only? (F.P.40(B)) Ans no

6. The evidence for the Defence(if any) is recorded on separate sheets, initalled by the President and attached hereto.

7. The closing address of the Prosecutor, Defending Officer ~~and Judge Advocate (if any)~~ are recorded on separate sheets, initalled by the President and attached hereto.(For order of addresses see Rs P 40, 41 and 42).

8. The court is now closed to consider the finding(Rs P 43 and 117

9. The court being re-opened, the accused is again brought before it, and the findings of "Not Guilty"(~~if any) are~~ pronounced ~~and(if findings of "Not Guilty" on all charges)~~ the accused is released.

~~Where the Court acquits the accused of one or more charges and~~ find him guilty of any other charge or charges, the President of the Court, when announcing the findings of not guilty will add that "The findings of the Court on the.....charge(s) being subject to confirmation, will be promulgated later".

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (MFM 6) signed in the manner required by AA 163(1)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings, (R.P. 46; Overseas R.O.[illegible]131).

11. President to the accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of the punishment(R.P. 46(D)). Ans._____(No cross examination).
(Record address, if any, on separate sheet, initialled by the ~~President and attached hereto.~~

(Continued)

PAGE "A"

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. R.P. 35(B) is complied with by the President, ascertaining that accused understands the nature of the charge (s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(b)) and advising him to withdraw his plea if he thinks the accused ought to plead "NOT GUILTY" thereto.

2. President to the Accused
Q. Do you desire to make any statement of the circumstances, in reference to the charge (s) (R.P.37(B)) Ans._____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross examination thereon).

3. Summary of evidence is read aloud, in the presence of the accused, initialled by the President and attached to the Proceedings.(If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to the Accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P. 37(C). Ans_____

(Statement (if any) is recorded on separate sheet, initalled by the President and attached hereto. No cross-examination).

5. President to the Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C)). Ans._____

(Such evidence, confined to character only, is recorded on separate sheet, initalled by the President and attached hereto).

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A. 163(i)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked " " and " ", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131).

7. President to the Accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans_____(No cross examination).
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence.(Record on Page 2 of A.E.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48). Sentence should be dated

NOTE: When the President announces that "The Court is closed for the consideration of the sentence", he will add that "the sentence is to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated".
The sentence is not announced to the accused by the Court.

(Signature of the President)

~~12. The Court is now closed to consider the sentence(Record~~ Page 2 A.F.A. 3).
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

When the President announces that ~~W~~The Court is closed for the consideration of the sentence, he will add that "The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

~~The sentence is NOT announced to the accused by the Court.~~

.....
(Signature of President).

PAGE "C"

(For use when there are pleas of "Guilty" and "Not Guilty"

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. R.P.35(B) is complied with, in respect to "Guilty" pleas, by the President ascertaining that accused understands the nature of the charge(s)(fn 3) and his plea thereto, explaining the difference in procedure by the plea(RP37)(B) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. President to the Accused:

Q. Do you wish to apply for adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence?(R.P.39(A). Ans_____

3. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.(See Record of Evidence on Page "D").

4. The Prosecution is closed.(If submission that no prima facie case established, see R.P.40 fn 1; R.P. 70 fn 1).

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination.(R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross examined (R.P.40(D)(ii)(a)).

6. President to the Accused
Q. Do you apply to give evidence yourself as a witness? Ans_____
Q. Do you intend to call any other witness in your defence? Ans____
Q. Is he a witness as to character only?(R.P.40(B) Ans._____

7. The evidence for the defence(if any)is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate(if any) are recorded on separate sheets, initialled by the President and attached hereto.(For order of addresses, see RsP. 40,41 and 42).

9. The Court is now closed to consider the finding.(RsP43 and 117) (Record Finding on Page 2 of A.F.A.3).

10. The Court being re-opened, the accused is again brought before it and the findings of "Not Guilty"(if any) are pronounced(RP117(B)).

Where the Court acquits the accused of one or more charges and find him guilty of any other charge or charges, the President of the Court, when announcing the finding(s) of not guilty will add that "The findings of the Court on the_____charge(s) being subject to confirmation, will be promulgated later".

11. The charges, to which the accused pleaded "Guilty" are read to the accused.

12. President to the Accused
Q. Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded "guilty"(R.P.37(B)
Answer_____

(Statement(if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross examination theron).

13. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings(RP37(B)

(P. T. O.)

J.T.L.

Opening address by Prosecution:

I would like to bring to attention of the court and to remind them that we are dealing only with the accused absenting himself without leave from a place of parade. I wish to produce evidence on two points to show that the accused was absent. First I shall produce witnesses to show that the accused was not present when parade was called. Secondly to bring evidence to show that he did not report himself to those in charge of the parade during any time of the parade hours, that is between 1330 hrs and 1700 hrs 14 Dec. 43 and therefore was officially absent during the time stated.

Prosecution:

R.A.T. First Witness: M 36254 Bdr. OLEKSUIK N.
J.T. Sworn. states
Q1 You were the N.C.O. detailed to call the roll at 1330 hrs. 14 Dec. 43 at which the accused was to have attended
R.A.T. ~~A. Yes.~~
J.T.
A1 Yes.
Q2 You called the accused's name. Did He answer?
A2 No, sir.
Q3 Do you recognise anyone in this court now as the accused
A3 Yes
Q4 On failure to answer his name. Did you

check the troop to see if he was there?

A4 Yes, sir.

Q5 Did the troop answer these names as you called them.

A5 Yes

R.A.S. ~~Q. by you~~

Q4 When did it come to your notice that the accused was in camp.

A4 Not until the next morning.

R.A.S.

Cross examined by Defence

Q7 At the time the roll call was taken were other rolls being called.

A7 Yes

Q8 You say you made a check of the troop. What form did that check take?

A8 I first glanced over my troop.

Q9 You didn't move from where you were making the roll call?

A9 No sir.

Q10 Can you definitely state that from where you stood you could see the face of every man on parade?

A10 I do, sir.

Q11 When you paraded on to the company parade ground did you retain command of the troop?

A11 Yes

Q12 Did you march the troop over to the Pay Office?

A12 No sir

Cross examined by Prosecution

Q. In checking the troop you were quite positive the accused was not present?

A. Yes, Sir

Q. I repeat — Quite positive.

A. Yes, Sir

Questioned by Court:

Q How large was your troop

A approximately 40 men

Q. How was it formed up when you called the roll.

A. It was formed up in three ranks

Q You mean the usual formation

A Yes

Q. Was the accused the only man who did not answer his name.

A. Yes, Sir

R.P. 83 (B) complied with.

Second Witness.

D. 7090 Sgt. BEDARD R. sworn.

Oaths.

Q. You are the ~~troop~~ Sgt. of the troop to which Pte. Green belongs.

A. Yes, sir.

Q Do you recognise the accused as being present in this court.

A. Yes

Q. Will you tell the court what happened on the 14 Dec. 43 at 1330 hrs

A. At approximately 1330 hrs. on 14 Dec. 43

I was standing beside Bdr. OLEKSUIK while he was calling the roll of the troop Gnr. GREEN's name was called but no one answered. I then reported Gnr. GREEN absent from parade to ~~the sgt major~~ T.B. O. M. TAYLOR.

Q. You say you were standing beside Bdr. OLEKSUIK while he was calling the roll.

A. Yes, Sir. I was

Q. He called it quite clearly.

A. Yes Sir, Every other man answered his name when called. When Gnr GREEN's name was called nobody answered.

Q. Did you hear the accused answer his name at all

A. No Sir

Q. When no answer was received, Did you make sure, in conjunction with Bdr. OLEKSUIK that the accused was not present.

A Yes Sir I looked through the ranks and did not see him.

Q. When was it brought to your ~~attention~~ attention and reported to you that the accused was present and in camp?

A By Lt Bdr. FILLEUL, who took tatoo

roll called at 2200 hrs. 14 Dec. 43.

Q. Were you in charge of the accused's troop between 1330 hrs and 1730 hrs 14 Dec. 43 ?

A. Yes except for Pay Parade which was marched down by T.S.M. TAYLOR.

Q. When the T.S.M. took over the troop for Pay Parade, was Gnr. GREEN present.

A. As far as I know, he was not.

Q. Can you say then that you had no knowledge of the accused's presence at any time during parade hours on the afternoon of 14. Dec. 43, nor was he reported present to you, as N.C.O. i/c troop, during that time.

A. No. The accused was not reported to me until tatoo, so as far as I am concerned he was absent until tatoo.

Cross Examined by Defence.

Q. In checking the Troop, did you look carefully at every man ?

A. I looked over the Troop and feel sure that I did not see Gnr. GREEN on that Parade. But I did not look at every man individually.

Q. Did you see every man's face

A. Yes, sir I did; because I walked up and passed in front of the whole

troops.

Q. Then you did see every man individually?

A. I did see every man who was on that parade, but did not stop in front of every man to make doubly sure that the rules on ~~that~~ parade.

R.P. 83(B) complied with.

~~Third~~ Witness:

L-18208 L/Bdr. FALLEN W.R. ~~sworn~~ states.

Q. Will you tell the court what happened at Tattoo roll call on 14 Dec 43?

A. On 14 Dec. 43, I took Tattoo roll call at 2200 hrs and found two. GREEN present.

Q. Do you recognise the accused as being here present in court.

A. Yes.

~~No~~ Cross Examination

~~Defence~~ R.P. 83 (B) complied with

DEFENCE

First Witness (the accused). M. 62026 Gnr.

GREEN F.J. sworn. states.

On Sunday, 14 Dec 43, at 1330 hrs, I went on parade with Gnrs. DAVEY and TRELEAVEN. The roll was called and I answered my name. Then we moved off to the rear of the pay office. On the way over to the pay office I tossed mud at Gnr. MANYLOK. He turned around and saw it was I who was tossing the mud at him. After I was paid I went to my tent and then up to the wash stand to wash clothes. I was there until supper time.

Cross examined by Prosecution

Q You say you went on parade at 1330 hrs. with two friends one being Gnr. DAVEY. Did Gnr. DAVEY go on pay parade with you?

A Yes

Q When the Bdr. called your name and you answered, did you not notice the Bdr. stop calling the roll call.

A I could not see the Bdr. very clearly from where I was.

Q There was bound to be a pause

Q. You noticed no pause after the N.C.O.
R.A.S. ~~[illegible]~~ called your name.
A. No.
Q. Did you hear all the other names distinctly
A. Yes sir. there are two Green's in our troop.
Q. Did Gnr. DAVEY stand next to you
A. No sir.
Q. Did he stand close to you
A. I can't say.

Questioned by Court

Q Where was Gnr. ~~TRELEVAN~~ R.A.S. TRELEAVEN standing with relation to you on the 0330 hrs Parade
A I can't say. We only came on parade together
Q Am I to take it that though you came on parade with Gnr. DAVEY & ~~TRELEVAN~~ R.A.S. TRELEAVEN, you have no idea where either one of them was standing in the ranks?
R.A.S. A. ~~No~~. Yes.
Q. Which rank were you standing in?
A. The rear rank
Q. R.A.S. ~~[illegible]~~ Were you closer to the right or left flank.
A. The left flank
Q. ~~Were you broken off from company parade to go on pay parade.~~
A. No. R.A.S. ~~[illegible]~~
~~[illegible]~~ No were called out alphabetically

Q. R.P. 83 (13) complied with.

Second Witness

B-76867 Gnr. TRELEAVEN B.G. sworn states:

Q. The parade was called at 1330. We were all fooling around in the tent and then there, of us started off on parade together. Gnrs GREEN, DAVEY and myself. Gnr. DAVEY and BNR. GREEN went to their troops and I went to my own. After we marched up to the parade ground I. My troop was right behind Gnr. GREEN's so I could see most of the boys in it. I was sure Gnr. GREEN was there because on the way over to Pay Parade he was throwing nuts at Gnr. MANYLUK

Q. If one of the men you walked on parade with is in the room will you point him out.

A. Yes. right there beside you, in.

Q. Did you see Gnr. GREEN standing in the ranks on the Parade you on 1330 hrs. parade 14 Dec 43.

A. Yes

CROSS EXAMINED by Prosecution

Q. Did you know where the accused was in the troops.

A. Not exactly. I couldn't see what rank

he was in.

Q. You could see him but cannot say what rank he was in

A. That is right.

Q. What was your troop in relation to his.

A. His troop is right in front of ours

Q. What rank were you in

A. The front rank.

Q. Did you not say that the accused was throwing nuts after he got to the Pay Office.

A. No sir, On the way to the Pay Office

Q. You saw this as you were marching up to the pay office ~~or~~ from behind.

A. Yes, sir

Questioned by Court.

Q. When you were standing on parade which flank were you closest to? in your own troop

A. I was near the left flank

Q. Yet you cannot say where Gnr. GREEN was standing in his troop.

A. I cannot say exactly what rank he was standing in.

Q. You say that you saw Gnr. GREEN tossing nuts at another Gnr. - Was your troop moving then

A. The Anti Tank troops were moving as one

in alphabetic order

Q. How many men are there in your troop approximately?

A. Thirty approximately.

Q. As you were standing on parade facing GREEN's troop was GREEN on your front right or front left.

A. He was on my right.

Q. What flank of his own troop was GREEN nearest to?

A. He was nearest to the right flank.

R.P. 83 B complied with.

THIRD Witness

B-139421 Gnr. DAVEY E.E.

Sworn.

Q. Do you recognise Gnr. GREEN

A. Yes.

Q. WHO did you walk on parade with at 1330 hrs. 14 Dec 43

A. I walked on parade with Gnr GREEN and BELEAVEN.

Q. Did you hear Gnr. GREEN answer his name on roll call.

A. No sir. I didn't.

Q. When did you next see him after that parade.

A. I next saw him at 1500 hrs at the guard stand.

CROSS Examined by Prosecution

Q. Are you in the same troop as the accused.

A. Yes

Q. Where were you standing?
A. I was up in the front of the troop
A. On the left flank. I am not sure to which rank
I was in.
Q. Do you remember where Gnr. GREEN was in the troop?
A. No. I dont.
Q. Did you notice any noise or the W.S.O. looking to see if he could find a man that was missing.
A. I dont know.
Q. Do you remember seeing Gnr. GREEN while you were marching to the Pay Office.
A. No.
Q. Did you see Gnr. GREEN at the pay office
A. No.

Questioned by Court.

Q. You walked over to parade with Green did you see him fallin
A. No I cant say I did.
Q. Did you see him in the troop after the troop was formed up after 1330 hrs
A. No sir
Q. Did the B.S.M. call you out by name to break you off into pay parade
A. Yes sir
Q. Were you on pay parade yes sir.

Q. Did the B.S.M. call the men off parade alphabetically from Company parade to form up Pay Parade.

A. Yes

~~Q. How did you get on pay parade.~~

~~A. Etc~~

Q. Did you hear GREEN's name called for Pay Parade.

A. No Sir.

Q. What did you do after you were paid.

A. We went back to our huts and got ready for sports. On the way to the sports field we saw GREEN at the wash stand.

Q ~~Did you march over to the~~ Were the troops in alphabetic order when you were marched over to the Pay Office.

A. Yes.

R.P. 83(B) complied with

FOURTH WITNESS

H. 101923 Sgt. MANYLOK M. sworn.

Q. Do you recognise Sgt. GREEN in this court.

A. Yes

Q Will you tell the Court in your own words what happened between 1330 hrs parade on 14 Dec. 43 ~~and~~ at the Company Parade ground and the parade at the Pay Office

R.P. to 1330 hrs

A. On parade I was fooling around with somebody not GREEN. GREEN was

behind me so
hit my head a
It was Green. As far as I know
was on pay parade and that is all
know as to his whereabouts.

CROSS EXAMINED BY PROSECUTION

Q Are you sure this 1330 hrs Parade was pay parade.

A Were you on Troop Parade first
Q or Company Parade at 1330 hrs. when
A Troop Parade
Q From Troop Parade were you
broken up into Company Pay
Parade
A. I am not sure on that day, but
we usually were called out
Alphabetically from troop parade
for Pay Parade
Q When approximately was pay
parade.

behind me somewhere. I felt something hit my head and I turned around It was Green. As far as I know he was on pay parade and that is all I know as to his whereabouts.

CROSS EXAMINED BY PROSECUTION

~~Q. Are you sure this 1330 hrs Parade was pay parade.~~

R.A.J. [illegible]

~~A.~~

Q Were you on Troop Parade first or Company Parade at 1330 hrs 14 Dec

A Troop Parade

Q From Troop Parade were you broken up into Company Pay Parade

A. I am not sure on that day, but be usually were called out Alphabetically from troop parade for Pay Parade.

Q When approximately was pay parade.

A. Between 1400 hrs and 1500 hrs.

Q. After you were paid your men were allowed to break off before the next parade.

A. Yes

Q. You would say that the last man would be through by 1500 hrs.

A. I can't say but he should be

Questioned by Court

Q. When you first formed up for parade at 1330 hrs. did you form up as a Troop.

A. Yes.

Q. Are you in the same troop as GREEN.

A No

Q. Where was your troop in relation to GREEN's.

A In front of GREENS Troop.

Q. You said something but your

on the head. What was it?

A. An Acorn.

Q. Was the parade moving when you were hit?

A. Yes

Q. You said you ~~turned around~~ and saw GREEN

A. Yes

Q. ~~What was~~ Since you turned around and saw GREEN you should have a rough idea as to where he was

A. He was in his ~~troop~~ that is all I know.

Q. ~~Was~~ he in the front of his troop or in the rear.

A. Near the front of his troop.

Q. When you were hit on the head with the nut, ~~had the company moving~~ had the parade been formed up alphabetically

A. No.

(17)

Q. Were you moving off as two separate troops or as one company

A. Two separate troops.

R.P. 83 (B) complied with

Fifth Witness:

H 103285 Gnr. GILMORE W.

Sworn.

Q. Will you point out Gnr. GREEN if you see him in this room.

A. He is right beside you, sir.

Q. Were you on "C" Company Pay Parade on 14 Dec 43.

A. Yes

Q. Did you hear Gnr. GREEN F.J. name called in the pay office?

A. Yes

Q. Did you see Gnr. GREEN F.J. in the pay office at that time

A. Yes I did

Q. ~~W be~~ Was he far behind or in front of you

A. He was behind not very far.

Q. Were you in your proper place alphabetically

A. Yes

CROSS EXAMINED BY PROSECUTION

Q. Are you in same Troop as the accused?

A. Yes I am

Q. Do you remember seeing the accused at the 1330 hrs Troop Parade.

A. I cant say that I did

Q. Will you tell the court what time you were paid?

A. Between 1400 hrs and 1430 hrs

Q. Can you give us a more specific time

A. I would say about 1415 hrs.

Q. How long would it take GREEN to see the Paymaster after you were paid.

A. It is matter of five minutes or so

Q. Did you see the accused after Pay Parade

A. No, sir.

Q What time did you go on the next parade

A. There was a rifle inspection. ~~I think it was at 1515 hrs~~. I dont know the time.

~~Q. W~~

Questioned by Court

Q. Who called you out of Troop Parade for Pay Parade.

A. An N. C. O.

Q. Did you hear this N. C. O. call Cur. GREEN F. J. name to break off for Pay Parade.

A I dont remember

Q. When you were marching to Pay office did you see Cur GREEN F. J. in the parade

A. Yes

(20)

Q. Can you tell me where he was in the troop - near the front or rear?

A. Near the front of the troop.

R.P. 83 (3) complied with

Closing Address for Defence.

The prosecution stated that they would attempt to prove (1) Gnr. ~~Green~~ 200 GREEN F.S. was absent and (2) did not report himself during the day. The prosecution has proved simply that the accused's name was called. No evidence has been produced to show that he was not there. The check of the troop mustered was by the prosecution's own witness, Bdr. OLEKSUIK, not a thorough check. When he did not hear Gnr. GREEN answer his name, he did not move from his place although by his own evidence again he could not see every man. Sgt. Bedard's lack of knowledge of the accused's presence does not prove absence. Furthermore Sgt. Bedard contradicted himself regarding the thoroughness of the check.

I submit, therefore, that the accused was present, his answer was perhaps not heard and he was marked absent without a proper careful investigation being made. We, on the other hand, have shown that he was on parade. We have produced two witnesses who walked on to the parade ground with him, one of whom saw him

P.T.O.

standing in the ranks. Two witnesses have also showed that he was with the parade when it moved off to the pay office. One witness saw him on pay parade standing in his proper place alphabetically 10th, Gunr. GREEN, made no attempt to report himself at any time during the afternoon, for he didn't know he was being marked absent until the next morning.

Prosecuting Officer's Reply to (22) Closing Address by Defense C.

(23)

Witness recalled by [illegible] RP 86 D)

D 7090 Sgt. Bedard

Q. You are Sgt. in charge of GREEN F. J.'s Troop. on 14 Dec. 43.

Yes.

Q Can you tell the court what duties had been set out for GREEN F.J. from 1330 hrs. until the end of parade at 1700 hrs. on 14 Dec. 43?

A. The first parade was 1330 hrs parade. The second parade was pay parade which should have been held at 1345 hrs. The next parade was not laid down for a special time but it was to be a Padre' Hour. We waited for the Padre and at 1545 hrs. as the the Padre didn't appear. I broke the Troop off and

Witness recalled by Court (Authority RP 86 D)

D 7090 Sgt. Bedard R. sworn.

Q. You are Sgt. in charge of Sec. GREEN F.S.'s Troop. on 14 Dec. 43.

Yes.

Q Can you tell the Court what duties had been set out for GREEN F.S. from 1330 hrs. until the end of parade at 1700 hrs. on 14 Dec 43?

A. The first parade was 1330 hrs parade. The second parade was pay parade which should have been held at 1345 hrs. The next parade was not laid down for a special time but it was to be a Padre Hour. We waited for the Padre and at 1545 hrs. as the the Padre didn't appear. I broke the Troop off and

sent them for a shower.

Q. How was the troop warned that the next parade was Padre's Hour after pay parade?

A. By myself walking up and down the lines calling the troop on parade.

Q. The troop actually form up for the Padre's Hour

A. Yes, Sir.

Q. Was Pte. GREEN F.S. present

A. No, Sir

Q. How do you know?

A. I looked over the troop and didn't see Pte. GREEN F.S. and also while we were waiting for the Padre in the mess tent I did not see Pte. GREEN F.S.

Questions for Prosecution put through Court

Q. Did you give permission to Pte.

GREEN to be absent from Padre Hour in order to wash his clothes?

A. No Sir.

Questions for Defence put through Court-

Q. What time was it when you went up and down the lines calling the men on parade for Padre Hour.

A. At approximately 1500 hrs.

Q.

R.P. 83 (b) complied with

(26)

Second Address by Officer for Defence

With regard to the further evidence given by Sgt. Bedard on being recalled by the court.

Evidently pay parade was allowed to disintegrate. The time and place of the next parade was not notified properly. The roll was not called. Much stress has been laid by the prosecution on the fact that checks of the troop were made periodically. Now we hear of another so called check being made, once again in a very casual manner. Indeed the whole system of parading in this troop seems to be carried out so carelessly, that it ~~provides~~ in no way provides a proper check. ~~[illegible]~~ ~~[illegible]~~ or ~~[illegible]~~ any person.

SUMMARY OF EVIDENCE

in the case of

H/62626 Gunner GREEN, F.J. RCA a soldier in the Canadian Army Overseas.

CHARGE-Absenting himself without leave from a place of parade.

The commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

M/36254 Bdr Oleksuik, N. RCA 3 Bn 1 CBRD.
Having been duly sworn, states-

" I M/36254 Bdr Oleksuik, N. RCA 3 Bn 1 CBRD. called the roll at 1330 hours on the 14 Dec,43. and H/62626 Gnr Green, FJ. failed to answer his name, so I reported him to D/7090 Sgt Bedard, R. our troop Sgt". When Gnr Green failed to answer his name I checked the troop and couldn't find him.
The accused declines to question this witness.

N Oleksuik

(M/36254 Bdr Oleksuik, N.)
RCA 3 Bn 1 CBRD.

SECOND WITNESS

D/7090 Sgt Bedard, R. RCA 3 Bn 1 CBRD.
Having been duly sworn, states-

"I D/7090 Sgt Bedard, R. RCA 3 Bn 1 CBRD. on the 14 Dec,43. at 1330 hours was troop Sgt, and M/36254 Bdr Oleksuik, N. reported the absence from parade of H/62626 Gnr Green, FJ. and I in turn reported same to BSM Taylor"

The accused declines to question this witness

R Bédard

(D/7090 Sgt Bedard, R.)
RCA 3 Bn 1 CBRD.

THIRD WITNESS

L/18208 L/Bdr Fillotil, WR. RCA 3 Bn 1 CBRD.
Having been duly sworn, states-

" I L/18208 L/Bdr Fillotil, WR, RCA 3 Bn 1 CBRD., at 2200 hours on the 14 Dec, 43. whilst taking tattoo roll call found H/62626 Gnr Green,FJ. present at said roll call".

The accused declines to question this witness.

W Fillotil

(L/18208 L/Bdr Fillotil)
RCA 3 Bn 1 CBRD.

FOURTH WITNESS

R/138421 Gnr Davey, EE. RCA 3 Bn 1 CBRD.
having been duly sworn, states-

" I R/138421 Gnr Davey, EE. RCA 3 Bn 1 CBRD, at 1330 hours on the 14 Dec, 43. proceeded on parade with the accused, H/62626 Gnr Green F.J. and later at 1500 hours on the 14 Dec, 43. I saw Gnr Green FJ at the wash stand washing clothes"

The accused declines to question this witness.

E E Davey

(R/138421 Gnr Davey EE.
RCA, 3 Bn 1 CBRD.

FIFTH WITNESS

C/1066 L/Bdr Orr, AJ. RCA 3 Bn 1 CBRD,
Having been duly sworn, states-

" I C/1066 L/Bdr Orr, AJ. RCA 3 Bn 1 CBRD, on the 14 Dec, 43. at 1820 hours was talking to the accused H/62626 Gnr Green FJ. at the window of the McKenna Hall in 3 Bn lines.

The accused declines to question this witness.

A J Orr

(C/1066 L/Bdr Orr AJ.)
RCA 3 Bn 1 CBRD.

The officer taking the summary thereby warned the accused as follows:

" Do you wish to make any statement or give any evidence under oath"? "You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be used as evidence".

The accused declined to make a statement.

I certify that the foregoing summary of evidence was taken by me in the precence of and hearing of the accused and that Rules of Procedure- 4 (C) (D) (E) and (F) have been complied with.

R.J. Staples

(R.J. ~~Staples~~). Lt, RCA
3 Bn 1 CBRD.
Officer Taking Summary.

/GFMc

In the field.
18 Dec, 43.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23 Dec 1943 day of December 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

*Omit if not applicable.

Signed this 23rd day of Dec 1943

J. Lambert Major

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt.47538/242 25,000 7/42 A.& E.W.Ltd. Gp.4/88
[illegible] Wt.18000/1259 40,000 7/42 " "

000 58

PTE GREEN G.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-12540 Pte George Washington GREEN, RCASC, 13 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15(1)AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~No present order~~ Sentence for ~~Pte~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 44(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which ~~Nil~~ days were spent in hospital.(1)

(1. See RP 44(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 12 months

(Sgd) _____ 6 June 44 (Sgd) W Lieut-Colonel, President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm findings & Sentence but remit ninety (90) days detention

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

(Sgd) _____

Date 5 Jun 44 Commanding _____ Confirming Officer. Brig

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-12540 Pte Green, G. Washington RCASC 13th Bn 2 CBRD	10 June 44	Lieut-Colonel 13th Bn. 2 CBRD

C.R. 147 d/12 Jun 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2 CBRD Vol. 2 RECORDED AT CMHQ IN AD 160 CF 880-2-5

FIELD GENERAL COURT-MARTIAL

CF 880 (In lieu of AF A/388 & B/1698)

Convened by Order of Brig G Prencourt Const 2 CBRD dated 4 June 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing any permanent or temporary change in (a) rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname	Unit.
C-12540	Pte	George Washington	GREEN	13 CBR

PROCEEDINGS REVIEWED 21 Jun 44 W Stewart Maj

SWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED 20 JUN 1944 JAG BRANCH CMHQ

D.J.A. 2 Cdn. Sec GHQ 2 Echl. 21 Army Gp

Date 9-6-44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 6 JUNE 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 7/144

A1. The President, Members, ~~waiting Member, 3A~~ if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 60-70, 73, 74, 94, 103, 114, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the~~ as interpreter? Ans

The Interpreter is sworn.(1) Do you object to ~~the~~ as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~3A, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F B COURTNEY	S S R, 11 CBR Bn
Member	Capt	GG McKNIGHT	CAC, 12 CBR Bn.
Member	Capt	F R ROBINSON	RCOC, 13 CBR Bn
Judge-Advocate			
Prosecutor	Maj	R J. BRUCE.	RCOC, 13 CBR Bn
Defending Offr	Capt	R ERSKINE	RCASC 13 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be recorded separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused C-12540 Pte S.G. Green before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 885 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 13.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responability of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. 2. *MAML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir.(5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para EJ of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 90(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para EJ of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(*3*) (*b*). *RP* 45, 120(*A*). 2. *AA* 54(*3*). *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex D respectively.(3)
(*1. MFB* 355 *or MFB* 296. 2. *MFMB a.* 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans In mitigation only.(2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(*1. Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182. *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-568, *Overseas RO* 309, 2323, *MAML p* 60, 737-739. *As to sentences assigned for civil offences to the law of England see AA* 41(*5*), *MAML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C-135740 Pte GEORGE WASHINGTON CAREY Royal Canadian Army Service Corps, of 13 Bn., 2 C.I.R.C., a soldier of the Canadian Army Overseas is charged with:

1st Charge.
Sec.15(1)
Army Act

When on Active Service ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field at 1200 hrs 26 Jun 44 did absent himself without leave until surrendering to the Civil Police at 1245 hrs 24 May 44.

In the Field
2 Jun 44

~~In the Field~~

(W.J. Stewart) Lt. Col.,
Commanding,
13 Bn., 2 C.I.R.C.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Cond
2 Cdn Base Rft Gp

In the Field
3 JUN 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/B or A/Appmt	Full Christian Names.	Surname.	Unit.
C-13540	Pte		George Washington	GREEN	RCASC, 13 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 JUN 44 endorsed by me, (or by an offr of my staff by me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F B COURTNEY	S C R,	13 CBR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	G G McKNIGHT	CAC	12 CBR Bn
Capt	F R MORTIMER	RCOS	13 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J O'A LEFEVRE		11 CBR Bn
Capt	J H CAMPBELL		12 CBR Bn

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 3 JUN 44

(Signed personally. RP 105 fn 2.)

(G Francoeur) Brigadier (Rank.)

Commanding 2 Cdn Base Bft Gr

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Page 1 to Sheet of APAM 10/P & S/1807 14-43)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C.12560 (No.)
PTE (Rank) GREEN G.W (Name) and in my opinion he is

~~fit~~ ~~unfit~~ to undergo trial by Court-Martial.

Station 13th C.B.R.Bn

Date. 6 June 44.

R. Laing Capt. (Sgd)
Medical Officer
(unit)

Plea of Mitigation

Defending Officer

Sir, He enlisted at outbreak of war when he was fairly young - Married in Dec 39 to a young girl in Canada. During time of his service overseas since July 41 he has had only five letters from his wife. ~~Lately~~ he received letter from his mother and other persons indicating that his wife was associating with undesirable persons and that she had left his mothers home, in fact that he and his wife were as good as permanently separated. His mother informed him that his wife was wearing a $400 fur coat which was unknown to the accused. The accused then formed an association with an English girl, who is now Pregnant by Green. The defence submits that the mental unrest due to the above causes resulted in Green going absent without leave, and pleads leniency.

Sgt Cantrely Hyg'd

LAST ORDER NO. 5 4 FEB 44

3 CDN. DIV. COMPOSITE COY. RCASC
PART II ORDERS ISSUED BY
CANADIAN SECTION, G.H. Q. 2nd ECHELON

THIS ORDER NO. 6 11 FEB 44

"A" OFFICERS

1. ATTACHED
(a) ATT'D f.a.p. FROM 3 CDN DIV COMP COY (MAIN) RCASC. w.e.f. 2 FEB 44.
CAPT. D. MORWOOD

2. HONOURS AND AWARDS
(a) AWARDED THE " AFRICA STAR " w.e.f. 15 JAN 44. AUTH: CAPRI 4155.
Capt. R.H. JOHNSON
CAPT. H.E. PATRICK

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) T.O.S. FROM 3 CDN DIV COMP COY (ASSY) RCASC. w.e.f. DATE SHOWN
AUTH: CRASC 3 CDN DIV
C12652 PTE. HALEY, M.E. 29 JAN 44
C12366 CPL. ST JOHN, D.A. 3 FEB 44
M50169 PTE. TARIO, J.D. 3 FEB 44

(b) T.O.S. FROM 3 CDN DIV COMP COY(MAIN) RCASC. w.e.f. 30 JAN 44.
AUTH: CRASC 3 CDN DIV.
L8038 PTE. HANSON, S.A.

(c) T.O.S. FROM 1 C.A.S.C.R.U. w.e.f. 4 FEB 44. AUTH: DEMAND NO. 7419 d/30 JAN 44.
L64531 PTE. ANAKA, L.
B114180 PTE. BRADLEY, J.C.
C1220 PTE. COPELAND, H.G.
H87441 PTE. CRAWFORD, R.J.
D26852 PTE. DEPATE, J.A.
K46869 PTE. DUNCAN, J.C.
M33977 PTE. DEHEMPTINNE, M.
M61669 PTE. GORZITZA, W.A.
L22688 PTE. HALE, R.E.
M66275 PTE. HAWKINS, E.S.
C94829 PTE. LUCIANO, N.
M104669 PTE. ZIEBERT, E.J.
H103333 PTE. SLOCHYNSKY, J.W.

4. STRENGTH DECREASE RCASC
(a) S.O.S. TO X LIST ON ADM TO 2 GEN HOSP w.e.f. DATE SHOWN.
C12327 PTE. ENGLAND, G. 1 FEB 44
K76245 PTE. RUSSELL, W. 5 FEB 44

(b) S.O.S. TO 3 CDN DIV COMP COY (MAIN) RCASC w.e.f. 27 JAN 44. AUTH: CRASC 3 CDN DIV.
C12606 PTE. BARRETT, C.R.
F86084 PTE. BURGESS, C.P.
B84953 PTE. DIXON, W.
C12577 PTE. JENKINS, G.L.
A56541 PTE. LACEY, L.E.
F89124 PTE. LOCKMAN, T.F.
C31111 PTE. MALBOEUF, A.
B84874 PTE. MUSTARD, C.K.
B85069 PTE. McMULLEN, J.E.
B83633 PTE. NATALE, F.

5. ATTACHED
(a) ATT'D f.a.p. FROM 3 CDN DIV COMP COY (MAIN) RCASC. w.e.f. 2 FEB 44.
C12672 PTE. JAMIESON, J.A.

(b) ATT'D f.a.p. TO 7 FD HYGIENE RCAMC W.E.F. 31 JAN 44 TO 5 FEB 44.
AUTH: CRASC 3 CDN DIV.
B83672 PTE. ANTONIAK, F.E.
K74988 PTE. ATKINS, R.W.
A58587 PTE. BOATMAN, L.J.
L51471 PTE. HORTON, L.J.
K28253 PTE. KINES, L.M.
M55913 PTE. STORM, W.

5. ATTACHED (CONT'D)
(c) CEASES TO BE ATT'D f.a.p. TO H.Q. COMD 3 CDN DIV/RCASC w.e.f. 26 JAN 44.
C12606 PTE. BARRETT, C.R.
F86084 PTE. BURGESS, C.P.
A56541 PTE. LACEY, L.E.
F89124 PTE. LOCKMAN, T.F.
B84874 PTE. MUSTARD, C.K.

6. COURSES
(a) PROCEEDED ON FITTERS MV - MOTOR MECHS COURSE AND ATT'D TO NO. 1 CASCRU w.e.f. 28 JAN 44 TO 15 FEB 44. AUTH: CRASC 3 CDN DIV.
C30201 PTE. LAVERGNE, R.E.
K78933 PTE. MOODY, J.

7. LEAVE OF ABSENCE
(a) GRANTED 7 DAYS P.L. PLUS 24 HRS (8 DAYS) WITH MONEY ALLCE IN LIEU OF RATIONS UNDER FR&I 789 (3) & (4) w.e.f. 21 DEC 43 TO 29 DEC 43.
C12472 A/S/SGT. PILGRIM, G.E.

(b) GRANTED 7 DAYS P.L. WITH MONEY ALLCE IN LIEU OF RATIONS UNDER FR&I 789 (3) & (4) w.e.f. 29 DEC 43 TO 5 JAN 44.
C12382 PTE. BISSON, H.
C32469 PTE. CARRIERE, N.A.
C12294 PTE. COOK, J.P.
G5227 PTE. JOHNSON, J.J.
K74123 PTE. TUCK, A.J.
K78885 PTE. WRIGHT, A.G.

(c) PART II ORDER NO. 1 PARA 6 (a) d/14 JAN 44 INSOFAR AS IT REFERS TO THE u/n IS AMENDED TO READ - GRANTED 7 DAYS P.L. PLUS 48 HRS (9 DAYS) WITH MONEY ALLCE IN LIEU OF RATIONS UNDER FR&I 789 (3) & (4) w.e.f. 29 DEC 43 TO 7 JAN 44.
C12655 SGT. MacDONALD, R.

8. ABSENT WITHOUT LEAVE
(a) A.W.L. FROM 1200 HRS 26 JAN 44. STILL ABSENT 1200 HRS 3 FEB 44 (8 th DAY).
C12540 PTE. GREENE, G.W.

(b) A.W.L. FROM 0630 HRS 31 JAN 44.
C32229 PTE. MILLETTE, R.

(c) A.W.L. FROM 1130 HRS 29 DEC 43. RET FROM A.W.L. 1245 HRS 12 JAN 44
H46290 PTE. HALLEY, J.

9. APPOINTMENTS
(a) APPT'D A/L/CPL w.e.f. 28 JAN 44.
H100870 PTE. ROBBINS, J.L.

10. REVERSIONS
(a) REVERTS TO THE RANK OF PTE AT HIS OWN REQUEST w.e.f. 10 JAN 44. TO DRAW REGIMENTAL RATES OF PAY OF $1.50 PER DIEM.
L8242 L/CPL. DONALD, H.G.

(b) REVERTS TO THE RANK OF PTE AT HIS OWN REQUEST w.e.f. 17 JAN 44. TO DRAW REGIMENTAL RATE OF PAY OF $1.50 PER DIEM.
C31271 L/CPL. WATTERS, K.R.

3 CDN. DIV. COMPOSITE COY. RCASC
SHEET (3)

No. 6
11 FEB 44

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11. HONOURS AND AWARDS
(a) AWARDED THE "AFRICA STAR" w.e.f. 15 JAN 44. AUTH:CAORO 4155.
K79145 SGT. DUNK, E.W.

12. PUNISHMENTS
(a) ON THE 1 FEB 44 WAS AWARDED A FORF OF 14 DAYS PAY FOR AN OFFENCE UNDER SEC 40 A.A.
FORFS 14 DAYS PAY FR&I 149 (2)
K79146 PTE. NORLIN, S.

13. MARRIAGES, BIRTHS AND DEATHS
(a) MARRIED WITH PERMISSION TO MISS HONORIA NOREEN VALERIE ALLGOOD, 4 GORDON ST., GORDON SQUARE, LONDON, W.C.1 ON 22 JAN 44.
G10061 PTE. DUNLOP, A.G.

(b) GRANTED PERMISSION TO MARRY MISS GERALDENE ELIZABETH HAMMOND w.e.f. 31 JAN 44. AUTH: CMHQ 1000:110a d/11 JAN 44.
H37873 PTE. WILSON, J.R.

(c) SON, NELSON MACDONALD, BORN AT SUTTON, QUEBEC, CANADA ON 1 JAN 44 WIFE, MRS. RUTH CHAMBERLIN.
D132779 PTE. CHAMBERLIN, G.N.

(d) DAUGHTER, ANNETTE JUNE, BORN AT LLANHILLICK, MONMOUTH, SOUTH WALES ON 10 DEC 43. WIFE, MRS. ELLA EILLEEN PETTER.
H37795 L/CPL. PETTER, E.H.

14. NEXT OF KIN
(a) CHANGE OF ADDRESS NofK TO MRS MARIA DELANGE, (Mother) RR 4 ARMSTRONG, B.C. CANADA.
M35833 SGT. DELANGE, L.V.

(b) CHANGE OF ADDRESS NofK TO MRS HONORIA NOREEN VALERIE DUNLOP(WIFE) 4 GORDON ST., GORDON SQUARE, LONDON, W.C. 1, ENGLAND.
G10061 PTE. DUNLOP, A.G.

(c) CHANGE OF ADDRESS NofK TO MRS MARIAN GILL, (Wife) 204 COLLEGE ST., ST. JAMES, MANITOBA, CANADA.
H37515 PTE. GILL, E.

(d) CHANGE OF ADDRESS NofK TO MRS PAULINE GRACE HARDY, (Wife) 28 DUNDURN PLACE WINNIPEG, MANITOBA, CANADA.
H37639 PTE. HARDY, W.R.

(e) CHANGE OF ADDRESS NofK TO MRS ALICE MARY McKINNON, (Wife) 73 STOBART BLDG WINNIPEG, MANITOBA, CANADA.
H37519 PTE. McKINNON, C.H.

A.W. Mason
(A.W. MASON) CAPT.,
for OFFICER i/c,
CANADIAN SEC. G.H.Q. 2nd ECHELON

/GFK

Certified true copy of original document
[illegible]
Off. detailed

R3

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 17th day of February 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C12540 Pte. GREENE, G.W.

DECLARATION

The Court declare that No. C12540 Pte. GREENE, G.W. 3 Cdn Inf Div Comp Coy., RCASC. illegally absented himself without leave and is still absent at In the Field 12.00 hrs on the 26th day of January, 1944 and that on the 26 January, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	Voc Price	VALUE 75%	ARTICLES	Voc Price	VALUE 75%
Anklets web	£0. 4. 5	£0. 3. 4	Bottles, water	£0. 3. 8	£0. 1. 0½
Blouse, B.D.	1. 3. 6	17. 7	Braces, W.E.	1. 4	1. 0
Boots, Leather High	1.12.11	1. 4. 8	Haversack, W.E.	8. 0	6.0
Caps, F.S.	2. 6	2.0½	Pouches, basic	10. 8	8. 0
Drawers, woollen	5. 4½	4. 0	Tins, Mess	1. 7	1. 2
Jersey, pullover	8. 0	6. 0	Respirator A/G	1. 0.11	15. 8
Shoes, canvas	2.11	2. 2	Ointment A/G	1. 4	1. 0
Trousers, B.D.	1. 4. 1½	18. 0	Eyeshields A/G	2. 0	1. 6
Brushes, clothes	2. 2	1.7½	Bottles, Oil	1. 0	0. 9
" shaving	1. 8	1. 3	Pullthrough	1. 0	0. 9
" tooth	0. 6	0.4½	Blanket, G.S.	13. 9	10. 4
Cap Comforter	1. 6	1.1½		£11.10. 1	£8.12.10
Discs, Identity	0. 4	0. 3			
Fork Table	0. 4	0. 3			
Holdall	0.10	0.7½			
Knife table	0. 8	0. 6			
Razor safety	0. 3	0. 2			
Towel, hand	1. 5	1.0½			

Capt. H.G. Aitken — President

Signed at In the Field — Lt. C.J. Christie — Member

this 17th day of Feb 1944 — Lt. C.F. McIntyre — Member

Signature of Commanding Officer H.C. Patterson Major

Certified true copy Vat Trimble Lt

Signature of Officer having custody of original record

M.F.B. 375
9M—10-40 (7455-6)
H.Q. 1772-89-257

I CERTIFY that the man whose personal description is given below surrendered himself to* S/C191"S" Charteris

at Horsecroft Rd, Burnt Oak (hour) 12-45 p.m.

the 24th day of May as being No. C.12540

(Rank and Name) Private George Washington GREENE

a deserter (or absentee without leave) from 7/9** C.I.D.Coy.

and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word " to " to be inserted the name and rank of the police officer concerned.

Age 27	Height 5	Feet 7	Inches
Complexion dark		Hair black	
Eyes blue			
Marks scar on abdoman			
In uniform or plain clothes	plain clothes.		

Probable Date and Place of Attestation	9.9.39. Ottawa.
Probable Date of Desertion or beginning of absence, and from what place	7.1.44.

to Edgware-S.P.S.47."S".

Signature of Officer of Police in charge of Edgware Station.

24th May 1944 Date of Signature.

Army Form C.1617
R.A.F. Form 1617

PART 2

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature

Summary of Evidence in the case of C12540. Pte George Washington Greene of 13 Bn. 2 CBRG. a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken upon oath.

1st Witness for the prosecution

The first witness for the prosecution Lt W A Murray having been duly sworn states.

I am Lt W. A. Murray records officer - 13 Bn 2 CBRG.

I present the following documents relative to Pte Greene.

1. Daily Order Pt. II No 6. date 11 Feb. 44 of 3 Cdn Div Composite Coy RCASC.

2. Army Form O 1617. - certificate of surrender of an absentee to Civilian Police.

3.

W A Murray

W A Murray Lt
13 Bn 2 CBRG.

The accused declines to cross examine this witness

F Cantrey
Capt

The accused was cautioned in accordance with Rule of Procedure 4. (c) He reserves his defence.

I certify that the above summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) and (e) were complied with.

S D Fellows Capt R.C.E.
13 Bn 2. CBRG.

In the Field
31 May 44.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
C.12540	Pte	Greene G.W.	13 Bn. 2 C.B.R.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. (A.A 15 (1)) 2 times.

For A.A. 40. Conduct to prej. 10 WGC times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 14 June 40

Date of last entry in Field Conduct Sheet 24 Dec. 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ SOK ~~beginning on the~~ SOK ~~day of~~ SOK

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for _____ days in civil custody; and for 13 days in military custody, i.e., _____ days in open arrest, _____ days in close arrest; of which _____ days were spent in hospital.

5. The present age of the accused is 28

6. The date of his attestation ~~calling up for military service~~ SOK is 9-Sept. 39

7. The service which the accused is allowed to reckon is 4 8/12 years.

8. The accused is in possession of‡ ~~C.F.S.M.C.~~ SOK

‡State the military decorations (if any) held by accused.

9. ~~(If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date~~ SOK

	Date of Promotion.
~~In the substantive rank of~~ SOK	
~~In the war substantive rank of~~ SOK	
~~In the acting rank of~~ SOK	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/968 100,000 4/42 A. & E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22450) Wt.29250/1873 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

W A Murray H Ress

13 Bn 2 CBR Gr

Signed this Sixth day of June

No C12548 Name GREEN. G. W Sqn, Battery, or Company — Corps — Date of enlistment 9 Sept 39 — Badges — Service or Proficiency Pay — MFM 6 (AFB 122) (PAS/138 (3438))

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
CampBorden	3-6-40	Pte		AWL from 0200 hrs 3-6-40 to 1300 hrs 13-6-40 (10) Days	Sgt Eastop	28 days Det.	14-6-40		Forfs 10 days pay Total 38days
Field	8-10-40	Pte		Sec 40 A.A. In that he on 8 Oct 41 did remove property of Sgt Emso, from the Sgts Mess at approx 2200 hrs	Sgt Dunn RSM Siddiway	14 days CB Forfs 7 days pay	13-10-41	N.A.Armstong Major	
Field	22-8-42	Pte		Sec A.A.40 In that he on the 22-8-42 did drive a W.D. Veh at an excessive rate	Documentary	7 days pay	24-8-42	H.C.Pattison Major	
Field	5-9-42	Pte		Sec 40 A.A. In that he did leave a W.D. Veh unattended.	Documentary	Forfs 1 days pay	10-9-42	H.C.Pattison Major	
Field	21-11-42	Pte		Sec 40 A.A. In that he did drive a W.D. Veh at an excessive rate of speed.	Documentary	1 days pay	30 Nov 42	W.W.Arnold Capt.	
Field	10Dec 42	Pte		Sec 40 A.A. In that he at approx 2125 hrs 10 Dec 42 was improperly in possession of a pair of gloves the property of B28732 Sgt Holman G.W. Close Arrest	Documentary	14 days pay 14 days CB	11 Jan 43	H.C.Pattison Major	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8Jan 43	Pte		Sec 15(1) A.A. AWL from parade from 1820 hrs 8 Jan 43 to 2245 hrs 8 Jan 43	L/C Pugliese	14 days pay 14 days CB	11 Jan 43	H.C.Pattison Major	
Field	15Jan 43	Pte		Sec 40 A.A.In that he at 2300 hrs 15 Feb 43 failed to comply with Pt 1 Orders #18 para 5. Open Arrest	Pte Collins Doc Evd	28 Days Fld		H.C.Pattison Major	
Field	9 Aug 43	Pte		Sec 40 A.A. In that he at 2130 hrs 9 Aug 43 failed to comply with Unit Order #22 by allowing Pte Clouthier to ride pillion.	Doc Evd	Reverts to the rank of Pte	10 Aug 43	B.Cavaghan Major	
Field	24 Dec 43	Pte	1.	Sec 40 A.A.In that he on the 24 Dec 43 did leave a WD Veh unattended.	Doc Evd	28 days Fld Punishment	30 Dec 43	H.E.Patrick Capt	
			2.	Sec 40 A.A. In that he did use a WD Veh without proper authority.					
			3.	Sec 40 A.A. In that he improperly used W.D. Petrol.					

Certified True Copy W.A. Carlson, Lieut.
for (M.A. Franks) Capt, Adj.
13 CBR Bn. 2 CBR Group.

WNN·125
PTE GREEN, H

CERTIFIED TRUE COPY Spare copy
R Cordeau
(R. CORDEAU) Captain

NNW-125

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Nineteenth day of April, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

A2
"John R. Cameron"
Major
Pres

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~ "PEB"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint~~
~~*(1) Three Officers to form the Court.~~
~~*(2) A Field Officer to President.~~ "PEB"

~~for the following reasons, namely:—~~ "PEB"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J R Cameron	West NSR

Members.

Rank.	Name.	Regiment.
Captain	C B C Cochran	WEST NSR
Captain	L A Duplisea	Carlt & York R
Lieut	J H C Simard	R 22e R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "P.E. Bernatchez" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E.9027 Pte Henri GREEN, R.22e R	First Charge Sec 18(2) AA	Not Guilty	Not Guilty	Confirmed 29 Apr 44 "P.E.Bernatchez" Brig.
	Second Charge (Alternative) Sec 40 AA	Not Guilty	Guilty To suffer field punishment for a period of ninety days. "John R.Cameron" Maj Pres 21 Apr 44.	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "P.E. Bernatchez" Brigadier (*Signed*) "John R. Cameron" Major

Commanding 3 Cdn Inf Bde
Convening Officer (a) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of April, 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*~~(4. The officers under instruction)~~ x "C" •
were duly sworn.

*Omit if not applicable.

Signed this 21st day of April 19 44

"John R. Cameron" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be undergo~~ "PEB"

Signed this 29th day of April 19 44 .

"P.E. Bernatchez" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of E 9027 Pte Henri Green, R. 22 R.

(*a*) (Dated) 25 May 44 (Signed) "F. N. McRobie" Capt
1 Cdn Gen Hospital

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.D.[illegible] 8,500 11-43 A.G.R.O.W.,Ltd. Cp.4078

MEDICAL OFFICER'S CERTIFICATE
IF (CAN) PARA 527

I certify that I have this ~~morning~~ morning exa
No. ... Z.9027...Rank...Pte...Name..... GREEN, H.....
of.....R.22eR.....and in my opinion is
FIT to undergo trial by Court Martial.

"Al Jacobs" Capt
(Medical Officer)
1 Cdn Fd Dressing Station

Station...Field

Date....21 Apr 44.

A4
"John R. Cameron" Major
Pres

This is to certify that I have this morning examined
Z.9027 Pte Green, H. R.22 Regt.
and in my opinion he is fit to undergo trial by Field
General Court Martial.

Date 20 Apr 44

"Al Jacobs" Capt.
Medical Officer.

"AJ"
"John R. Cameron" Major
Pres.

MEDICAL OFFICER'S CERTIFICATE
KR (CAN) PARA 557

I certify that I have this ~~morning~~ morning examined No. ... E.9027...Rank...Pte...Name..... GREEN, H..... of.....R.22eR.....and in my opinion is FIT to undergo trial by Court Martial.

Station...Field

Date....21 Apr 44.

"Al Jacobs" Capt
(Medical Officer)
1 Cdn Fd Dressing Station

A4
"John R. Cameron" Major
Pres

Date 20 Apr 44

This is to certify that I have this morning examined E.9027 Pte Green, H. R.22 Regt. and in my opinion he is fit to undergo trial by Field General Court Martial.

"Al Jacobs" Capt.
Medical Officer.

"A3"
"John R. Cameron" Major
Pres.

CHARGE SHEET

The accused E.9027 Private Henri GREEN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.F., On Active Service is charged with:-

1st Charge
AA Sec 15(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE,

in that he,

In the Field, at about 1800 hours 21 Mar 44, when detailed for a guard duty, by discharging his rifle, wilfully injured himself by blowing off the big toe of the right foot with intent to render himself unfit for service.

2nd Charge
AA Sec 40
(Alternative)

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the Field, at about 1800 hours 21 Mar 44, so negligently handled his rifle as to cause it to be discharged and thereby injured himself by blowing off the big toe of the right foot and rendered himself temporarily unfit for service.

"J.G. Charlebois" ~~Major~~

(J.G. CHARLEBOIS) Major,
T/Commanding Royal 22e Regiment.

In the Field
24 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"P.E. Bernatchez"

(P.E. BERNATCHEZ) Brigadier,
Commanding 3 Cdn Inf Bde

In the Field
1944

"B2"

"John R. Cameron" Major
Pres

Accused E.9027 (Number) Pte (Rank) Henri (Christian Names) GREEN (Surname) R.22eR. (Unit)

Held in the Field in Italy (Country) on 20 Apr 44 (Date)

	Rank	Name	Unit
PRESIDENT:	Major	J.R. Cameron	West NSR
MEMBERS:	Capt	C.B.C. Cochran	West NSR
	Capt	L.A. Duplesis	Carlt & York R
JUDGE ADVOCATE: (If any)			
OFFICERS UNDER INSTRUCTION:			

PROSECUTING OFFICER: Capt. C. Tellier Lawyer? Ans No

DEFENDING OFFICER: Capt. L. Cannon Lawyer? ans No

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, Fn1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is ~~(are)~~ brought before the Court, and at 1550 hrs hours, the trial commences.

The prosecuting officer produces a Medical Certificate under R.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings. A3 "C"

President to accused: R.22eR.
Do you object to Lieut. JHC Simard as interpreter? Ans No

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? _____

The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is ~~(are)~~ initialled by the President.
"C" "John R.Cameron" Major
Pres

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130; R.P.37), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Not Guilty
Second Charge Not Guilty
Third Charge
Fourth Charge
Fifth Charge
Sixth Charge
Seventh Charge
Eighth Charge

(For procedure on alternative charges, see R.P. 37, fn2)

Further proceedings are recorded on Pages hereto attached.

"John R. Cameron" Major

Pres

First Witness for Prosecution

Capt. A.L. Jacobs, RCAMC, 1 Cdn F.D.S. having been duly sworn states:-

I am A.L. Jacobs, Captain RCAMC employed as medical officer with 1 Cdn F.D.S. I recognize the accused Pte Henri Green. On 21 Mar 44 at about 2145 hrs Pte Green was admitted to 1 F.D.S. He was suffering from a wound of the right great toe. It was a gunshot wound, I believe it would have been from above downwards. The wound could have been caused either by a weapon in his own hands or in the hands of someone else.

Cross-examined by defence

Q. The bullet might have been fired from below upwards?
A. It could have.

Q. You are not sure the bullet travelled from above downwards.
A. I couldn't be sure.

Examined by Court.

Q. To what extent was the accused wounded.

A. The proximal joint was shattered, the toe being attached to the foot by only a flap of skin on the outside. The toe was not amputated at the time but has since become gangerous and will have to be amputated.

"John R. Cameron" Major
Pres

B-3

Second Witness for Prosecution

M.42060 Cpl. Avoine, L. of R.22e R. having been duly sworn:

I am Cpl Avoine of R.22e.R. I recognize the accused Pte. Henri Green. At 1800 hrs on 21 Mar 44 I was acting guard commander. I was mounting my guard and Pte. Green was detailed. There were about six or 7. I gave the order to cock their weapons. At the same time I heard xx a shot fired. Pte Green was about one yard from me and I saw him falling down. Pte Green asked me who had fired at him and the first thing I did was to put a first field dressing on his wound and called for an S.B. Pte Green had a rifle. I did not inspect any of the weapons of the guard after the shot. It is normal to apply the safety catch after cocking of weapons. Pte Green is a trained soldier in my opinion. I cannot recall the position of the accused's rifle at the time of the accident.

Cross examined by defence

Q. Prior to ordering the guard to cock their weapons did your order them to load them?
A. No sir the only order I gave was to cock them.

Q. After you gave the order to cock their weapons did your make certain that the men had applied safety catches?
A. Yes sir.

Q. Did you check Greens weapon to see if his safety catch had been applied?
A. No sir I did not check Greens rifle.

Q. Why not?
A. Because I was busy applying a first field dressing to the wound.

Q. In that case the shot was fired immediately after your command to cock the weapons?
A. Yes sir at the same time.

Q. Do you think that immediately following the cocking of Green's rifle that accidentally pressure might have been applied to the trigger in such a way as to discharge the firearm accidentally?
A. Yes sir.

Examined by the Court

Q. When did you make certain safety catches were applied?
A. Immediately after applying first field dressing to Green's wound.

Q. Did you notice the direction of the shot?
A. No sir.

Q. Was this in a building or out of doors?
A. It was outside

Q. Did you examine all the weapons including Green's after applying first field dressing?
A. Yes all but Green's Which was examined by someone else.

Q. Had any of these weapons you examined been recently fired?
A. No sir

3rd Witness for Prosecution

E.57849 L/Cpl Brousseau, G. R.22e.R. having been duly sworn:-

I am L/Cpl Brousseau of the R.22e.R. I recognize the accused Henri Green. At about 1800 hrs 21 Mar 44. I was on my sentry post on duty I saw smoke at about 20 yds behind me. I went out of my dugout to tell them to stop that smoke. When I arrived there I saw Cpl Avoine giving orders to his men regarding guards duty, I waited until Cpl Avoine finished his orders because I didn't want to disturb him.

When Cpl Avoine finished his orders Pte Green was about 18 ft from me. I heard a shot fired and I saw Green's rifle falling in front of him and I saw Green falling on his back. I went near Green & he was asking who had fired the shot. I picked up Green's rifle took out the empty cartridge and I put a safety catch on the rifle and I saw the SB coming and I went back to my Sentry Post. The bullet had been freshly fired for the barrel of Greens rifle was still hot. Before the shot Green was standing up holding his rifle pointing downwards. The rifle was in good condition when I examined it. Green had been in our Company for about 10 days prior to the accident. I did not speak to Green after the accident. I did not see the shot fired.

Cross-Examined by Defence:

Q. You just said you heard a shot fired saw Greens rifle fall forward and Green fall backward?
A. Yes sir.

Q. When you left your post and went toward Cpl Avoine Guard detail did you actually see or notice Pte Green aiming at his right foot?
A. No sir.

Q. You said Green was standing with his rifle muzzle pointed to the ground - was he holding it in the crook of his arm or was he holding it with his hands around the butt in the normal firing fashion.
A. I cannot say for I was behind the accused.

Q. So in fact youre not sure the muzzle was pointed to the ground?
A. Yes for I could see the muzzle between his legs.

Q. So the muzzle was not pointed at either foot.
A. I cannot say whether the rifle was pointed more to the

B6

left or the right It was pointed downward and in front of him.

Q. In what fashion were the other men holding their rifles?
A. I cannot say because I didn't pay much attention.

Questioned by the Court:

Q. How do you know the rifle you examined was the one Green had?
A. Because I saw it fall in front of Green & I picked it up immediately.

Q. Describe the exact condition of the weapon.
A. The rifle I picked up had it muzzle very near Green's feet and the butt to the left. I picked up the rifle and took out an empty cartridge and closed the bolt and applied the safety catch. The empty cartridge was hot. The bolt was closed, it had been fired & the safety catch was off.

Case is adjourned to 1300 hrs 21 Apr 44 to allow prosecution opportunity to produce record of service of accused.

Court re opens 1315 hrs 21 Apr 44.

Medical certificate produced marked exhibit A4 and attached to proceedings.

"John R. Cameron" Major
Pres

John R Cameron Major Pres

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(a)). Ans No

2. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans No
Q. Do you intend to call any other witness in your defence? Ans No
Q. Is he a witness as to character only? (R.P.40(B) Ans No

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F.B.6) signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "B2", and "B3", initialled by the President and attached to the proceedings, (R.P.46: Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans No No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

John R Cameron Major
(Signature of President)

NA "C"

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) and _____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P. 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP.37(C). Ans _____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans_____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F.B.6), signed in the manner required by A.[illegible]163(i) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused;
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). And _____ (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, M.R.(Can)563-566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

SUMMARY OF EVIDENCE

In the case of E.9027 Private Henri GREEN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution. E.42060 Cpl Avoine L. Royal 22e Regiment, having been duly sworn states:-

"I am E.42060 Cpl Avoine L. of R.22e.R. posted to "D" Coy.

On 21 Mar 1944, at about 1800 hrs, whilst acting as guard commander, I was preparing to post my guard. E.9027 Pte Henri GREEN, was one of the details. He was about two or three feet from me. I gave order for the men to cook their weapons and at that same instant a shot was fired. E.9027 Pte Henri GREEN cried out: "who shot me?". It became apparent that it was Pte Green's rifle which being pointed to the ground, had been accidently discharged, wounding him in the right foot. I administered first aid and sent for the stretcher bearers. I firmly believe that it was an accident. I have known E.9027 Pte Green for approximately one week, and to my knowledge he is a very good and enthusiastic soldier".

Q.1 In what manner did you order your men to load their weapons?
A.1 O.K. boys, you can load your weapons.

Q.2 At the time of the accident how was E.9027 Pte Green holding his rifle?
A.2 I do not remember exactly.

The accused declined to cross examine the witness.

"L. Avoine" Cpl.

2nd Witness For Prosecution E.57849 Pte Brousseau G. Royal 22e Regiment, having been duly sworn states:-

" I am E.57849 Pte Brousseau G. of R.22e.R. posted to "D" Coy.

On 21 Mar 1944, at about 1800 hrs, I was on guard in my section post. I noticed some smoke coming from a dug-out near my post. I came over to warn the occupants thathis smoke was dangerously visible. When i arrived there E.42060 Cpl Avoine L was giving final instructions to his men. I waited for him to finish. I heard him tell them to load and cock their weapons. It was then a shot was fired and one of the details sat down heavily asking "Who shot me?". It was E.9027 Pte Henri GREEN. I picked up his rifle which he had dropped and opened the bolt. I extracted a fresh fired cartridge case. E.9027 Pte Henri GREEN had been hit in the right foot. Cpl Avoine administered him first aid and sent for the stretcher bearers."

Q.1 Are you sure that the rifle which you picked up was E.9027 Pte Henri Green's arm?
A.1 Yes.

Q.2 How can you tell that E.9027 Pte Henri GREEN's rifle was the one which had just been fired?
A.2 The barrel was and spent case were warm.

2nd Witness For Prosecution (Cont'd)

Q.3 In what manner was E.9027 Pte Henri GREEN holding his rifle before the shot was fired?

A.3 Muzzle downwards with both hands on the rifle.

The accused declined to cross examine the witness.

This witness is on leave
"F.deSaint Victor" Lieut.

3rd Witness For Prosecution

Capt. J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

"I, Capt. J.B. Rousseau, of R.22e.R. posted as Adjutant, hereby produce a report on wounds in the case of E.9027 Pte Henri GREEN, whom I now recognize. This certificate is marked Exhibit "A" and signed by Capt. R. Birks, MO of the R.22e.R.

"J.B. Rousseau" Capt.

In view of the loss of time and expenses involved it is not necessary in my opinion to have the presence of Capt. R. Birks, in the taking of this Summary of Evidence.

"Undecipherable" Lieut.

The accused does not request the presence of Capt. R.Birks.
"H.Green" Pte.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two(2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4(c)(d)(e), (f) and (g) were duly complied with.

"Undecipherable" Lieut.
Officer taking Summary.

In the Field
24 Mar 44

ADDITIONAL SUMMARY OF EVIDENCE

In the case of E.9027 Private Henri GREEN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

4th Witness For Prosecution

Captain A.L. Jacobs, RCAMC, 1 Cdn F.D.S. having beeen duly sworn states:-

" I am Captain A.L. Jacobs, RCAMC, 1 Cdn F.D.S. E.9027 Pte Henri GREEN, was admitted to 1 Cdn FDS 21 Mar 44 suffering from a wound of the right great toe said to have been caused by a rifle.

Q.1 In your opinion could this wound have been self inflicted.

A.1 Yes.

RP 83(b) has been complied with.
The accused declined to cross examine the witness.

"A.L. Jacobs" Capt.

I certify that the foregoing Summary of Evidence consisting of one(1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4(c),(d),(e),(f) and (g) were duly complied with.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

"H. Tellier" Capt.
Officer taking Summary.

In the Field
15 Apr 44

No. F9027 Name GREEN, H | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 24 Jul 40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3458)

Date of last entry in Company Conduct Sheet n/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
Field	6 Feb 43	Pte	(1)	Drunkenness (AA.19)		admonished	8 Feb43	Lt.Col. Girard	

Certified to be a true copy from the Regimental Books in my custoyd.

"H. Tellier"
H. Tellier, Capt.
2 i/c "B" Coy R.22eR.

E3
"John R. Cameron" Major
Pres

(FTO)

Correspondence to be PINNED here.

RECORDED AT CMHQ IN AB 160 NNN-125

RECEIVED 12 JUN 1944 JAG BRANCH C.M.H.Q.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

H.17

On Active Service, this Nineteenth day of April, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*(I am unable to appoint~~

~~*(1 Three Officers to form the Court)~~

~~*(2 A Field Officer as President)~~

~~for the following reasons, namely~~

PROCEEDINGS REVIEWED 13 Jun 44

W O D Gunn Major

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J R Cameron	West NSR

Members.

Rank.	Name.	Regiment.
Captain	C B C Cochran	West NSR
Captain	L A Duplisea	Carlt & York R
Lieut	J HC Simard	R 22e R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E9027 Pte Henri GREEN, R 22e R	First Charge Sec 18(2) aa	Not Guilty	Not guilty	Confirmed J.C. Bernatchez Brig
	Second Charge (Alternative) Sec 40 aa	Not guilty	Guilty To suffer field punishment for a period of three months J.C. Bernatchez Brig 21 Apr 44	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.C. Bernatchez Brigadier (Signed) J.P. Cameron Major

Commanding 3 Cdn Inf Bde

Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~) The Interpreter &c
4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 21st day of April 1944

J.P. Cameron Major

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L. 1929.

I certify that ~~the terms of~~ *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 27 day of April 1944

J.C. Bernatchez Brig

Confirming Officer.

Promulgated and extracts taken in the case of E 9027 Pte HENRI GREEN R 22eR

(a) (Dated) 25 May 44 (Signed) for J.J. Robinson Capt

WO203 H.Q.C.M.S.

Promulgated and extracts taken in the case of REGISTRAR, NO. 1 CANADIAN GENERAL HOSPITAL

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

33061 W1-39(6)-411 60,000 12/42 A.A.E.W.Ltd. Gp.698

CHARGE SHEET

The accused M.9027 private Henri GREEN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.A.F, On Active Service is charged with:-

1st Charge
AA S. 6 (2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE,

in that he,

In the Field, at about 1800 hours 21 Mar 44, when detailed for a guard duty, by discharging his rifle, wilfully injured himself by blowing off the big toe of the right foot with intent to render himself unfit for service.

2nd Charge
AA 39 (2)
(Alternative)

WHEN ON ACTIVE SERVICE NEGLECTED TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the Field, at about 1800 hours 21 Mar 44, so negligently handled his rifle as to cause it to be discharged and thereby injured himself by blowing off the big toe of the right foot and rendered himself temporarily unfit for service.

J.G. CHARLEBOIS Major,
Commanding Royal 22e Regiment.

In the Field
24 Mar 1944

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL "

J.P.E. BERNATCHEZ Brigadier,
Commanding 3 Cdn Inf Bde

In the Field
1944

Field

Date 20 Oct 44

This is to certify that I have this morning examined

E9027 Pte Green N. R. 22 Regt.

and in my opinion he is fit/~~unfit~~ to undergo trail by Field General Court Martial

A. Jacobs Capt
Medical Officer

A3

MEDICAL OFFICER'S CERTIFICATE
KR (CAN) PARA 527

I certify that I have this morning examined

No. R 90[illegible] Rank Pte Name GREEN, A. H.

of R22eR and in my opinion is

FIT/~~UNFIT~~ to undergo trial by Court Martial.

Station..Field.....

Date..21.Apr.44.....

(Medical Officer)
1 Cdn Fd Dressing Station

Accused E9027 Pte Henri Green R22eR
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in Italy on 20 Apr 44
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	J R Cameron	West NSR
MEMBERS:	Capt	CBC Cochran	West NSR ~~Carlt & York R~~ ly
	Capt	LA Duplessis	Carlt & York R

JUDGE ADVOCATE: —
(if any)
OFFICERS UNDER INSTRUCTION: —

PROSECUTING OFFICER: Capt. C Leflier Lawyer? Ans No

DEFENDING OFFICER: Capt L Cannon Lawyer? Ans No

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is ~~(are)~~ brought before the Court, and at 1550L hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings. A3 ly

President to accused:
Do you object to Lieut J H C Jimmet R22eR as interpreter? Ans No

The interpreter is duly sworn.

Do you object to — as Shorthand Writer? Ans —

The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is ~~(are)~~ initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RsP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112). He pleads as follows:

First Charge Not guilty

Second Charge Not guilty

Third Charge

Fourth Charge

Fifth Charge

Sixth Charge

Seventh Charge

Eighth Charge

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

B.2.

First Witness for Prosecution

Capt A L Jacobs RCAMC, 1 Fd Amb 7 D.S. having been duly sworn states:—

I am A L Jacobs, Captain RCAMC employed as medical officer with 1 Fd Amb 7 D.S. Discerning the accused Pte Henri Green. On 21 Mar 44 at about 2145 hrs Pte Green was admitted to 1 7 D.S. He was suffering from a wound of the right great toe. It was a gunshot wound, I believe it would have been from above downwards. The wound could have been caused either by a weapon in his own hand or in the hands of someone else.

Cross-examined by defence.

Q- ~~Did~~ The bullet might have been fired from below upwards?

A- It could have

Q- You are not sure the bullet travelled from above downwards?

A- I could not be sure.

Examined by Court.

Q- To what extent was the accused wounded.

A- ~~The terminal joint of the right great toe was missing.~~ The proximal joint was shattered, the toe being attached to the foot by only a flap of skin on the outside. The toe was not amputated at the time but has since become gangrenous & will have to be amputated.

Second Witness for Prosecution

E 42060 Cpl Avoine, L of R22eR having been duly sworn :-

I am Cpl Avoine of R22eR. I recognize the accused Pte Henri Green. At 1800 h on 21 March I was acting guard commander. I was mounting my guard & Pte Green was detailed. There were about six or 7. I gave the order to cock their weapons. At the same time I heard ~~fired~~ a shot fired. Pte Green was about one yard from me & I saw him falling down. Pte Green asked me who had fired at him & the first thing I did was to put a first field dressing on his wound & called for an RR. Pte Green had a rifle. I did not inspect any of the weapons of the guard after the shot. It is normal to apply the safety catch after cocking of weapons. Pte Green is a trained soldier in my opinion. I cannot recall the position of the accused's rifle at the time of the accident.

Cross-examined by defence

Q- Prior to ordering the guard to cock their weapons did you order them to load them ?

A- No sir the only order I gave was to cock them

Q- After you gave the order to cock their weapons did you make certain that the men had applied safety catches?

A- Yes sir.

Q- Did you check Green's weapon to see if his safety catch had been applied ?

A- No sir I did not check Green's rifle.

Q- Why not ?

A- Because I was busy applying a first field dressing to the wound.

Q - In that case the shot was fired immediately after your command to cock the weapons?

A - Yes sir at the same time.

Q - Do you think that immediately following the cocking of Green's rifle that accidentally pressure might have been applied to the trigger in such a way as to discharge the firearm accidentally?

A - Yes sir.

Examined by the Court.

Q - When did you make certain safety catches were applied?

A - Immediately after applying first field dressing to Green's wound.

Q - Did you notice the direction of the shot?

A - No sir.

Q - Was this in a building or out of doors?

A - It was outside

Q - Did you examine all the weapons including Green's after applying first field dressing?

A - Yes all but Green's which was examined by some one else.

Q - Had any of these weapons you examined been recently fired?

A - No sir

3rd Witness for Prosecution

E 57849 ~~Lt~~ Lcpl Brousseau, G R22eR having been duly sworn :-

I am Lcpl Brousseau of the R22eR. I recognize the accused Henri Green. At about 1000 21 Mar 44 I was on my sentry post on duty I saw smoke at about 20 yds behind me I went out of my dug out to tell them to stop that smoke. When I arrived there I saw Lcpl Avoine giving orders to his men regarding guards duty. I waited until Lcpl Avoine finished his orders because I didn't want to disturb him.

When Cpl Avoine finished his orders Pte Green was about 15 ft from me. I heard a shot fired & I saw Green's rifle falling in front of him & I saw Green falling on his back. I went near Green & he was asking who had fired the shot. I picked up Green's rifle & I took out the empty cartridge & I put a safety catch on the rifle & I saw the SB coming & I went back to my Sentry Post. The bullet had been freshly fired for the barrel of Greens rifle ~~had been~~ was still hot. Before the shot Green was standing up holding his rifle pointing downwards. The rifle was in good condition when I ~~fired it~~ examined it. Green had been in our Company for about 10 days prior to the accident. I did not speak to Green after the accident. I did not seen the shot fired.

Cross-examined by Defence:

Q. - You just said you heard a shot fired saw Greens rifle fall forward & Green fall backward?

A - Yes sir

Q - When you left your post & went toward Cpl Avoine Guard detail did you actually see or notice Pte Green aiming at his right foot?

A - No sir.

Q - You said Green was standing with his rifle muzzle pointed to the ground - was he holding it in the crook of his arm or was he holding it with his hands around the butt in the normal firing fashion.

A - I cannot say for I was behind the accused.

Q - So in fact you're not sure the muzzle was pointed to the ground?

A - Yes for I could see the muzzle between his legs.

Q - So the muzzle was not pointed at either foot.

A - I cannot say whether the rifle was pointed more to the

left or the right It was pointed downward & in front of him.

Q- In what fashion were the other men holding their rifles

A - I cannot say because I did not pay much attention.

Questioned by the Court:-

Q - How do you know the rifle you examined was the one Green had?

A - Because I saw it fall in front of Green & I picked it up immediately.

Q - Describe the exact condition of the weapon.

A - The rifle I picked up had its muzzle very near Green's feet & the butt to the left. I picked up the rifle & took out an empty cartridge & closed the bolt & applied the safety catch. The empty cartridge was hot. The bolt was closed, it had been fired & the safety catch was off.

Case is adjourned to 1300 hrs 21 Apr 44 to allow prosecution opportunity to produce record of service of accused.

Court re-opens 1315 hrs 21 Apr 44.

Medical certificate produced marked exhibit A4 and attached to proceedings.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans No

2. The Prosecutor's open ing address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans No
Q. Do you intend to call any other witnesses in your defence? Ans No

Q. Is he a witness as to character only? (RP 40(B)) Ans No

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked "A", and "B", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans No No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

H. A. Cameron Maj
(Signature of President)

NA 1e

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (RP 37(B)) Ans_____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans_____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans_____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans_____ (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

E.9027 Pte Henri GREEN, Royal 22e Regiment.

FOR THE PROSECUTION — E.42060 Cpl Avoine L.

E.57849 Pte Brousseau G.

Capt. J.B. Rousseau

Capt. A.L. Jacobs

FOR THE DEFENCE — N I L

LIST OF EXHIBITS

Exhibit "A" — N.F.B. 371 filed

I hereby acknowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a charge sheet upon which I am being brought into Court Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of ~~any officer~~ Lt [illegible] Roy

if he is available.

H. Green Pte

In the Field
24 Mar 44

SUMMARY OF EVIDENCE

In the case of E.9027 Private Henri GREEN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CAF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution

E.42060 Cpl Avoine L. Royal 22e Regiment, having been duly sworn states:-

" I am E.42060 Cpl Avoine L. of R.22e.R. posted to "D" Coy.

On 21 Mar 1944, at about 1800 hrs, whilst acting as guard commander, I was preparing to post my guard. E.9027 pte Henri GREEN, was one of the details. He was about two or three feet from me. I gave order for the men to cock their weapons and at that same instant a shot was fired. E.9027 pte Henri GREEN cried out: " Who shot me ? ". It became apparent that it was pte Green's rifle which being pointed at the ground, had been accidently discharged, wounding him in the right foot. I administered first aid and sent for the stretcher bearers. I firmly believe that it was an accident. I have known E.9027 pte Green for approximately one week, and to my knowledge he is a very good and enthusiastic soldier ".

Q.1 In what manner did you order your men to load their weapons ?
A.1 O.K. boys, you can load your weapons.

Q.2 At the time of the accident how was E.9027 pte Green holding his rifle ?
A.2 I do not remember exactly.

The accused declined to cross examine the witness.

L Avoine Cpl

2nd Witness For Prosecution

E.57849 pte Brousseau G. Royal 22e Regiment, having been duly sworn states:-

" I am E.57849 pte Brousseau G. of R.22e.R. posted to "D" Coy.

On 21 Mar 1944, at about 1800 hrs, I was on guard in my section post. I noticed some smoke coming from a dug-out near my post. I came over to warn the occupants that this smoke was dangerously visible. When I arrived there E.42060 Cpl Avoine L. was giving final instructions to his men. I waited for him to finish. I heard him tell them to load and cock their weapons. It was then a shot was fired and one of the details sat down heavily asking " Who shot me ? ". It was E.9027 pte Henri GREEN. I picked up his rifle which he had dropped and opened the bolt. I extracted a fresh fired cartridge case. E.9027 pte Henri GREEN had been hit in the right foot. Cpl Avoine administered him first aid and sent for the stretcher bearers ."

Q.1 Are you sure that the rifle which you picked up was E.9027 pte Henri GREEN'S arm ?
A.1 Yes.

Q.2 How can you tell that E.9027 pte Henri GREEN's rifle was the one which had just been fired ?
A.2 The barrel and spent case were warm.

2nd Witness For Prosecution (Cont'd)

Q.3 In what manner was E.9027 Pte Henri GREEN holding his rifle before the shot was fired ?

A.3 Muzzle downwards with both hands on the rifle.

The accused declined to cross examine the witness.

This witness is on leave
[illegible] Pte

3rd Witness For Prosecution

Capt. J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.B. Rousseau, of R.22e.R. posted as Adjutant, hereby produce a report on wounds in the case of E.9027 Pte Henri GREEN, whom I now recognize. This certificate is marked Exhibit "A" and signed by Capt. R. Birks, MO of the R.22e.R.

J.B. Rousseau Capt.

In view of the loss of time and expenses involved it is not necessary in my opinion to have the presence of Capt. R. Birks, in the taking of this Summary of Evidence.

[illegible] Lieut.

The accused does not request the presence of Capt. R. Birks.

[illegible] Pte

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

[illegible] Lieut.
Officer taking Summary

In the Field
24 Mar 44

ADDITIONAL SUMMARY OF EVIDENCE

In the case of E.9027 private Henri GREEN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

4th Witness For Prosecution. Captain A.L. Jacobs, RCAMC, 1 Cdn F.D.S., having been duly sworn states:-

" I am Captain A.L. Jacobs, RCAMC, 1 Cdn F.D.S. E.9027 Pte Henri GREEN, was admitted to 1 Cdn FDS, 21 Mar 44 suffering from a wound of the right great toe said to have been caused by a rifle.

Q.1- In your opinion could this wound have been self inflicted.

A.1- Yes.

RP 33 (b) has been complied with.
The accused declined to cross examine the witness.

A.L. Jacobs Capt.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure (a), (b), (c) (d) and (g) were duly complied with.

The accused having been duly cautioned in French in accordance with RP 1424 reserves his defence.

H. Tellier Capt
Officer taking Summary

In the Field
15 Apr 1944

E 9027 PTE. GREEN HENRY R. 22nd R.

N/A A.A. 19 1

N/A

N/A

N/A

30 30 30

22

2 Jul 40

N/A

N/A

N/A

N/A

Certified to be true copy from Regimental Books in my custody

H. Tellier

H. T. ELLIER, CAPT.
Dir. B'coy. R. 22nd

[illegible] 44.

M.F.M. 6
(A.F.B. 122)
[illegible]

No. 1927 Name GREEN, H. Sqn., Battery, or Company Corps C. I. C. Date of enlistment JUL 40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Trial	Wed	Pte	(1)	A.A. 19 Drunkenness		Admonished	8 Feb 43.	Lt-Col. GIRARD.	

Certified to be a true copy from the Regimental Books in my custody

H. Tellier
H. TELLIER, CAPT.
2 C.B. C.O.Y. P. [illegible]

20 Apr 43

"E3" [illegible] Mgr

(P.T.O.)

4J85
PTE GREEN M

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 5964 Pte William GREEN, Perth R

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not guilty	
2nd	Not guilty	~~Not~~ Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"WLWS"

[redacted] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on AF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 62 days, of which 10 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on AF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year

(Sgd) "WLWShaw" Capt — Judge-Advocate, if any.

17 Nov 44 — Date awarded.

(Sgd) "FS Walker" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

[redacted] the finding and sentence of the Court

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court

[redacted] "I S J" (1)

(1. AA 57A. Delete if not used.)

(Sgd) "I S Johnston" Brig

Date 18 Nov 44

Commanding 11 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C 5964 Pte William Green	20 Nov 44	"[redacted]" Lt "E Thompson" Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true Copy
(DM Owen) Capt
Cdn Sec GHQ 2nd Ech AAI

4T-85

CFA68 (To part of AFA3) 40/P.M.S./1068 (Adjt)

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brig IS Johnstone DSO, ED 11 Cdn Inf Bde dated 16 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 5964	Pte		William	GREEN	Perth

Proceedings Reviewed
"W.P. Taylor" Major D.J.A.
Cdn Sec GHQ 2nd Ech AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 17 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 62-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

[redacted] "WLWS"

(1. KR Can 537. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

"WLWS" A5. [redacted]

"WLWS" Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.S. Walker	Perth
Member	Capt	S. McKinnon	CBH
Member	Capt	J.R. handley	IRC
Judge-Advocate	Capt	W.W.W.Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lieut	T. Cooper	Perth
Defending Offr	Capt	P.F. Fisher	Perth

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arrangement make(s) (no) plea "WLWS" [redacted] (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

"WLWS" A9. The accused is [redacted] arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"WLWS" A10. The Court [redacted] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 66(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MAML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3; *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (a) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans No Sir Do neither. Do you intend to call witnesses on your behalf? Ans No Sir
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~court~~ second charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ... "NAS" and that the sentence will not be announced, but will be promulgated later.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP* 37(*C*) *fn* 4, 44 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (*g*) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes thru def offr .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*b*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *DP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *DP* 48. *As to sentences assigned for civil offences by the law of England see AA* 41 (5), *MAML p* 130. *When accused MAML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41 (5), *MAML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(2*B*), 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C 5064 Private William GREEN, The Perth Regiment, C.A. a soldier of the Canadian Army (CMF), is charged with:

First Charge
Section 5(7)
Army Act

WHEN ON ACTIVE SERVICE MISBEHAVING BEF RE THE ENEMY IN SUCH MANNE R AS TO SHOW COWARDICE

in that he

In the Field, at approximately 0200 hrs 13 Sep 44 while his company was attacking CORIANO, did leave his Company with intent to avoid battle, and did not return until the morning of 14 Sep 44, at approximately 0800 hrs.

Second Charge
Section 9(2)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, during the battle for CORIANO Ridge, at approximately 0145 hrs 13 September 44, did not rejoin his Company when ordered to do so by Lt Col M.W. Andrew, Comd The Perth Regiment.

In the Field
20 Sep 44

"M.W. Andrew"
(M.W.Andrew) Lt Col
Comd Perth R

To be tried by Field General Court Martial

In the Field
16 Nov 44

"I.S. Johnston"
(I.S. Johnston) Brig
Comd 11 Cdn Inf Bde

"WIWS" "FSW"

CFA86 (In lieu of AFA3)
40/FS&S/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy - AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 5964	Pte		William	GREEN	Perth

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, "I S J" being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 16 Nov 44 endorsed by me, (~~the~~ an offr of my rank for inquiry) To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) "I S J" "PSW"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~) and to consist of the Offrs appointed or detailed hereunder. "I S J"

4. I ~~am unable to appoint the number of offrs fixed by the rules for the Court but have appointed those~~ prescribed hereto. "PSW"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F.S. Walker		Perth

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	S McKinnon		CBH
Capt	J R Handley		IRC

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	RL Simmonds		PLF

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W Shaw		HQ 5 Cdn Armd Div

On Active Service in the Fd

"I S Johnston" (I S Johnston) — Brig
(Signed personally. RP 105 fn 2.) (Rank.)

in Italy (Country.)

Date 16 Nov 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"WMWS" "PSW"

. . I certify that I have this morning examined No C 5964
Rank Pte Name Green, W. Unit Perth R
and in my opinion he is fit to undergo trial by court martial.
Station Field
Date [illegible] Nov 44 "WMWS" Undecipherable Capt
Medical Officer.

/1/

1st Wit) Maj H A Snelgrove, Perth R, duly sworn, stqtes:
Pros'n) Recognize Pte Green the acsd (pointing)
Coriano On nite 12/13 Sep 44 my coy was to follow C Coy on an attack on ~~Conani~~ feature at 0100 hrs. Acsd was str bearer attd to my coy and was present when orders for attack were given in a farm ho where we were located
Coy moved off 0030 hrs and SBs were to move between last 2 Pls 10 and 11 Pl. As I was behind 1st Pl I did not see SB after left ho.
~~xxxxxx~~
Arr. objective 0215 and none of SB had yet arrived at new Coy HQ.-At 0500 hrs all SBs except acsd had reported at Coy HQ. I did not see acsd until 14 Sep when he reported to Coy HQ in same area. Asked where had been and receiving no satisfactory answer. I placed him in arrest. Believe he sd he was back in old Coy HQ. On 14 Sep things had quitened down on ridge when he came up.

XXm:- Acsd was in a very cramped stable orders were given then where I had O grp and orders were given then. Last saw acsd about midnite. SB's were shown route and ho of new location on aerial photos and SB were ordered to report there.
Acsd sd he stayed back at other ho believe he said something about seeing MO Gave no reason for seeing MO

Re-exam:- nil

Court:- Next saw 1000 hrs 14 Sep when he reported to Coy HQ.
RP 83 (B) complied with

2nd Wit) Lt Col M W Andrew, Comd Perth R, duly sworn, states:-
Pros'n) Recon the acsd

On nite 12-13 Sep Perth were to attack on left of ~~Conani~~ Coriano ridge. I had moved my Tac HQ on Bisanigo feature and est it in ho then occupied

---

-2-

by B Coy HQ. B Coy Comd and his HQ personnel were there when I went in. About 0040 hrs 13 Sep Comd B Coy and his HQ personnel left bldg to go ~~frwd~~ to start line. Acsd was a SB with B Coy HQ. Attack went in ~~xxxxx~~ 0100, hrs 13 Sep and after it started , I lost contact with B Coy about 0130 hrs 13 Sep acsd and another SB ret'd to house. I asked him for news of B Coy and don't remember exact answer but to effect they were out frwd asked him what doing back at ho and he was unable to give reasonable answer. I ordered acsd to return to his coy immediately. I then left bldg with my Tac HQ and movedfrwd about 0135 hrs .

XXm:- Dont remember exact answer. It was not satisfactory and that was my reason for ordering him frwd. Do not know exact whereabouts of B Coy it had crossed SP which was 300x from my TacHQ.
Was given no instrs as to how to get there because in first instance he had left with Coy HQ which was a small group.

Re-exam:- nil

Court:- Considerable shelling and mortaring but not in immediate vicinity of ho and SP but was very heavy between SP and objective. From ho was 300x to frwd prt of assembly area and objective 900x beyond.
Maj Snelgrove comd B coy on that nite. "You report back to your Coy immediately" was order given-he was about 5 ft in front of me - he knew who he was talking to because was light, a candle in the room I gave order and left. He did not ~~xxx~~ go with me. I was taking another route in any event

RP 83(b) complied with

3rd Wit) A118025 Pte Savoni, L., Perth R. duly sworn states:
Pros:)

Accd is Pte Green (pointing).

On nite 12/13 Sep was during attack on Coriaino. Coy HQ was in a ho. Major told us time the attack was going in. He sd our coy reserve coy and SB would fall in between 10 and 11 Pl. He also told us time attack to start but I don't remember now. We were right between 10 and 11 Pl when they moved off - no trouble finding them when we moved off. Knew we were going into Coriano when we left ho. Accds was with us in ho and he left ho with the the SB's. He stayed with us until we came under fire - I did not see him after that, we were too busy taking care of ourselves.
When we arrived at objective we reported to Coy HQ - normal drill. Accd was not at Coy HQ then, around first light, slightly before.
XX m:- We always stay with Coy HQ in attack. Don't think we were ordered to report to Coy HQ when we reached objective. In all attacks before we reported to Coy HQ to find if needed, where to sleep, etc.
When attd to Pl do not report to Coy HQ unless ordered to do so.
I did not see accds leave during attack.
We looked for accd when got on objective, there were only 3 of us SB's and accd not there.
Re-exam:- We were not attached to a Pl. We were just in that position going up. We SB's are on Coy HQ.
Court:- I became SB in Aug and Accd was a S.B. then. Gothic was his first time in action.
About 20 mins after crossing ZP came under shell fire. We hit the ditch as a grp and then moved on when opportunity offered. About the third time we hit the ditch I missed accused. SB's did not work on any cas on way up. There was one cas when we got to Coy HQ.

R.P. 83 (b) complied with

Pros - no closing address:

Def offr in closing:- Submit no evid that left Coy with intent to avoid battle. Intention to avoid battle cannot be proven by length of absence or distance from RV. Only indication in substantiation is that accd absent from RV from one time until a certain time next day.
On 2nd chg the order given by Col was for accd to return to Coy immed. - no evidence that did not try to return. Under battle conditions contact of fwd units under fire is extremely difficult. Order given at night and under circumstances reasonable to assume that would take considerable time. Did report to S Coy Comd. Time elapsed does not alter fact that did obey the order.

J.A. Sums up:- Functions of court, credibility of witnesses, presumption of innocence, burden on pros'n, reasonable doubt, cowardice, lawful comd and disobeying, R P 44(D)

1st Wit) Capt. P. Statten, R.C.A.M.C., attd Perth R. duly sworn states:/
Character) Accd came to regt as SB in June and prior to action carried out duties well. In early part of Gothic line did job well. On one particular occasion he was commended by an offr for some particularly good work. Couple of days later accd came to me crying and visibly shaken. I persuaded him to to back and carry on and if he could not, to return to me. He did not seem to like the idea of letting me down as one of my SB'S. Next time aware of any trouble
was nite of attack on Coriano. Recall seeing him in RAP, don't know if nite or next morning, we were busy. Accd did not insist on seeing me then. In my opinion if he had come to me he likely would have been evacuated for psychological reasons. Feel he tried hard in action but has not got what it takes.

XXm:- Nil

Court:-Nil

R.P. 83 (b) complied with.

Def Offr in mitigation:-

On Act Service nearly 4 yrs. Landed Italy 10 Apr 44. First battle Gothic approx 30 Aug. During this suffering dysentry - was bearing up under rather poor health. At beginning of Oct was evacuated to hospital.

Did good job before this incident.

Sentence should be light.

"W.M.W. Shaw
Capt"

Substitute for AFB 296

or MFB 356

STATEMENT OF CHARACTER & PARTICULARS OF ACCUSED

No C5964 Rank Pte Name GREEN W. Unit Perth

Age 33 Married or single married No. of dependents 3

Date of attestation 11 May 41

Number of days in close arrest awaiting trial 62

Civil ..... Military 52 Hospital 10 Total 62

Dates of appointments, promotions etc (if any)

NIL

Decorations C.V.S.M. 1 C.C. Badge

In the Field
17 Nov 44
Date

(undecipherable) Lt
(officer i/c regtl books)

"B"
"WWWS"

The Perth Regiment C.A.

MFM 6
(AFB 122)
40/P&S/120 (3438)

No C5964 Name GREEN W. Sqn, Battery, or Company HQ Corps CIC Date of enlistment 13-5-41 GC Badges 13May 43 Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet 1/11/41 No and date of last drunk NIL Period not reckoning towards freedom from extra fine NA Sheet No Signature OC Company, etc J.E.?????Maj. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-12-41	Pte		AWL from 2359 hrs 27-12-41 to 1015 hrs 28-12-41 (10 hrs 15 Min) AA 15(1)	L/Cpl Handy	5 days CB	28-12-41	Lt Baker	FOP 1 day
Field	20 Sep 42			AWL from 2200hrs 20 Sep 42 to 0945 hrs 21 Sep 42 (11 hrs 45 mins) AA 15(1)	L/Cpl Woodcock	7 days CB	22 Sep 41	????Capt	FOP 1 day
Field	22FEB 43			WOAS neglect to obey camp daily order No.1 para 5-16Feb 43 AA11	L/Cpl Cullen L/Cpl McKinneyEA	WT 3 dys CB	23 Feb 43	I MacDonald Lieut.	
Field	4/12/43			VOLUNTARY BLOOD DONOR E.C. Hungerford Capt No.3CIRU					
Field	27 Dec 43	Pte		WOAS AwL from picquet from 22oo hrs 27-12-43 to 0100 hrs 28 DEC 43 (Total 3 hrs) AA Sec 15(1)	Sgt Polle L/C Christensen	4 days CB	29/12/43	Major Herbert	"A" "WMWS"

(PTO)

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Jan 44	Pte		WOAS AWL from 2359 hrs until 0945 hrs 24 Jan 44. (1 day 9 hrs 56 mins)	L/C Lucking Sgt Rayburn	Deprived of 4 days pay	25 Jan44	Lt Col T. Turner Coy Comd 11 RAOC	Forf 2 days pay
Field	29 Jan 44	Pte		WOAS AWL from 2359 hrs 29 Jan 44 until 0710 hrs 30 Jan 44. Time absent 7 hrs 11 mins AA 15(1)	Cpl Barnes	7 days CB	31 Jan 44	J.Stainton Capt	Forf 1 days pay FR&I
Field	20 Feb	Pte	X	AA Sec 15 (1) AWL from 1830 hrs 20 Feb 44 until 1700 hrs 6 Mar 44 (Absent 14 days 22 hrs 30 mins)	Documentary Cost of apprehension	Forf 21 days pay FR&I 149(2) 9/0	9 Mar 44	Lt Col D. Fletcher	Forf 15 days pay 149(a) total forf 36 dys pay.
Field	14 Jul 44	Pte	X	WOAS AA Sec 15 (1) AWL 7 hrs 10 mins.	L/Sgt Calkins	7 days CB	15 Jul 44	Capt CH Swartz	Forf 1 dys pay FR&I 149(1)(a)

Certified this a true copy of the original document which I hold as custodian of the Regimental Documents.

"P J F Baker" (P.J.F. Baker) Capt

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C5964 Pte William GREEN, Perth R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Not guilty	
2nd	Not guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 8.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 92 days, of which 10 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for one year.

(Sgd) W.M.W. Shaw Capt. 12 Nov 44 (Sgd) [signature] Lt-Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 57, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the Court.

I ~~direct that the accused~~ be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 15 Nov 44 (Sgd) Mrd Johnston Brig

Commanding 1 Can Inf Bde.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
C5964 PTE WILLIAM GREEN	20 Nov 44	[signature] Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 1 JAN 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 43-85 file

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 4/1/B.G.S./1606 (2964)

Convened by Order of Brig I S Johnston, DSO, ED Comd 11 Cdn Inf Bde dated 16 Nov ~~Sep~~ 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 359, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 5964	Pte		William	GREEN	Perth R

PROCEEDINGS REVIEWED ~~eabt~~ in Ahead 9 Jan 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 17 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 7E-150

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation to this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ~~as interpreter ?~~ Ans

~~The interpreter is sworn.(1)~~ Do you object to ~~as shorthand writer ?~~ Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	R A Walker	Perth
Member	Capt	S McKinnon	C Bn
Member	Capt	J R Handley	2 RC
Judge-Advocate	Capt	W M W Shaw	HQ 5 Can Armd Div
Prosecutor	Lt	T Cooper	Perth
Defending Offr	Capt	P F Fisher	Perth

Questions by President : Is the Prosecutor a lawyer ? Ans No (1) Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused before arraignment make(s) (no) (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 126), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB room and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~he~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

B2/20

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *assuring and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B)(2), 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whoin or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Put here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No, Sir.(1)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do neither. Do you intend to call witnesses on your behalf? Ans No, Sir. Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(1) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No, Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (*copies*) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P and Ex D respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 162, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(180), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C.5964 Private William GREEN, The Perth Regiment, C.A., a soldier of the Canadian Army (CMF), is charged with:

FIRST CHARGE
Section 5(7)
Army Act

WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH MANNER AS TO SHOW COWARDICE

in that he

In the Field, at approximately 0200 hrs 13 Sep 44 while his Company was attacking CORIANO, did leave his Company with intent to avoid battle, and did not return until the morning of 14 Sep 44, at approximately 0800 hrs.

SECOND CHARGE
Section 9(2)
Army Act
~~(Alternative)~~ Army

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, during the battle for CORIANO Ridge, at approximately 0145 hrs 13 September 44, did not rejoin his Company when ordered to do so by Lt-Col M.W. Andrew, Comd The Perth Regiment.

In the Field
20 Sep 44

M W Andrew a/Lt-Col
(M W Andrew) Lt-Col
Comd Perth R.

To be tried by Field General Court Martial.

In the Field
16 Nov 44

I S Johnston
(I S Johnston) Brig
Comd 11 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 5964	Pte		William	GREEN	Perth

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 NOV 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F S WALKER	PERTH

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	S MCKINNON	CBH
Capt	J R HANDLEY	IRC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	R L SIMMONDS	PLF

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W SHAW	HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

(I S Johnston) (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 16 Nov 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA5) 40/F & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

Witness M.

I Certify that I have this morning examined No. C.596.4.....

Rank...Pte.....Name...Green, W.....Unit...Lincoln Regt.

and in my opinion he is fit [redacted] to undergo trial by court martial.

Station...Field.....

Date...12 Mar. 44.....

Wmas

.....Sg. Att. Capt.

Medical Officer.

1st Wit Pros. } Maj H A Snelgrove, Perth R, duly sworn, states:
Recognize Pte Green the acsd (pointing)
On nite 12/13 Sep 44 my coy was to follow C
Coy on an attack on Coriano feature at 0100
hrs. Acsd was str bearer attd to my coy &
was present when orders for attack were given
in a farm ho where we were located.
Coy moved off 0030 hrs & SB's were to move
between last 2 Pls - 10 & 11 Pl. As 2 was behind
1st Pl 2 did not see SB after left ho.
Arr. objective 0215 & none of SB had yet
arrived at new Coy HQ. - At 0500 hrs all SBs
except acsd had reported at Coy HQ - 2 did
not see acsd until 14 Sep when he reported
to Coy HQ in same area - Asked where had
been & receiving no satisfactory answer
2 placed him in arrest. Believe he sd he was
back in old Coy HQ. On 14 Sep things had
quietened down on ridge when he came up.
XXm: acsd was in a very cramped stable
where 2 had 8 grp & orders were given then.
Last saw acsd about midnite
SB's were ~~ordered to~~ shown route & ho of new
location on aerial photos & SB were ordered
to report there.
Acsd sd he stayed back at other ho - believe
he said something about seeing MO Gave
no reason for seeing MO
Re-exam: nil
Court:- Next saw 1000 hrs 14 Sep when he
reported to Coy HQ.
RP 83 (B) complied with

2nd Wit Pros. } Lt Col M W Andrew, Comd, Perth R, duly
sworn, states:
Recog the acsd
On nite 12/13 Sep Perth were to attack on left
of Coriano ridge 2 had moved my Tac HQ
on Bisanigo feature & est it in ho then occupied

by B Coy HQ. B Coy Comd & his HQ personnel were there when I went in about 0045 hrs 13 Sep Comd B Coy & his HQ personnel left bldg to go fwd to start line. Accd was a SB with B Coy HQ. attack went in 0100 hrs 13 Sep & after it started I lost contact with B Coy about 0130 hrs 13 Sep accd & another SB went to house. I asked him for news of B Coy & don't remember exact answer - not to effect they were out fwd. asked him what doing back at HQ & he was unable to give reasonable answer. I ordered accd to return to his Coy immediately. I then left bldg with my Sec HQ & moved fwd about 0135 hrs

XXm:- don't remember exact answer - it was not satisfactory & that was my reason for ordering him fwd. do not know exact whereabouts of B Coy - it had crossed SP which was 300 x from my Sec HQ.

Was given no instrs as to how to get there because in first instance he had left with Coy HQ which was a small group

Re-exam:- nil

Court:- Considerable shelling & mortaring but not in immediate vicinity of bn & SP but was very heavy between SP & objective & from bn was 300 x to fwd pt of assembly area & objective 900 x beyond.

"Maj Snelgrove Comd B Coy on that nite. "you report back to your Coy immediately" was order given - he was about 5 ft in front of me - he knew who he was talking to because was light, a candle in the room I gave order & left. He did not go with me, I was taking another route in any event.

RP 83 (B) complied with

IV

Pros – no closing address.

Def offr in closing: Submit no evid that left coy with intent to avoid battle. Intention to avoid battle cannot be proven by length of absence or distance from RV. Only indication in substantiation is that acsd absent from RV from one time until a certain time next day.

On 2nd chg the order given by Col was for acsd to return to coy immed. – no evidence that did not try to return. Under battle conditions contact of fwd units under fire is extremely difficult. Order given at night & under circumstances reasonable to assume that would take considerable time. Did report to B Coy Comd. Time elapsed does not alter fact that did bug the order.

J. A sums up: Functions of court, credibility of witnesses, presumption of innocence, burden on pros – reasonable doubt, cowardice, lawful comd & disobeying. RP 44(P).

1st Wit Character | Capt. P. Stattin, RCAMC, attd Perth R. duly sworn states:

Acsd came to regt as SB in June & prior to action carried out duties well. In early part of battle line did job well. On one particular occasion he was commended by an offr for some particularly good work. Couple of days later acsd came to me crying & visibly shaken. I persuaded him to go back & carry on & if he could not, to return to me. He did not seem to like the idea of letting me down as one of my SBs. Next time aware of any trouble was nite of attack on Coriano. Recall seeing him in RAP, don't know if nite or next morning, we were busy. Acsd did not insist on seeing me then. In my opinion if he had come to me he likely would have been evacuated for psychological reasons. Feel he tried hard in action but has not got

✓

what it takes.

XX m: nil

Const: nil

RPT 3(B) complied with

Def. Ofr in mitigation:-

On act service nearly 4 yrs. Landed Italy 10 Apr 44
First battle Gothic approx 30 Aug. During this
suffering dyssentry - was bearing up under
rather poor health. ~~[illegible]~~ At beginning of Oct
was evacuated to hospital.
Did good job before this incident.
Sentence should be light.

W. M. A. Shaw
Capt.

Substitute for AFB 296

or MFB 356

STATEMENT OF CHARACTER & PARTICULARS OF ACCUSED

NoC.5964....Rank..Pte..... Name..GREEN.W:..... Unit..Perth.....

Age...33.....Married or single .married....No. of dependents.....3....

Date of attestation..11.May.41.....

Number of days in close arrest awaiting trial...62.....

Civil.....Military....52.....Hospital..10.....Total..62.....

Dates of appointments,promotions etc (if any)

NIL .....

.....

.....

.....

Decorations...G.Y.S.M.....I.G.C. Badge

Inthe Field

17.Nov.41.
Date

[signature]...19.....
(officer i/c regtl books)

-B
WMWS

The Perth Regiment C.A.

MFM 6
(AFB 122)
40/PAS/134 (3458)

No C 5964 Name GREEN W. | Sqn, Battery, or Company HQ | Corps CIC | Date of enlistment 13-5-41 | GC Badges 13 May 43 | Service or Proficiency Pay NA | Character

Date of last entry in Company Conduct Sheet 1/11/41 | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine NA | Sheet No | Signature OC Company, etc J.E.???? Maj.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-12-41	Pte		AWL frm 2359 hrs 27-1-41 to 1015 hrs 28-12-41. (10 hrs 15 min) AA15(1)	L/Cpl Handy	5 days CB	28-12-41	Lt Baker	FOP 1 day
					L/Cpl Woodcock	7 days CB	22 Sep 41	????Capt	FOP 1 day
Field	20 Sep 42	Pte		AWL from 2200 hrs 20 Sep 42 to 0945 hrs 21 Sep 42 (11hrs 45 mins) AA15(1)					
Field	22 Feb 43	Pte		WOAB Neglect to obey camp daily order No.1 para 5-16Feb 43 AA11	L/Cpl Cullen WT	3 dys CB	23Feb 43	I MacDonald Lieut.	
Field	4-12-43			VOLUNTARY BLOOD DONOR R.C. Hungerford Capt No.3 CIRU	L/Cpl McKinney RA				
Field	27 Dec 43	Pte		WOAB AWL from picquet frm 2200 hrs 27-12-43 to 0100 hrs 28 DEC 43 (Total 3 hrs) AA Sec 15(1)	Sgt Pollie	4 days CB	29-12-43	Maj Herbert.	
					L/C Christensen				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Jan 44	Pte		WOA[illegible] AWL from 2359 hrs until 0955 hrs 24 Jan 44. (1 day 9 hrs, 56 mins)	L/C Lucking Sgt Rayburn	Deprived of 4 days pay	25 Jan 44	Lt Col T. Turner Coy Comd 11 RAOC	Forf 2 dys pay
Field	29 Jan 44	Pte		WOA[illegible] AWL from 2359 hrs 29 Jan 44 until 0710 hrs, 30 Jan 44. Time absent 7 hrs 11 mins AA15(1)	Cpl Barnes	7 days CB	31 Jan 44	J. Stainton Capt	Forf 1 days Pay F[illegible]ar
Field	20 FEB 44	Pte		AA Sec 15(1) AWL from 1830 hrs 20 Feb 44 until 1700 hrs 6 Mar 44 (Absent 14 days 22 hrs 30 mins)	Documentary Cost of apprehension 9/6	Forf 21 days Pay FRI 149(2)	9 Mar 44	Lt-Col D. Fletcher	Forf 15 days pay 149(a) Total forf 36 dys pay.
Field	14 Jul 44	Pte		WOAS AA Sec 15(1) AWL 7 hrs 10 mins.	L/Sgt Calkins	7 days CB	15 Jul 44	Capt CH Swartz	Forf 1 dys pay FRAI 149(1)a)

Certified this a true copy of the original document which I hold as custodian of the Regimental Documents.

[illegible] Capt.

Perth Regiment
20 Sep 44
R P 4 F

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C.5964 Private William GREEN, The Perth Regiment, C.A., a soldier of the Canadian Army (CMF), charged with:

1. Misbehaving before the enemy in such manner as to show cowardice.
(A.A. Sec 5(7).

2. When on Active Service, Disobeying a lawful Command given by his Superior Officer.

R P 4 F

The Commanding Officer directs that all evidence will be taken on oath.

First Witness

Major H.A.Snellgrove, B Coy., the Perth Regt., having been duly sworn states:
"I am Major H.A.Snellgrove, commander of B Coy., the Perth Regt. and was such on 13 Sept. 1944. I recognize the accused here as being Pte.Green W., a stretcher bearer attached to my company and who was acting as such on 13 Sept.1944. The company's job, in a battalion attack on the ridge south and west of Coriano, was to follow up C Coy., and take up a position some 200 yards behind them. The evening of 12 Sept. 1944 Pte. Green, the accused, was present at B Coy. H.Q., when Lieut Dyke C., went over orders for the attack with the personnel of B Coy., headquarters. The company moved off in the attack at approximately 0115 hrs. 13 Sept. 1944.The position of the stretcher bearers in the attack was to be between 10 and 11 platoons.I last saw Pte. Green when I left B Coy. H. house to move into the attack. The stretcher-bearers moved off behind my headquarters until they got in their position between 10 and 11 platoons. On arrival on our objective at 0220 hrs., none of the stretcher-bearers had arrived at coy. H.Q as yet. At about 0500 hrs after the battle had settled down, I noticed that Pte. Green was not present with the other stretcher-bearers who had arrived at coy. H.Q. During that morning B Coy. suffered about ten casualties, as well as a number of casualties among the enemy. I did not see Pte. Green until he reported to company headquarters at about 1000 hrs. 14 Sept. 1044. I questioned Pte. Green as to why he had not advanced with the company during the attack and as he could not give me a satisfactory answer I placed him under open arrest."

H.A.Snellgrove Major

The accused declines to cross-examine the witness.

Second witness: Lieut. A.W.B. Robertson, B Coy., the Perth Regt., having been duly sworn states;

"I am Lieut. A.W.B. Robertson, commander of 11 Pln., B Coy., the Perth Regt. I recognize the accused here as being Pte. Green L., a stretcher bearer attached to B Coy., who was such on the night of 13-14 Sept. 1944, when B Coy. took part in a battalion attack near Coriano. On the morning of 14 Sept. 1944 I went to the R.A.P., at approximately 0800 hrs. and saw Pte. Green there. I was having my shoulder dressed and when I saw him I asked him what he was doing there. He said something in reply but I can't say what it was. I told him he had better go back with me and he did."

A.W.B. Robertson Lieut.

The accused declines to cross-examine the witness.

Third Witness: A 118025 Pte. Saveni L., B Coy. stretcher-bearer, the Perth Regt., having been duly sworn states:

"I am A 118025 Pte. Saveni L., a stretcher bearer attached to B Coy., the Perth Regt., and was such on the 13-14 Sept. 1944. In the attack on the Coriano section we were told that the position of the stretcher bearers would be between 10 and 11 plns. Pte. Willis and Pte. Tenzer, two other stretcher-bearers in the company and myself got separated from the company for a while with half of 10 Pln. We followed B Coy. and later were able to rejoin B Coy. Pte. Green, whom I recognize as another of the stretcher-bearers in B Coy., started off with us but I don't know what happened after we had gone a short distance and there was some firing. He was apparently nervous when we started out. I did not see him around company headquarters when we got to the objective."

L. Saveni Pte.

The accused declines to cross-examine the witness.

Fourth Witness: Lieut. Col. H.F. Andrew, commanding officer, the Perth Regt., having been duly sworn states:

"I am Lieut.Col. H.F.Andrew, commanding officer of the Perth Regt. At about 1045 hrs. 13 Sept. 1944 B Coy. moved from its area on the Besanigo feature to its position in the battalion assembly area preparatory to crossing the start line in its proper order of attack on the Coriano ridge. I had my T.C. HQ at that time in the B Coy. HQ building. Pte. Green, whom I recognize here, was one of the B Coy. HQ personnel in the building. When B Coy. moved out he appeared to move with Coy. HQ personnel. About an hour later Pte. Green returned to the building accompanied by another stretcher bearer whom I have since identified. At the time he returned I was just leaving with my T.C. HQ personnel to move forward. I questioned Pte. Green and the other stretcher-bearer as to the disposition of B Coy. Pte. Green told me he had left them forward, or words to that effect. I said to Pte Green, "Rejoin your company at once." I then left the building."

H.F. Andrew Lieut.Col.

The accused declines to cross-examine the witness.

"Do you wish to make a statement at this time? You are not compelled to do so, but anything you may say will be taken down in writing and may be used in evidence."

The accused declines to make a statement at this time.

The accused declines to call witnesses in his behalf.

W. Green
C 5964 Pte. Green W.

Rules of Procedure 4 have been complied with.

Taken by me in the presence and hearing of the accused this nineteenth day of September 1944.

P.B. Kennedy Capt.

F.G.C.M.

G.5964 Private William GREEN
The Perth Regiment C.A.

LIST OF WITNESSES FOR THE PROSECUTION

Major H.A. Snelgrove	The Perth Regiment, C.A. (CMF)
Lieut. A.W.B. Robertson	The Perth Regiment, C.A. (CMF)
A.118025 Pte Savoni L.	The Perth Regiment, C.A. (CMF)
Lieut-Col. H.N. Andrew	The Perth Regiment, C.A. (CMF)

F.G.C.M

G.5964 Private William GREEN
The Perth Regiment C.A.

LIST OF WITNESSES FOR THE DEFENCE

N I L

F.G.C.M

G.5964 Private William GREEN
The Perth Regiment C.A.

LIST OF EXHIBITS

N I L

F.G.C.M

G.5964 Private William GREEN
The Perth Regiment C.A.

I do/~~do not~~ desire the Convening Officer to appoint an officer to represent me at my forthcoming Trial by Field General Court-Martial.

I desire the services of _____

if he is available.

W Green

W.M.C.S.

COUNTER NUMBER 435250

HOUR 1930

OPERATOR'S INITIALS H.L.

RELIEVING OPERATOR E.M.

5R-72
Pte Green, N.F.

RECORDED AT CMHQ IN AB 160 5A - 72

FIELD GENERAL COURT-MARTIAL

CFA96 (To face p 1 of AFA21) 40/7 pr 50 (1/1858) 4/388

4/388

Convened by Order of Brigadier K G Blackader Comd 13 CITB dated 31 Jul 45
DSO, MC, ED

RECEIVED 24 AUG 1945 JAG BRANCH

ACCUSED.

(As to the trial of two or more charged jointly see RP 26, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82652	Pte	Norman Frederick	GREEN	CIC 4 CITR

PROCEEDINGS REVIEWED
24 Aug 45
Capt.
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans _____

~~The Interpreter is sworn.~~(1) Do you object to CAPT J.B. BOURDAGE, as shorthand writer? Ans NO
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D L	REDMAN	H QCBU
Member	CAPT	C MH	PRIEUR	4 CITR
Member	LIEUT	GAG	PEAT	7 C REPD
~~Judge-Advocate~~				
Prosecutor	CAPT	N H	SHAW	4 CITR
Defending Offr	LIEUT	L	BUCHANAN	4 CITR

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 21.)

A8. The accused _____ before arraignment make(s) (no) plea

_____ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 198), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 26, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82652 Pte Norman Frederick GREEN - CIC - 4 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

A1 present under sentence for _____ beginning on (date) _____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF 8355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for One Hundred and Twenty (120) days and to be put under stoppages of pay until he has made good £0-13-6 the cost of his return to Ireland

(Sgd) _____ Judge-Advocate, if any. Date awarded. (Sgd) _____ President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to (prison by definition here) for the further period.~~ (1)

(1. AA 57A. Delete if not used.)

Date 2 Aug 45 (Sgd) W Blackader Brig
Commanding "D" Div C.A.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

D.82652, Pte, Green, N.F. 4 Aug 45

ENTERED ORDER No 186
DATE 8 Aug 45
BY [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(1)
(*1. RP 35 fn 2. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO STATE (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change ~~his (their) plea(s) of Guilty to Not Guilty on~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Give evidence NOTE-All
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by A.A. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 286. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Brief, only (NOTE A 11) (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D.82652, Pte. Norman Frederick GREEN, CIC, on strength of 4 C.I.T.R. a soldier of the Cdn. Army Overseas, is charged with:-

Sec 15 (1) Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 1200 hrs. 29 Apr 45, illegally absented himself without leave until he was arrested at Nottingham at 1515 hrs. 13 July 45, thereby incurring costs of apprehension and return to his Unit in the amount of £0-13-6.

(Total time absent:- 75 days, 3 hrs. 15 min.)

In the Field,

25 July 45.

R C Clark

(R.C. Clark) Colonel,
Comd, 4 C.I.T.R.

To be tried By Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
31 Jul 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82652	Pte	Norman Frederick	GREEN	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 Jul 45 endorsed by me, ~~or by an offr of my subordinate~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reasons to be stated in the opinion which follows~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby nominate as an appointed (a) to the Offrs to form the Court, (b) as President, (c) to the reserve, from the attached roster.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I nominate and appoint as Prosecutor to the Court, the Offr mentioned in the said roster.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

LT COL (Rank.)	D L REDMAN, VD (Must be named. RP 106.)	Hq CIC (Unit.)

MEMBERS.

Captain	to be detailed by Comd	4 CITR
Lieutenant (Rank.)	to be detailed by Comd (Named or detailed. RP 106.)	9 Cdn Repat Dp (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Comd (Named or detailed, if any. RP 106.)	4 CITR (Unit.)
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 31 Jul 45

K G Blackader (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 2) 40/P & S/1697 (8143)

2 CITR/11

MEDICAL OFFICER'S CERTIFICATE

K.R.Can.Para 587

I certify that I have this morning examined No. F D B2652

Private Green . N. F. and in my opinion he

is ~~FIT~~ UNFIT to undergo trial by Court-Martial.

Cond.

Station 2 CITR

Date: August 1 1945

J. MacDonald Capt
(RCAMC) Attached to 2 CITR

Trial of

D-82652 Pte Green, N.F. CIC-, 4CITR

The accused, sworn, states:-

As far as being AWL, I admit that. Since I came out of hospital I have tried several times to get back to my unit. They wouldn't let me go back; so I volunteered for Burma. When I got back to the HU, I was ~~to~~ put on odd jobs and I felt everything was closing around me; I couldn't get anywhere. I'd like to get to the Middle-East. I've never had a break in the Army and all I am asking now is to get it this time.

E-3.
[illegible]

E-3
pm

The case of D 82652 pte Green N.F.

Pte Green was working in Montreal at Cadburys Chocolate when he enlisted on 15 July 40. On June 41 he arrived in the U.K. In June 44 he went to France with the Highland Light Infantry and was wounded twice before being evacuated to England. Upon being released from hospital the accused requested a number of times to be returned to his unit, but this request was never granted. As an alternative his next desire was to volunteer for the Far East. He was in the belief that forms were available, prior to the re-allocation questionaire, but was never given a satisfactory answer to fill in the forms. When all his efforts to get into action and away from being pushed about he decides to relieve himself of the boredom and illegally absented himself.

I respectfully ask the Court for leniency as this man has served his country well, and is willing to serve his country again if given the opportunity.

The accused asks the Court to say a few words to express his feelings more clearly than I can able to write them.

SUMMARY OF EVIDENCE

In the case of D.82652, Pte. Norman Frederick GREEN, CIC, on strength of 4 C.I.T.R., a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness Prosecution. Lieut. A.W. Geddes, RHQ, 2 CITR, having been duly sworn states as follows:-

"I am Lt. A.W. Geddes, RHQ, 2 CITR, and I produce the following documents pursuant to Overseas R.O. 5352 which have been read over and shown to the accused, and which are attached hereto as exhibits:-

Exhibit "A":- Certified True Copy of Record of Declaration of Court of Inquiry held on 26 May 45, showing that D.82652, Pte. Green, N.F. illegally absented himself without leave from 1200 hrs 29 Apr 45 and that at the date of the Court (26 May 45) he was still so absent.

Exhibit "B":- Certificate in accordance with Sec. 163 (1) (m) of the Army Act, showing that D.82652, Pte. GREEN, Norman Frederick was arrested at Nottingham at 1515 hrs. 13 July 45.

Exhibit "C":- Expense Voucher showing costs of apprehension & return of D.82652, Pte. Green, N.F. from Nottingham to London in the amount of £0-13-6.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

A.W. Geddes Lt.

(A.W. Geddes) Lieut.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence & hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

In the Field.

25 Jul 45.

EXA

[illegible] Lieut.

(P. Saperia)
Officer detailed to take the Summary of Evidence.

Exhibit A

RECORD of the Declaration of a Court of Inquiry assembled at In the Field, on the 26th day of May 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.82652, Pte. GREEN, N.F.

DECLARATION

The Court declare that No. D.82652, Pte. GREEN, N. F.

illegally absented himself without leave 2 C.I.T.R., In the Field, at 1200 hours on the 29th day of April 45, that he is still so absent, and that on the 26 May 45 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
(See Overleaf)		(See Overleaf)	

(A.R. Herbert) Capt. President

(P. Saperia) Lieut. Member

Member

Signed at In the Field.

this 26th day of May 1945

Signature of Commanding Officer W. P. Cameron

(D.C. Cameron) Colonel, A/Comdr, 2 C I T R

Certified true copy

Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/292 (6610)

Article	Quantity	VocabPrice.	Less 25%
Boots, Ankle, pre.	1	1 - 6 - 0	0 - 19 - 6
Combs, Hair	1	0 - 0 - 2	0- 0 - 1½
Dressing, Field,	1	0 - 1 - 1	0 - 0 -10
Holdall	1	0 - 0 -10	0 - 0 - 7½
Housewife	1	0 - 0 - 9	0 - 0 - 6½
Razor, safety	1	0 - 0 - 3	0 - 0 - 2½
Brush, shaving	1	0 - 1 - 8	0 - 1 - 3
" tooth,	1	0 - 0 - 6	0 - 0 - 4½
Towels, hand,	1	0 - 1 - 6	0 - 1 - 1½
Belts, waist,	1	0 - 3 - 4	0 - 2 - 6
		1 -16 - 1	1 - 7 - 1

I certify that the a/m articles of equipment prices as above are correct in accordance with O.R.O. as amended from time to time.

W.O. Toombs Capt

(W.O. Toombs) Capt.
Quartermaster 2 C I T R

Exhibit B

CERTIFICATE IN ACCORDANCE WITH SECTION
163 (1) (m) OF THE ARMY ACT

I certify that the person whose description is given below was arrested at Arlington St. Nottingham at 16.15 hours on the 13 day of July 1945

Regimental Particulars of the soldier referred to above.

No. D 82652
Rank. Pte
Name. Norman Frederick Green
Unit. 1st Bat. Highland Light Inf. Canada.
Age. Whitley. Surrey.
Height. 23
Complexion. 5'6"
Hair. Fresh
Eyes. Fair
Marks. Blue.

Description.

Uniform.

NOTTINGHAM GUILDHALL STATION DATE 13.7.45

Signature of Officer in Charge of police station where the above-named person was taken, or placed in custody, on arrest.

[illegible] Sergt.
(In charge of Guildhall (Nottingham) Police Station).

Arrested by D.O. Farnesworth.
Absent mnc 21.4.45.

Exhibit C

Expense Voucher Re—

Ref: KR & O (Can) 539

Reg No. [redacted] Rank Pte. Name Green, N.F. Unit [redacted] 2-C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Nottingham (½ Portion)

Date	Particulars	Amount		
14 June 45	Escorts return fare from LONDON To Nottingham		9	6
	Prisoners single fare to LONDON From Nottingham (own ticket)			
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		4	
	Total £		13	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. K. Harrison Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40. P & S/483 (6762)

LIST OF WITNESSES

In the case of D.82652, Pte. Green, N.F., CIC, on strength of 2 CITR, a soldier of the C.A.(O).

(Prosecution)

1. Lieut. A.W. Geddes — HHQ, 2 CITR.

(Defence)

NIL

LIST OF EXHIBITS

(Prosecution)

Exhibit "A":- Certif. True Copy of Record of Decl. of C. of I. showing accused AWL from 1200 hrs. 29 Apr 45.

Exhibit "B":- Certif. in accord. with Sec. 163 (1) (m) showing accused arrested at Nottingham at 1515 hrs. 13 July 45.

Exhibit "C":- Expense Voucher showing expenses incurred in connection with appreh. & return of the accused in the amount of £0-13-6.

(Defence)

NIL.

REQUEST FOR DEFENDING OFFR

I, D.82652, Pte. Green, N.F., CIC, hereby request the ~~Def~~ Convening Officer appoint any available officer to represent me at my forthcoming trial by Court-Martial, ~~should he be available.~~

In the Field.

25 July 45.

N.F. Green Pte.
(N.F. Green) D.82652.

RECEIPT FOR DOCUMENTS.

I, D.82652, Pte. Green, N.F., hereby acknowledge receipt of a true copy of the Summary of Evidence taken in England preliminary to my F.G.C.M., and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to F.G.C.M.

In the Field.

25 July 45.

N.F. Green Pte.
(N.F. Green) D.82652

W. F. B. 355
2250—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.82652,	Pte.	Norman Frederick GREEN,	4 CITR.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Sec. 15(1)	3 times	Sec. 15(1)	18 times
For	Sec. 40	0 times	Sec. 40	1 times
For	Secs. 15 (3)	0 times	Secs. 15 (3)	1 times
For		times		times

For ~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 75~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 18 days in ~~Air Force~~ military custody, making a total of 18 days in custody of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs. 5 mon.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper 17 July 40

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, as~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward ~~or is in possession of or entitled to~~. State any ~~air force~~ military decoration or reward.—

CVSM & CLASP.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force~~ ~~the regimental rank of~~

EX B

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
..... dated ....., and in his regiment (or corps), the rank of unit
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Air Force
Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1 St. day of August 1940

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. D.82652 Name GREEN, N.F. Sqn, Battery, or Company — Corps C.I.C. — Date of Enlistment 17 Jul 40 — CC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 127) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	19 Aug 41	Pte		A.A.Sec.15(1) AWL from 2000 hrs 19 Jul 41 until 2130 hrs 2 Aug 41 Total absence- 14 days,1 hr,30 min Close arrest-from 2130 hrs 2 Aug 41 until 1130 hrs 5 Aug 41.	Sgt.Stinach Sgt.Hunter	21 days Det.	5 Aug 41	Lt-Col Mathewson	Forf 15 days pay R.R.&I(2 days pay fo close arrest Tot.Forf-39 d pay
Field	31 Oct 41	Pte		A.A. Sec 40 - Conduct to the Prejudice, etc - Fired rifle in billet	Cpl.Earle B.C.	7 days C.B.	5 Oct 41	Maj. Hillier G.W.	
Field	26 Dec 41			A.A. SEC 15(1) AWL from1800 hrs 26 Dec 41 until 1815 hrs 27 Dec 41 - Tot.Absence-24 hrs 15 min	Cpl.Goodman E.J.	7 days C.B.	29 Dec 41	Capt.Scott J.R.	Forf 2 Days pay-RR&I 1(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Oct 42	Pte		A.A.SHC 15(1) AWL from 1200 hrs 14 Sept 42 until 1830 hrs 20 Oct 42-Tot.Absence-6 days,6 hrs, 30 min	Cpl.Enoss,W A/L/Sgt.Dubuc Doc.	10 days C.B.	22 Oct 42	Capt. Jarvis	Forf 7 days pay under FR&I 1(a)
Field	7Feb 43	Pte		A.A.SHC 15(1) AWL from2000 hrs 7 Feb 43 to 2300 hrs 7 Feb 43 Tot.Absence - 3 hrs	Sgt.Evans	5 days C.B.	8 Feb 43	Capt. Stewart	
Field	6 May 43	Pte		A.A.SHC 15 (3) -Breaking barracks while the Company was at 0730 hrs 6 May 43	L/Cpl. Pullan, G.	5 days C.B.	13 May 43	Major Stewart	
Field	5 Jun 43	Pte		A.A.SHC 15(1) AWLfrom 1500 hrs 4 Jun 43 to 2300 hrs 4 Jun 43 Tot.Absence- 8 hrs	Pte.Wale E.J.	7 days C.B.	9 Jun 43	Major Stewart	Forf 1 days pay FR&I 1 (a)
Field	16 Jun 43			A.A.SHC 15 (1) - AWLfrom 1200 hrs 16 Jun 43 to 1130 hrs 22 Jun 43 Tot.Absence- 5 days, 23 hrs, 30 min	Cpl Steeler Cpl. Dollard	14 days F.P.	23 Jun 43	Lt-Col Cantie	Forf 6 days pay -FR&I 1(e)

No. D.82652 Name GREEN, H.F. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment 17 Jul 40 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/FAS/136 (7010)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Sept 43	Pte		A.A. SHC 15(1) AWL from 2400 hrs 19 Sept 43 to 1045 hrs 21 Sept 43 Tot.Absence- 1 day. 10 hrs,45 min	Cpl.Frechette Cpl.Langlais Sgt.Lebel	14 days C.B. 21 days pay	21 Sept 43	Lt-Col Letourneau	Forf 2 days pay-FR&I 1(a
Field	8 Apr 44	Pte		A.A.SHC15(1) from 0830 hrs 8 Apr 44 to 2130 hrs 10 Apr 44 TotAbsence- 2 days 13 hrs	CSM Gourdeau Cpl.Chartrand	14 days F.F. 14 days pay	11 Apr 44	Col. W.E. Morgan	Forf 3 days pay-FR&I 149 1 (a) 14 days-FR&I 149 1(c
Field	22 May 44	Pte		AWL - A.A.SHC 15(1) AWL- 8 hrs	L/Cpl Morel	Forf 5 days pay FR&I 149(2)	24 May 44	Lt-Col G.F. Clinton	Forf 4 days pay-FR&I 149 1 (a)
Field	23 May 44	Pte		A.A.SHC 15(1) AWL- 46 min	Documentary				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Oct 44	Pte		A.A.SEC 15(1) AWL from 2200 hrs 25 Oct 44 until 0800 hrs 27 Oct 44 Tot.Absence-1 day 10 hrs	Cpl.Covey Sgt.Macgrave Cpl.Fraser	10 days F.P.	31 Oct 44	Lt-Col R.C. Coleman	Forf 2 days pay FR&I 149 1(a) Forf. 10 days pay
Field	10 Dec 44	Pte		A.A.SEC 15 (1) - AWL from 0830 hrs 10 Dec 44 to 1130 hrs 20 Dec 44 Total Absence 10 days, 3 hrs	CSM Williams Cpl. Casault Cpl Harvey	28 days pay FR&I 149(2)	21 Dec 44	Lt-Col C.M. MacMillan	Forf 11 days pay F.R.&I 149 1 (a) Tot Forf - 39 days pay
Field	18 Feb 45	Pte		A.A.SEC.15(1) WDAS AWL- from 0700 hrs 18 Feb 45 until 0900 hrs 19 Feb 45 -Tot Absence-1 day,2 hrs	Sgt.Ashburner	7 days C.B.	21 Feb 45	Lt-Col W.K. Stockloser	Forf 2 days pay FR&I 149 1 (a)

CERTIFIED TRUE COPY

.....Capt

5Q-75

Ins. Green R.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-77355 Gnr GREEN, Ralph William - 1 COMERU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of Ninety (90) Days.

(Sgd) ..... Judge-Advocate, if any. 15 JUL/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) 11th

(1. AA 57A. Delete if not used.)

(Sgd) [signature] (H.C.N. BROWNFIELD) Brigadier

Date 19 Jul 45 Commanding Canadian Reinforcement Units

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F77355 Gnr Green R.W.	21 July 45	[signature] ADM OFFR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. 1 CARU

RECEIVED 8 AUG 1945 D.M.A. BRANCH R.M.C.

RECORDED AT CMHQ IN AB 160

FIELD GENERAL COURT-MARTIAL

CPA66 (To take place of AFA81) 40/P & R, 1688 (E144) 4/38B

Convened by the BRANCH Brig HON Brownfield CBE MC Comd "C" GP, CRU dated 13 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 300, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-77355	Gnr	Ralph William	GREEN	1 CARU

PROCEEDINGS REVIEWED WITH [illegible] 9 Aug 45

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 13 JUL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all references from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 746 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1142 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ PTE/LCE ~~as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to SGT/AH S INCLAIR as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	G.H.C. BAINHURST	1 C.G.A.U.
Member	LT	L TANGUAY	1 C.G.A.U.
~~Judge-Advocate~~			
Prosecutor	CAPT	A.E. CHURCHILL	1 CARU
Defending Offr	LT	W.L. BROCK	1 CARU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~(an)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of J A see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or J A, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*I. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)
(*I. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*I. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A" initialled and read aloud by the President.(1)
(*I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*I. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here, Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*I. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*I. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*I. RP 40, 117(A). See Notes in Part II of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*I. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. I've written NOTE - AIT
(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*I. MFB 355 or MFB 290. 2. Mutatis. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No thank you (NOTE SIT)
(*I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*I. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*I. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused F-77365 Gnr. Ralph William GREEN, Royal Canadian Artillery, on the strength of Depot Bty., No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

WHEN ON ACTIVE SERVICE

FIRST WITNESS
A.A. Sec 15(1)

ABSENCE WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave from 1800 hrs 20 Apr 45 until apprehended by the Canadian Provost Corps at London at 2215 hrs 13 Jun 45.
(Absent 54 days 4 hrs 15 mins)

Dated at Bordon, Hants, 5th day of July 1945.

(W.A. Townsley) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit, MLA.

To be tried by Field General Court Martial

Wm Brownfield Brigadier
Commanding WCW Group, Cdn Reinforcement Units
(Convening Officer)

13 Jul 45
Bordon, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-77355	Gnr		Ralph William	GREEN	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has (~~XXX~~ committed the offence[s] set forth in the Charge Sheet[X] attached and on this date (date), endorsed by me, ~~XXXX

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No. F 77355 GNR GREEN R.W.
(Rank) (Name)

of No 1 CARU and in my opinion he is fit to undergo
~~unfit~~

trial by Court Martial.

Station FIELD.

Date 18TH JULY, 1945.

Sgd [signature]
(Medical Officer)

DMy

TRIAL OF

GREEN

E-1 STATEMENT BY THE ACCUSED

I joined the Army in Jan 41 and proceeded o/s in Jun 41 as a rft for the 2 A Tk Regt over here. I served with them until Jun 44 and left them to go to hosp, but on release I found it impossible to join them again as they were o/s and I spent the remainder of my time in an RU.

I was engaged to a girl in London and I heard that she was running around; I went up to see if she was and found it to be true and after that I couldn't pull myself together.

My age is 23, Sir, and I went to Grade 8 in school and in civil life I worked for my father on a farm. My category is M2, S4, which I got last summer.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

F 77355 Gnr R W GREEN

PLEA IN MITIGATION

It is the contention of the defence that the accused was influenced by his inability to rejoin his unit and worried about a private situation in London as set forward by the accused in his evidence. We respectfully ask the court to consider this and the accused's military record

SUMMARY OF EVIDENCE in the case of F-77355 Gnr. Ralph William GREEN, on the strength of Depot Bty., No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution

Lieut. T.R. Hart, R.C.A., Assistant Adjutant "A" Wing, No. 1 Canadian Artillery Reinforcement Unit, Canadian Army Overseas, having been duly sworn states:

I am Lieut. T.R. Hart, of No. 1 Canadian Artillery Reinforcement Unit, Assistant Adjutant Administrative Wing, and as such I produce from Wing Orderly Room files, a certified true copy of the Declaration of a Court of Inquiry held on the 12th day of May 1945, attached hereto and marked Exhibit "A", which declares that F-77355 Gnr. Green, R.W. absented himself without leave from his unit No. 2 C.A.R.U. at 1800 hrs 20 Apr 45. I also produce a certificate in accordance with P.C. 2797 of 10 Apr 42 relating to F-77355 Gnr. Green, R.W. and showing that he was arrested at London at 2215 hrs 13 Jun 45, which said certificate is attached hereto and marked Exhibit "B".

T.R. Hart

.....
(T.R. Hart) Lieut., R.C.A.

The Accused declines to cross-examine this witness.

R.W. Green

.....
F-77355 Gnr. Green, R.W.

The Accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything, or to give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing, and may be given as evidence.

The Accused declines to make a statement and reserves his defence.

R.W. Green

.....
F-77355 Gnr. Green, R.W.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, two (2) exhibits, was taken down by me in the presence and hearing of the Accused and that Rules of Procedure 4(c)(d)(e)(f) have been complied with.

Bordon, Hants
6 July 45

G.M. Wright

.....
(G.M. Wright) Capt., R.C.A.
Officer detailed to take Summary of Evidence

E & A
MM

"CERTIFIED TRUE COPY"

Exhibit 'A'
Lieut. & Capt. R.C.A.

RECORD of the Declaration of a Court of Inquiry assembled at #2 CARU, Cove on the 12th day of May 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F 77355 Gnr GREEN, R.W.

DECLARATION

The Court declare that No. F 77355 Gnr GREEN, R.W.

illegally absented himself without leave at 1800 hrs on the 20th day of Apr 45 that he is still so absent, and that on the 12 May 45 he was deficient, and that he is still deficient of the following articles :—

ARTICLES			100% VALUE	ARTICLES	42% VALUE
Blouses, BD	1	£	1-9-1	£	1-1-10
Trousers, BD	1		1-9-3½		1-1-11
Boots, Ankle prs	1		1-6-0		0-19-6
Drawers, woollen prs	2		0-12-7		0-9-5
Cap, F S	1		0-2-6		0-1-10½
Shirts Angola	1		0-9-1		0-6-10
Oint, Gas Tins	1		0-0-8		0-0-4
Combs, hair	1		0-0-2		0-0-1½
Vests Woollen	1		0-5-5		0-4-1½
			5-14-9½		4-6-1

Lt L.A. Kaufman President

Lt H.S. Bray Member

Signed at In the Field

Lt A.W. McKenna Member

this 14th day of May 19 45

Signature of Commanding Officer S.H. Dobell Colonel, Commanding Officer No 2 Cdn Arty Rft Unit Cdn Army (Overseas)

Certified true copy [signature] Capt.
Signature of Officer having custody of original record

3/608 MFB 375-AFB 115 40/P&S/392 (6610)

CERTIFICATE IN ACCORDANCE WITH P.O. [illegible]

I certify that No. F-77355 Rank. Gnr. Name Green.R.W.

Unit No.1.C.A.R.U. (CRU) Was arrested at London (Place)

at 2215 hrs. (Hour) on 13-June-45 (date) and that at the time of his arrest, he was wearing (Military Uniform) XX (XXXXXXXXXXXXXXXXX Signature of Provost Marshal, Assistant Provost Marshal, or other Officer of the Commanding officer of the portion of His Majesty's Forces or the Officer, Warrant Officer or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army) into whose custody the above named person was taken on arrest. Strike out part inapplicable.)

[signature] Lieut.

(J.A.Primrose. D.A.P.M. C.M.H.Q.

London

14-June-45.

Exhibit 'B' [illegible]
Capt. R.C.A.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.77355	Gnr	GREEN, R.W.	No 1 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~[illegible]~~

~~[illegible]~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 34 days in military custody, i.e., No days in open arrest, 34 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 23 yrs 9 mos 7 days

6. The date of his attestation ~~[illegible]~~ is 6 Jan 41

7. The service which the accused is allowed to reckon is 4yrs 6 mos 6 days

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

Ex A
My

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(26594) Wt.42129/4399 42,000 11/44 A.S.E.W.Ltd. Gp.698 Form B.296 (War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12th/13th day of Jul 45

G.C. Smith

G.C. SMITH) Major, CAC
~~Adjutant/Executive Officer~~ No 1 C.A.R.U.
Officer in charge Records

F77355 Green R.W. R.C.A.

No. Name Sqn, Battery, or Company Corps Date of enlistment GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/P&S/126 (5412)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Temporary MFM 6 Original not available 15 Jun 45									

Certified original not available
O C Smith major
Officer in charge of records 1 CARU.

Ex C
Ex

LIST OF WITNESSES

PROSECUTION

1. Lieut. T.H. Hart. — No. 1 Canadian Artillery Reinforcement Unit

DEFENCE

Nil

LIST OF EXHIBITS

"A" Certified true copy of a Declaration of a Court of Inquiry held on 12 May 45 in the case of F-77355 Gnr. Green, R.W.

"B" A Certificate in accordance with P.C. 2797 of 10 Apr 42 relating to F-77355 Gnr. Green, R.W., and showing that he was arrested at London at 2215 hrs 13 Jun 45.

STATEMENT OF THE ACCUSED IN ACCORDANCE WITH R.P. 14(3)

I, F.77355 Gnr Green, R.W. of No 1 Canadian Artillery Reinforcement Unit, consent to have an Officer appointed by the Convening Officer to represent me at my trial by Court Martial.

R.W. Green

(F.77355 Gnr Green, R.W.)

7 Jul 45

Received from Capt. G.M. Wright, Officer detailed to take the Summary of Evidence, one (1) copy of the Summary of Evidence and one (1) copy of the charge sheet in the case of P-77355 Gnr. Green, R.W.

R W Green

.....

P-77355 Gnr. Green, R.W.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

54-24.

Pk. Green, N.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-145122 Pte Wilfred GREEN N N S Highrs 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 7(c)	Not Guilty	Guilty	
2nd AA Sec 40 (ALTERNATIVE)	Not Guilty	not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 732, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1) none.
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 30 days detention

(Sgd) ..... Judge-Advocate, if any. 2/April/45 Date awarded. (Sgd) ..... President. (RP 45, 58.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 57, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
(G S N Gostling) Brig
Commanding 2 CDN BASE RPT GP
Confirming Officer.

Date 3 APR 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KA Can 570, 577.)

Accused.	Date.	Signature of Offr.
B-145122 Pte Wilfred GREEN N N S Highrs 10 C B R Bn	10 35 hrs. 5 April 45	[signature] an Asst [illegible] 10 C B R Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CHRQ IN AD 160 p. 54-24

FIELD GENERAL COURT-MARTIAL

CPA98 (To lie on file) 40/P & S/1698 4/388

Convened by Order of Lt-Col J Runcie, MC A/Comd 2 CBRG dated 30 Mar 45

RECEIVED 15 MAY 1945 JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 16 May 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 1 Jun 45 21 Army Gp

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Permt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-145122	Pte	Wilfred	GREEN	NNS Highrs 10 CBR Bn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 2 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 51, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn i. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....
~~The Interpreter is sworn.(1)~~ ~~Do you object to ..... as shorthand writer?~~ Ans .....
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G G MacKENZIE MBE	FGH I-9 List 3 Cdn RSTD
Member	LIEUT.	BURTON FITCH	C/C 10 CBR BN
Member	LIEUT	W S GRAY	C/C 11 CBR BN
Judge-Advocate			
Prosecutor	LIEUT	G K BISSETT	C/C 10 CBR BN
Defending Offr	LIEUT	C Z GODLOVITCH	C/C 10 CBR BN

Questions by President: Is the Prosecutor a lawyer? Ans Yes.(2) Is the Defending Offr a lawyer? Ans Yes.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros is lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B-145122 Pte Wilfred GREEN before arraignment make(s) (no) ~~a~~ plea.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the arguments made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 21, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings.

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D 6.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 5 P 151.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (27).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused : Do you wish to make a statement ? Ans .....(4)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2. *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans N.O (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans N.E. Do you intend to call witnesses on your behalf ? Ans N.O. Are they witnesses as to character only ? Ans N.A.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court in (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*) *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the Post charge(s), being subject to confirmation, will be promulgated later.(1) ~~(Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans N.O.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 358. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No B3 .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(4).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 120. *When accused already under sentence of imprisonment or detention see AA* 44(18), (*d*), (*i*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Medical Officers Certificate

I certify that I have this day examined B 145122 Pte. W. Green, 10 Bn and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station ~~[illegible]~~ Field

Date 3 - APR. 45.

R. E. Buchanan Esq
Medical Officer

10 C B R Bn
Unit

FIELD GENERAL COURT-MARTIAL

CFAAS (In lieu of AFAS) 40/F&N/1097 (2nd Ed)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-145122	Pte		Wilfred	GREEN	N N S Highrs 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G G MacKENZIE MBE	FGH X-9 List 3 Cdn MTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by OC 10 CBR Bn	10 CBR Bn
Lt	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date: 30 Mar 45

(Signed personally. RP 105 fn 2.)

(J Rangle)

A/ Commanding 2 Cdn Base Ftl Gp

Lt-Col (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, B-145122 Pte Wilfred GREEN (N S Highrs) on the strength of 41 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas

is charged with

FIRST CHARGE
A.A. Sec 9(2)

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, at approximately 2300 hrs, 12 Mar 45 when ordered by Capt J.G. McKinney, O.C. 41 Coy, 10 CBR Bn, to produce his pay book did not do so.

SECOND CHARGE
ALTERNATIVE
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at approximately 2300 hrs, 12 Mar 45 when ordered by F-16357 Sgt McDougall C.W. to produce his pay book refused to do so and when ordered by Capt J.G. McKinney, O.C. 41 Coy, to produce his pay book refused to do so and blew smoke in Capt McKinney's face.

(B.I. PATRICK) Capt.,
A/O.C., 10 C.B.R. Bn.

In the Field
17 Mar 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J Rancie) Lt-Col
A/Commander
2 Cdn Base Rft Gp

In the Field
30 Mar 45

Capt J G McKinney DC 41 Coy 10 Pen CBRG being duly sworn identifies the accused and states that he saw the accused on the 12 mar 45 at approx 2300. Was preparing to retire when I heard a disturbance outside of my window. The disturbance was at the door of the Coy Cook-house. I went down stairs to get the Ord Sgt to put a stop to the disturbance. I called Sgt Naylor to Coy Office and started towards the kitchen with him. I then saw the accused and two other soldiers coming up the stairway from the direction of the kitchen. I followed them into the barrack Rm. On reaching the Barrack Rm there was a Sgt MacDougall there whom I instructed to take the particulars of the accused and the two soldiers with him. At that time the accused refused to produce his pay Book at Sgt MacDougall's order. I ordered him to give the Sgt his name & no and the accused did not comply. I then ordered him into closed arrest.

(Def) Would you say that the accused was obviously under the influence of alcohol.

A Yes

RP 83B complied with

Burton Fitch Lt.

716357 Sgt MacDougall CW being duly sworn identifies the accused and states. I saw the accused on the 12 mar 15 at approx 2300 hrs. My duty was as pl sgt. I was on duty on the 3rd flr of the Barracks. After Roll call I came down stairs. I saw the accused with sgt Naylor. When I approached them I heard sgt Naylor ask for his pay-Book which the accused refused to produce. At that time the Coy Comd came along. He asked the accused his name which the accused refused to give. He asked the accused for his pay Book. which was also refused. I asked the accused for his pay Book but he still refused. The ~~Coy Comd~~ Capt McKinney ordered the wase put under closed arrest. Two ptes were called as escort.

Q Did the accused give you a verbal refusal.

A No. sir.

(Def) Q What in the accused's manner led you to believe that he had been drinking

A His antagonistic attitude

RP 83B complied with

Burton Fitch Lt

H41200 Sgt Naylor W G being duly sworn, identifies the accused and states. I can't swear as to wether it was the 12 or 13 of march 45. But I did see him on the night the disturbance occured. It was about 2330 hrs. I had just returned from 13 Bn when I met Capt McKinney in the orderly Rm. He told me that someone had been creating a disturbance at the kitchen door and ordered me to get the mans name and number. On leaving the Ord Rm I saw someone entering the barracks so I followed them in. Inside, I asked the accused if he had been down to the kitchen. To which he replied, "Yes. I went to get something to eat, or words to that effect. I then asked for his name & no which he refused to give me. I then asked him for his Part I Service Book which he also refused to do. At this time Capt McKinney & Sgt. ~~McKinney~~ MacDougall appeared.

Q Did accused give you a verbal refusal

A No, sir, he just gave me what you might call a dirty look and made no attempt to comply.

(Def) Q How would you define extreme drunkeness

A A man who is unable to move

Q Did the accused at the time seem sullen

A Yes.

Q Had he been drinking enough for you to notice it

A Yes.

Rule P 83B complied with

Burton Fitch Lt.

Mr. President Members of the Court. 16

The defence will not attempt to deny that the actual events presented by the prosecution as evidence did take place.

We do however feel that the charges laid against the accused are unwarranted & made possible only by the widest interpretation of some of the facts in the case & by the exclusion of what we consider the most relevant evidence — namely that the accused had been drinking.

Two of the witnesses for the prosecution Sgt McDougal & Sgt Naylor — agree that the accused had been drinking & his behaviour unnatural.

Capt McKinney ~~in his sworn statement~~ has stated "Pte Green was obviously under the influence of ~~[illegible]~~ alcohol."

The charges laid against the accused intimate wilful & deliberate disobedience. The defence has I believe cast grave doubt as to whether the accused was in full possession of his reasoning & inhibitory faculties. If this be the case & I am convinced it is — one must conclude that the charge of wilful, deliberate disobedience does not follow & is not in order. The sole offence perpetrated by the accused is drunkenness for which charge he is not standing before this court to-day.

C. L. Gadbaitch Lt.

Clean MFM 6 since Jan 44 over a year

9 mos. in the field with the North Nova Scotia Regt. – 16 June 44 – 16 Feb 45

The accused enlisted in the Cdn. Army 24 Mar 43
Arrived in England 22 Feb. 44.
Arrived in France 16 June 44 & was in the line with the North Nova Scotia Highlanders until 16 Feb 45 until evacuated with an infected hand.

He has never served detention - his last offense dates back to Jan 44 - well over a year ago.

I ask the courts to take these facts into consideration when considering sentence.

[illegible signature]

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-145122	Pte	Wilfred REEN	10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
	Original MFM 6 not available.	
For	times	times.
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~
~~For~~	~~times~~	~~times.~~

~~Number of instances of gallantry or distinguished conduct.~~

—

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted. —

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~—The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~9 20 DS.~~ days in military custody, making a total of ~~9 20 DS.~~ days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ is 21 yrs. 7 mths. 9 days.

6. The date of his ~~attestation~~ specified in his ~~record of service~~ is 24 Mar 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr. 11 mths, 21 days.

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr. 11 mths. 21 days service.

9. The accused is entitled to reckon 1 yr. 11 mths. 21 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)~~ CVSM & CLASP

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated~~

(*22000) W1.24284/3730 20,000 10/41 A.& E.W.Ltd. Gp.698
(28000) W1.20804/1499 15,000 2/44 — —

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of March 1945.

[signature]

13.—The accused has served as a non-commissioned officer [illegible] quarterly, without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

MFM 6 (AFB 122) 40/P&S/136 (3438)

No B-145122 Name GREEN W. | Sqn, Battery or Company | Corps (CIC) | Date of enlistment 24 Mar 43 | OC Badges | Service or Proficiency Pay | Character

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with this	By whom awarded	Remarks
				Temporary Sheet Only					
				Offr i/c Regimental Books					

CP10

SUMMARY OF EVIDENCE

In the case of B-145122 Pte Wilfred GREEN (N N S Highrs) of 41 Coy, on the strength of 10 CHR Bn, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

First Witness PROSECUTION

F-16357 S/t MacDougall C.W. (CIC) of 41 Coy, on the strength of 10 CHR Bn, having been duly sworn states:

I am F-16357 S/t MacDougall C.W. (CIC) of 41 Coy, on the strength of 10 CHR Bn. At approx 2300 hrs, 12 Mar 45 I had just finished my roll call. I descended from the second floor of the barrack block and came upon the accused, whom I now recognize, and another Sgt. The accused was talking quite loud and using profane language. I approached them and as I did so I heard the Sgt ask the accused to produce his pay book, which he refused to do. I then ordered him to show his pay book, he still refused and did not do so. Just then the Coy Commander came along and he also ordered the accused to produce his pay book, and the accused still refused and did not do so. The Commander ordered the accused put under close arrest. The accused had been drinking, but I wouldn't say he was drunk.

Cross examination by the Officer taking the Summary.

Q.1: What was the accused saying when he was using profane language?
A.1: The only phrase I remember, which were directed to Sgt Naylor, were: He spoke about the time he had been in the "fucking line".

The accused declines to cross examine this witness.

R.P. 83 (b) complied with.

C.W. MacDougall
(C.W. MacDougall) S/t F-16357

SECOND WITNESS PROSECUTION

Capt J.G. McKinney (Carleton & York) O.C. 41 Coy, 10 CHR Bn, having been duly sworn states:

I am Capt J.G. McKinney (Carleton & York) O.C. 41 Coy, 10 CHR Bn. At approx 2311 hrs, 12 Mar 45, I was preparing to go to bed and I heard a commotion or disturbance at the door leading to the Coy kitchen. I started down towards the kitchen, to locate the Coy Orderly Sgt, to have a stop put to the disturbance. On my way down towards the kitchen I saw Pte Green, the accused whom I now recognize, in company with two other soldiers coming up the stairway, leading from the court-yard, where the kitchen entrance is located. I followed the three soldiers into the barrack room to get their identity. Sgt McDougall was in the barrack room and I told him to take their names and numbers. When the Sgt asked Pte Green for his name and number, Pte Green just stood still, looked at him, and said nothing. I then ordered Pte Green to produce his pay book and he said nothing, turned, looked at me, and blew cigarette smoke in my face, from the cigarette he was smoking at that time and did not produce his pay book. Pte Green was obviously under the influence of alcohol. I instructed Sgt McDougall to place the accused under guard and to have him on charge in the morning for disobeying a lawfull command.

The accused declines to cross examine this witness.

R.P. 83 (b) complied with.

J.G. McKinney
(J.G. McKinney) Capt.

THIRD WITNESS PROSECUTION

H-41200 S/t Naylor W.G. (RWR) of 41 Coy, on the strength of 10 CHR Bn, having been duly sworn states:

I am H-41200 S/t Naylor W.G. (RWR) of 41 Coy, on the strength of 10 CHR Bn. On either the 12 or 13 Mar 45, I cannot remember which date, at approx 2230 hrs, I had just returned from taking a draft to 13 Bn, when I met Capt McKinney in the Orderly room and he said someone was making a disturbance in the kitchen and he wanted their names and numbers. On leaving the Orderly Room I observed two men entering their Barrack room. I followed them in and asked them if they had been down to the kitchen, to which they replied "yes" they had gone down to get something to eat. I told them they couldn't get anything to eat at that time of night. I then asked Pte Green, the accused whom I now recognize, for his name and number, which he refused to give me. During this time he said "I've been in the fucking front line for eight months." I do not think his profanity was directed at me, but he was just making a general statement. He had been drinking, but I wouldn't say he was really drunk.

The accused declines to cross examine this witness.

R.P. 83 (b) complied with.

W.G. Naylor

.....
(W.G. Naylor) S/t H-41200

The accused having been cautioned as follows; "Do you wish to make any statement, or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but what-so-ever you may say or any evidence you may give, will be taken down in writing and may be used in evidence," and having been duly sworn states:

I am B-145122 Pte Green W. On the night of the 12 Mar 45, around 1800 hrs, I went out of barracks with some friends. We went to several cafes, where we drank cognacs in each one. Around 2200 hrs I felt sick and started back to the barracks. The last I remember when I left the last cafe until I awoke the next morning in my bed in barracks. I knew nothing of the charges laid against me until 1430 hrs, 13 March 45 when a Staff S/t informed me that I was up for office at 1500 hrs same date. He didn't tell me what I was charged with and I had to wait until the charge was read to me in the Coy Commanders office, before I knew the offence I was charged with committing.

R.P. 83 (b) complied with.

W. Green

.....
(W. Green) Pte B-145122

I certify that the foregoing Summary of Evidence, consisting of two (2) pages, was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.F. 4 (c)(d)(e) and (f) have been complied with.

J.F. Juby

.....
(J.F. Juby) Lieut.,
(CH of O), 10 C.H.R. Bn,
Officer detailed to take
Summary of Evidence.

LIST OF WITNESSES

FOR THE PROSECUTION

F/16357 Sgt MacDougall C.W. (CIC) 41 Coy, 10 CHR Bn.
Capt J.G. McKinney (Carleton & York) 41 Coy, 10 CHR Bn.
B-41200 Sgt Naylor W.G. (RWR) 41 Coy, 10 CHR Bn.

FOR THE DEFENCE

NIL.

LIST OF EXHIBITS

NIL.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES, AND THE LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

W. Green

.....
(W. GREEN) Pte B-145122

Date: 17 Mar 45

B-145122 Pte Wilfred GREEN
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me 19 Mar 45.
(Date)

2. (a) ~~I request that~~ _____ ~~if available, be appointed.~~ OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) W. Green
(W. GREEN) Pte B-145122

I hereby certify that T LR WILSON was appointed to defend B-145122 Pte GREEN W. at his forthcoming trial by Court Martial and that the said officer was notified that he was Defending Officer on 19 Mar 45
(Date)

[signature]
Ass (Adjutant)
10 Cdn. Base Rft. Dn.,

YYY-133

Rte Greenbank W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M.103895 Pte William GREENBANK, CIC - 1 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in loss of kit see RP 44 fn 6.)

Nil (1) As present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for (90) Ninety days.
To be stopped under stoppages of pay in the amount of £0-4-10 per diem cost of apprehension and its return to unit.

(Sgd) ..... Judge Advocate, if any. 8 Oct 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(1), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of Record but remit the sentence to read "To undergo detention for sixty (60) days" and I confirm the sentence as so amended

I direct that the accused be not committed to prison or detention barracks until further order.(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding ..... Brigadier, Commanding "D" Gp, Can Fld Units. Confirming Officer.

Date 4 Oct 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M-103895 Pte. Greenbank, W. C.I.C. - 1 C.I.R.U.	4 Oct 44	(C.B. Ware) Commander, 1. C.I.R.U

PROMULGATED IN PART II DO 201 dated 6 Oct 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 OCT 1944

RECORDED AT CMHQ IN AS 160. VVV-133

FIELD GENERAL COURT-MARTIAL (CFAAS (In lieu of AFAS) 40/F & B/1698 (E-44)) 4/388

Convening Order of Brigadier J.E. Ganong, ED Comd "D" Gp, CRU dated 2 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M.103895	Pte	William	GREENBANK	CIC 1 CIRU

PROCEEDINGS REVIEWED
J.K. Campbell Major
11 Oct 44
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium, Northern France on (date(s)) 8 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns to ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 65-70, 73, 74, 94, 103, 119, 120, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1415 H.R. hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 86(3), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans. ~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans. The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans. No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Brigadier	K.M. WYNN	No 1 C.I.R.U.
Member	Major	I.E. BURROWS	No 1 C.I.R.U.
Member	Lieut	D.C. HANBURY	No 1 C.I.R.U.
Judge-Advocate	—	—	—
Prosecutor	Lieut	R.B. ALLEN	No 1 C.I.R.U.
Defending Offr	Lieut	W.H. JAMESON	No 1 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans. Yes. Is the Defending Offr a lawyer? Ans. No.(2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment makes(s) (no) (a) plea. Exhibit is entitled to 7 days in which under RP 89(B) & (C)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or on bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record (per Notes).)

A10. The Court (is about to) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below,

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Nil Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF ABS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Nil Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(1. *MFB 355 or AFB 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Nil Sir, I strongly urge leniency on the grounds of my.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2303, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The Accused, No. M-103895 Private William GREENBANK, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, absented himself without leave from 1830 hours the 30th day of August, 1944 until apprehended by Canadian Military Police at Worthing at about 1340 hours the 23rd day of September, 1944, thereby incurring expense to the public in the amount of £0-8-10, cost of return to his unit.

Total absence: 23 days, 19 hours, 10 minutes.

C.B. Ware Colonel
(C.B. Ware) Commander
1 Cdn Inf Reinf Unit

In the Field

27th day of September, 1944

To be tried by Field General Court Martial.

J.B. Ganong Brigadier
Commanding
"D" Group, Cdn Rft Units
Convening Officer

In the Field
3 Oct 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M.103895	Pte		William	GREENBANK	CIC 1 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Oct 44 endorsed by me, ~~(or by an offr of my staff for me)~~," To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R.M. Wynn Gen List	1 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by Commanding Officer	1 CIRU
A Lieutenant	to be detailed by Commanding Officer	1 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieutenant	to be detailed by Commanding Officer	1 CIRU

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 2 Oct 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FA99 (To Hers of AFA3 40/P & S/1097 1401)

Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No. M103958

Pt. Greenbank W. and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station: Field

Date: 3 Oct 1944

M. F. Clarkson Capt. RCAMC
(Medical Officer) C.I.R.U.

The case of M103895 Pte. Greenbank - ed.

Plea of mitigation:

The accused, age 22 has been in the Army since Sept/42, and has been in England since April/43. In the past year he has had but one charge against him, dirty oil used on a Bren Gun. He went to France with his Regiment, the S.S.R., was wounded, returned to England, and finally arrived at #1 C.S.R.D.

After the heavy strain of action, the more or less regimented life of an R.D. became a little too much for the accused, so he went on a trip of his own. He is no military criminal, has never been one in fact, and has no intention of becoming one at this time; he is desirous of going on a cook's course, where he will be of some use.

So in summing up, I should like to draw attention to his previous service and plead for leniency in this case.

In his own admission the accused states he is afraid to go into action again, and I should like to suggest that he be psychanalysed.

W.H. Jamieson Lieut.

order

2.

Questions by the Court

— what category is the accused.

Answer He is A1 Cat.

Q - How long was he in France

A - About 20 days action.

Q - was accused granted leave coming out of hospital

A - yes - granted 7 days leave

Q - what reason did accused go AWL when he had just had a leave

A - really no reason, although he was finding it rather hard to settle down after having been in action

SUMMARY OF EVIDENCE

In the case of No. M-103895 Private William GREENBANK, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

K-46444 A/Sgt Murphy, E.B., Canadian Scottish Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit a soldier of the Canadian Army Overseas, having been duly sworn states as follows:
I am K-46444 A/Sgt Murphy, E.B., Canadian Scottish Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit. On the 30 Aug 44 I was Orderly Sergeant for "A" Coy, 1 CIRU. At 1830 hrs I called the roll, at a Muster Parade of the Coy. When I called the roll, the men would answer their names and would then march across and fall in as another squad. This was done as a conclusive check as to whether the men were there. I called M-103895 Pte. Greenbank, W., and no one answered. There was no one of that name and number on the parade. I check the billets and found no one in the barracks of that name and number.
The accused declines to cross-examine this witness.

A/Sgt.
(E.B. Murphy) K-46444

SECOND WITNESS for the PROSECUTION

Lt. K.A. McKenzie, Canadian Infantry Corps, an officer of the Canadian Army Overseas, having been duly sworn states as follows:
I am Lt. K.A. McKenzie, Canadian Infantry Corps, employed as Assistant Adjutant, No. 1 Canadian Infantry Reinforcement Unit. I produce certificate in accordance with P.C. 2797 of 10 April, 1942 purporting to be signed by Capt. R.J. Stinson, D.A.P.M., C.M.H.Q. This document, which relates to the accused, is marked Exhibit "A" and duly initialed by me for purposes of identification. I also produce C.M.H.Q. 1000:55 Expense Voucher, purporting to be signed by Lt. R.E. Birch, Officer issuing railway warrants and expense monies, D.P.M's Branch, C.M.H.Q. This document which relates to the accused is marked Exhibit "B" and duly initialed by me for purposes of identification.

The accused declines to cross-examine this witness.

Lt.
(K.A. McKenzie)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d), (e) and (f) have been complied with.

Lt.
(R.B. Allan) Officer detailed to take the Summary of Evidence.

In the Field
27th day of September, 1944.

EXHIBIT A

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

I certify that No. M- 103895 Rank. Pte Name. Greenbank, W.

Unit. No 1 C.I.R.U. (CRU) was arrested at. Worthing (place)

at. 1340 (hour) on. 23 Sept 44 (date) and that at the time of his arrest he was wearing (military uniform) or (civilian clothes).

Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable),

London
24-Sept-44

(R.J. Stinson) Capt.
D.A.P.M. C.M.H.Q.

EXHIBIT B

Expense Voucher Re—: Ref: KR & O (Can) 539

Reg No. M 103895 Rank Pte. Name Greenbaum W Unit 1. C.I.R.V.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From Gordon from Worthing

Date	Particulars	Amount		
24 Sept 44	Escorts return fare from LONDON To Worthing (½ Portion)		4	5
24 Sept 44	Prisoners single fare to LONDON From Worthing		4	5
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	8	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. E. Birch LIEUT. Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

R. E. BIRCH.
ADMIN. OFFICER—D.P.M's BR.
C. M. H. Q.

CMHQ 1000:55
40/P&S/483(3630)

Ex D
Fine

M.F.B. 355
2250—8-41 (572-2)
H.Q. 1772-39-620
S.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M103895	Private William GREENBANK		Canadian Infantry Corps No. 1 C.I.R.U.

~~1. The following is a fair and true summary of the entries in the Service and General Conduct sheets~~ Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act, and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 22 years

6. The date of his ~~record of service~~ attestation specified in his ~~record of service~~ attestation paper is 4 September 1942

7. The service which the accused is allowed to reckon towards discharge is 754 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward~~ (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

Canadian Volunteer Service Medal and Clasp.

~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. (In the case of an officer.) ~~The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force

unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in ~~my~~ custody., and MFM 4.

Signed this 3rd day of Oct 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ~~A~~ B, signed by the president, and annexed to the proceedings.

No M103895 Name GREENBANK S. Sqn, Battery, or Company Ex "E" Corps CIC Date of enlistment 4.9.42 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/PAS/126 (3438)

Date of last entry in Company Conduct Sheet No and date of last drunk Nil Period not reckoning towards freedom from extra fine N.A. Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED NIL ENTRIES FROM MFM 4					
				DATE 3 Oct. 44 [signature] Officer i/c of Regimental Books.					

(PTO)

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 CIRU, In the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Signed at 1 CIRU
In the Field,
this. ..29.....day
of.....Sep.....1944

W Greenbank.....

I hereby request that the convening Officer appoint an Officer to represent me at my trial.

~~I desire the services of.....if he is available.~~

W Greenbank

LIST OF WITNESSES

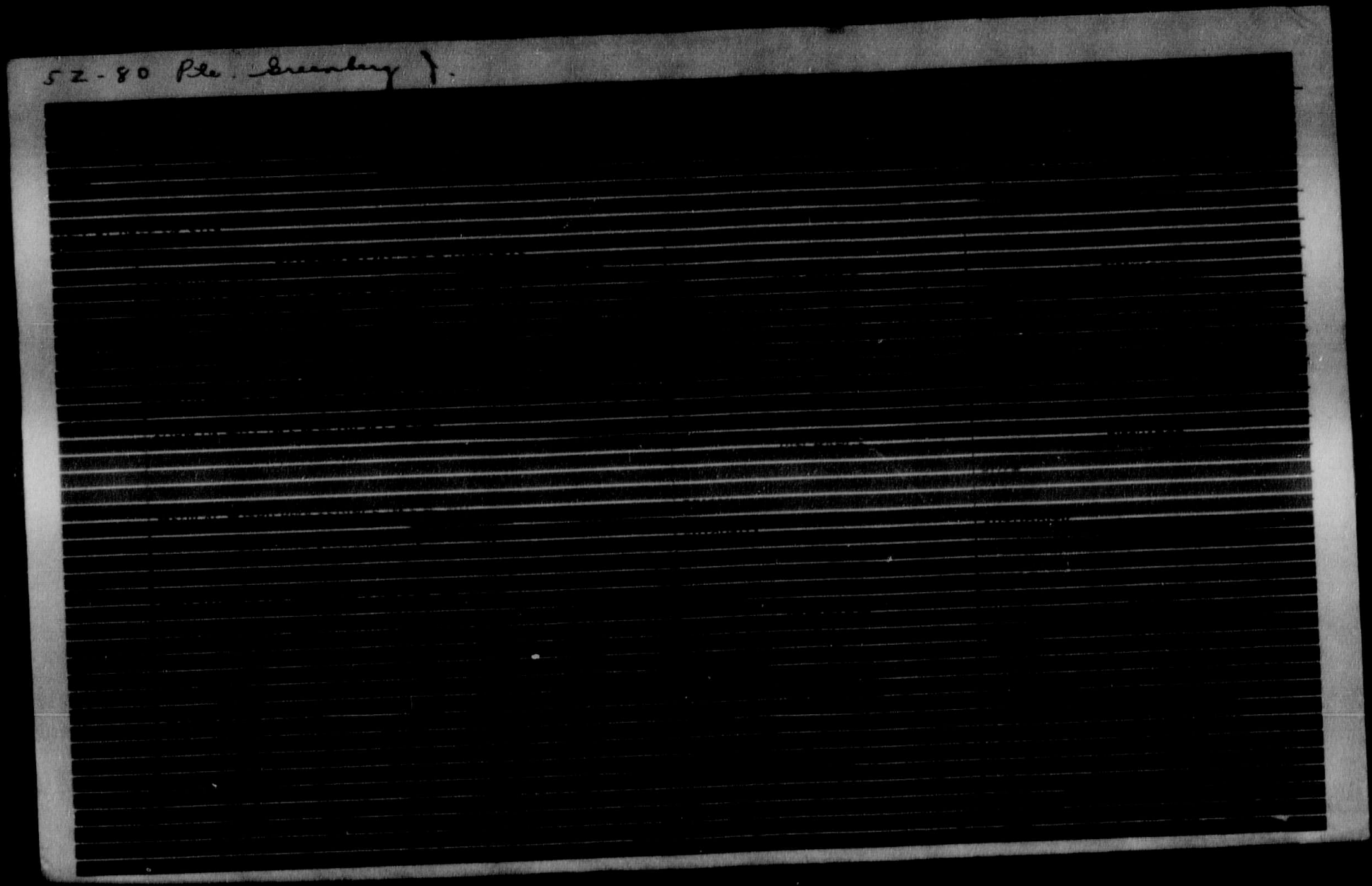
FIRST WITNESS - A/Sgt Murphy, E.B. K46444

SECOND WITNESS - Lieut. K.A. McKenzie

LIST OF EXHIBITS

Exhibit "A"
Certificate in accordance with P.C. 2797 of 10 Apr 42.

Exhibit "B"
CMHQ 1000:55 Expense Voucher


5Z-80 Pte. Greenberg }.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D144903 Pte Joseph Greenberg

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for sixty days

(Sgd) ..... Judge-Advocate, if any. 2 Apr 46. Date awarded. (Sgd) H. A. Lucas Lt-Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and sentence confirmed

I ~~direct that the accused be not committed~~ to prison or detention barracks until further order.(1) (1. AA 57A. Delete if not used.)

Date 5 April 46 (Sgd) H Rutherford Brig Commanding Dep Comd CFN Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-144903 Pte Greenberg J No 4 Det CIC 3 Cdn Transit Camp, CFN	6 Apr 46	A.A.C. Rose Major Legal Offr 3 Cdn Transit Camp CFN.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 6 APR 946 JAG BRANCH S.H.Q.

RECORDED AT CMHQ IN AB 160 5 5 2 - 8 0

FIELD GENERAL COURT-MARTIAL

CPA96 (To files of AFA2) 40/P & R/1098 (14) 4/38B

Convened by Order of Lt Col H D Baker Comd 1 Cdn Const Unit dated 21 Mar 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D144903	Pte		Joseph	Greenberg	3 Cdn Transit Camp CFN

PROCEEDINGS REVIEWED 10 Apr 46 C. H. [illegible] Maj. JUDGE ADVOCATE, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 2 Apr 46.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which insers are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to [illegible] as interpreter ? Ans [illegible]

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer ? Ans [illegible]
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col	H. A. Lucas RCASC	3 Cdn Transit Camp
Member	Lt. Col.	J. Macdonald RCCS	3 Cdn Transit Camp
Member	Lt. Col.	R. W. Wilson C.I.C.	3 Cdn Transit Camp
Judge-Advocate			
Prosecutor	~~Capt Lt~~	~~A. J. Toma~~ D. R. Saunderson RCAC	3 Cdn Transit Camp
Defending Offr	Lt.	A. D. Callaghan RCA	3 Cdn Transit Camp

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See QL p 3.)

A8. The accused D144903 Pte Joseph Greenberg before arraignment make(s) (no) (~~a~~) plea [illegible] (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No. (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. B., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*B*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 116.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AFC. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note give further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*E*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*e*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans In mitigation of punishment (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should remind accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* (*RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 68(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ex. 'A'
h.d.h.

MEDICAL OFFICERS CERTIFICATE

(AR(Can) Para 557)
(CRMT CL 178)

I certify that I have this day examined D144903 (No.)

Pte Greenberg, J. (Name) and in my opinion he is
(Rank)

fit to under go trial by Court-Martial.

Station In the Field

Date 2 Apr 1946

[signature] (Sgd),
Medical Officer

(Unit)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
D-144903	Pte		Joseph GREENBERG,	3 Cdn Transit Camp - CFN.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 31 March 46 (date) endorsed by me, ~~or by an offr on my staff for me~~, "To be tried by Field General Court-Martial". H/3

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reasons of a special military nature)~~ H/3
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. H/3

4. ~~I am unable to appoint (a) member(s) within my Command who [is] [are] otherwise available.~~ H/3
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I have appointed a Judge-Advocate but he is unavailable.~~ H/3
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	W.A. LUCAS RCASC	3 Cdn Transit Camp - CFN

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lt-Col	L.F. MacDONALD, E.D. RCCS	3 Cdn Transit Camp - CFN
Lt-Col	R.W. WILSON CIC	3 Cdn Transit Camp - CFN

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Field (Country.)

Date 31 March 1946

H F Baker (Signed personally, RP 105 fn 2)
(H.F. Baker) Lt-Col
Commanding 1 Cdn Demob Depot - CFN
Convening Officer.

Lt-Col (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAMS (To item of AF A1 40/P & S/1867 (401)

(See overleaf for oaths and notes for use at trial.)

CHARGE SHEET

The accused, D-144903 Pte Joseph GREENBERG, (X-4 List) Canadian Infantry Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas, is charged with:-

Sec.15(1) Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, at 0820 hrs 9 January 1946 absented himself without leave until apprehended at UTRECHT, Holland at 2300 hrs 27 March 1946.

(Absent 77 days 14 hrs 40 mins)

M.A. Frank

(M.A. Frank) Major
Officer Commanding
3 Cdn Transit Camp
CFN.

In the Field
29 March 1946.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL.

H.F. Baker

(H.F. Baker) Lt-Col.
Commander
1 Cdn Demob Depot
CFN.

In the Field
31 March 1946

Greenberg

Plea in mitigation of punishment.

The soldier has a short record of service he joined in April 1944 came overseas in Feb 1945 and came to the Continent in May 1945.

His short record of service is explained by the fact that he was not allowed to join the army before this time His father is totaly blind and his mother is an invalid requireing weekly treatments at the Hospital. He also has a sister and it was not until she began to work that he was allowed to join the army.

The man is guilty of the crime he is accused of but sir's I would have you consider the circumstances that made him go on the lone.

His unit was stationed in Utrecht and it was here he met the girl he intends to marry. Suddenly the unit was told to move and pte Greenberg was sent down here to Nijmegen and he found himself on his way home. He was not too perturbed at this he realized he wouldn't have time to get married but he realized also that he was urgently

resided at home so he thought he would come back at some later time to marry the girl of his choice. But gentlemen things do not always go smoothly for a letter from his girl friend she told him she was pregnant. He immediately applied for leave to go to Utretch but was refused. This girl was very young only 19 and she had no one to turn to so in desperation the soldier went on the loose to help her. Gentelmen I agree this is not the right thing to do but it certainly is the most natural. He made arrangements with a civilian doctor to look after the girl but unfortunately due to the mental strain on nervous character of the girl she had a miscarriage. She was very sick and Pte Cumberg felt it his duty to remain untill she was better however he was picked up and now gentelmen he stands before you accused of the crime of being AWOL

Can you gentelmen consider this man who is only 22 a criminal especially after hearing the reasons for his going on the loose. I would ask you gentelmen to be as lenient as possible when you sentence this man. He is needed at home he is prepared to make arrangements for his marriage either through the army if it possible or on his own if

necessary but he must get home
as soon as possible He's sister who
now is supporting his family is getting
married and he will soon be the
only support of a totaly blind father
and an invalid mother Which do
you consider more essential gentelmen
that he be punished for his crime in
the army or that he be returned to
aid his parents in their old age.
It is up to you gentelmen and I ask
you especialy in this case to be lenient.

Wellington St

Ex 'B'

SUMMARY OF EVIDENCE

In the case of D-14903 Pte Joseph GREENBERG, (X-4 List) Canadian Infantry Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

The following documents were laid before the officer detailed to take the Summary of Evidence and marked as Exhibits "A" and "B" respectively, pertaining to the accused, initialled by him for the purpose of identification.

"A" A certified true extract from X-4 List (13 Bn) CIC R Part II Daily Order No. 11 dated 19 Jan 46 showing the accused absent from 0820 hrs 9 January 1946.

"B" A certificate of the apprehension of the accused at UTRECHT, Holland at 2300 hrs 27 March 1946.

The accused does not question the documents.

D R Saunderson

(~~D.R.~~ Saunderson) Lieut

Officer detailed to take Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Certified that all the provisions of R.P. 4 (c)(d)(e) and (f) have been complied with. Taken down by me in the presence and hearing of the accused this 29 day of March 1946., in the Field.

D R Saunderson

(D.R. Saunderson) Lieut.
Officer detailed to take Summary of Evidence.

PART II ORDER EXTRACT FORM

EX "A"

TO: D & P

99/20/

29 JAN 46 19

EXTRACTS FROM: UNIT X4 List CIC(R) 13 Bn

Part II Order No. 11 dated 19 JAN 46

ABSENT WITHOUT LEAVE

AWL from 0820 hrs 9 JAN 46 (X-4 List)

D144903 Pte GREENBERG J

Certified to be an extract from the regimental [illegible] documents in my custody

[signature]

Officer i/c Records

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials .....

.....for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
10/PAS/1276 (6704)

Ex. "B"

"CERTIFICATE IN ACCORDANCE WITH PC 2797 of 10 APR 42.

I CERTIFY That No D-144903..Rank. Pte...Name. Greenberg. J.....

Unit No. 3. Cdn. Transit. Camp as arrested at Utrecht. Holland (Place)

at 2300..(hour) on 27. Mar. 46 date) and that at the time of his arrest he was wearing (military uniform) or (xxxxxxxxxxxxxxxx).

Signature of Provost-Marshall, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest."

J P Bleuin Lieut
No 10 Cdn Provost
..Det. C.F.N.....

LIST OF WITNESSES

In the case of D-144903 Pte Joseph GREENBERG.

(For the Prosecution)

NONE

(For the Defence)

NONE

LIST OF EXHIBITS

In the case of D-144903 Pte Joseph GREENBERG.

(For the Prosecution)

"A" A certified true extract from X-4 List (13 Bn) CIC R Part II Daily Order No. 11 dated 19 Jan 46 showing the accused absent from 0820 hrs 9 January 1946.

"B" A certificate of the apprehension of the accused at UTRECHT, Holland at 2300 hrs 27 March 1946.

(For the Defence)

NONE

CERTIFICATE OF THE ACCUSED

I, D-144903 Pte GREENBERG, J., hereby acknowledge that I have received, free of charge a copy of the Summary of Evidence and a copy of the Charge Sheet therein.

I also request that an officer be appointed to act as my Defending Officer at my forthcoming Court-Martial.

J. Greenberg

(J. Greenberg)

Ex 'C' 1 of 2

In lieu of Army Form B.296(Can).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

NUMBER	RANK	NAME	REGIMENT (or as the case may be)
D-144903	Pte	GREENBERG, J.	3 Cdn Transit Camp CFN

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a Court Martial or a civil court:-

For Sec. 15(1) ....3.... Times

For Sec. 40 ....1.... Times

For ..... Times

For ..... Times

Date of first entry in Field Conduct Sheet 30 June 44

Date of last entry in Field Conduct Sheet 14 May 45

NOTE: The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~xxxx

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
N				

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2 day of APRIL 1945

J.H. Watson Lieut.

(J.H. Watson) Lieut.

Ex. D/h. a/a

3/17 MFM 6
(AFB 122)
[illegible]/126 (5418)

No. D-14490 Name GREENBERG Joseph Sqn, Battery, or Company | Corps CIC C.A. | Date of enlistment 20 Apr 44 GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc C. Taisey Lt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
St Johns Que	30 Jun 44	Pte		AWL from 2359 hrs 30 Jun 44 to 0330 hrs 4 Jul 44. (ABS. 3 days 3 hrs 30 mins). AA 15 (1)	Documentary Cpl Poulin Maj Hamel	14 days C.B.	6 Jul 44	Major A T Stikeman	4 days pay aut. forf FR&I 149 (1)a
(NEW SHEET CREATED AFTER SIX MONTHS SERVICE AND THE ABOVE REGIMENTAL ENTRIES CARRIED FORWARD) C. Taisey									
Farnham Que.	14 Nov 44	Pte		AA Sec 15 (1) AWL from ~~[illegible]~~ 2200 hrs 14 Nov 44 until 2205 hrs 22 Nov 44. Missed a draft. Abs 8 days 5 mins Close arrest.	Documentary evidence	14 days Detn	23 Nov 44	Col A T Howard	Aut.forf. 9 days pay FR&I 149 (a)
Farnham	11 Dec 44	Pte		AWL from 0100 hrs 11 Dec 44 until appr in MTl at 2345 hrs 29 Dec 44. Abs. 18 days 22 hrs 45 mins. Cost of Trans 3.25 Missed a draft. AA Sec 15 (1)	Documentary evidence	28 days Detn cost of transp 3.25	4 Jan 45	Col A T Howard	Aut.forf 19 days pay FR&I 149 (a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham	14 Jan 45			GRANTED REMISSION OF SENTENCE 18 days 14 Jan to 31 Jan 45 TOTAL FORF AMENDED TO READ 36 days pay		Remission 18 days		A.12 Farnham 4/11 Jan 45	FCM
Field	14 May	Pte		AA 40. Conduct to the ~~prejudice~~ prejudice of good Order and Mil Discipline drinking mug in unsanitary condition	Sgt Sheilds	4 days C.B.	15 May 45	Maj F C Morley	FCM

CERTIFIED TRUE COPY OF ORIGINAL IN MY CUSTODY

(J H Watson) Lieut
Admin Offr.,
3 Cdn Transit Camp (CPT).

46-18

Pte. Greenbird W. R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A9826 Pte Howie Norman Greenbird.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA. Sec. 41.	Not guilty	Not guilty	Voted.
2nd AA. Sec. 41.	Not guilty	Not guilty	J.E.R. Roberge A/Col.
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 36, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 4.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial — a total of ~~ ~~days, of which ~~ ~~days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... Judge-Advocate, if any. 18 Dec. 44. Date awarded. (Sgd) W. A. Lucas Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part 1 is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. ..... Date ..... Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 31 JAN 1945 CMHQ BRANCH

RECORDED AT CMHQ IN AB 160 4/2-18

CFA96 (In lieu of AFA31) 40/P & S/1858 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col. J.E.R. Roberge Comd HQ Cond 2 Cdn Jnf Bde dated 14 Dec. 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A9826	Pte		Howie Norman	Greenbird	Lt. Inf. 24 Coy RCASC.

PROCEEDINGS REVIEWED

R.V. Gamble Capt

OFFICER-IN-CHARGE BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 18 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

17/104.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Instr ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A96, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to Maria Jeanne Boonen as interpreter ! Ans No.

The Interpreter is sworn.(1) ~~Do you object to ~~ ~~as shorthand writer ! Ans ~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court !

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	W. A. Lucas	66 Cdn Jnf Bde 24 Coy RCASC.
Member	Capt.	H. B. Goss	65 Cdn Jnf Bde 24 Coy "
Member	Lieut	T. J. Hartigan	66 Cdn Jnf Bde 24 Coy "
Judge-Advocate			
Prosecutor	Capt.	J. H. Elliott	69 Cdn Jnf Bde 24 Coy "
Defending Offr	Lieut	W. K. Buck	69 Cdn Jnf Bde 24 Coy "

Questions by President : Is the Prosecutor a lawyer ! Ans No. Is the Defending Offr a lawyer ! Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused A9826 Pte Howie Norman Greenbird on being asked before arraignment make(s) (no) ~~no~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is sworn and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (b); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first/second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the ..... charge(s), and~~ allowed on the first/second charge(s), ~~and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the findings of the Court on the ..... charge(s) being subject to confirmation, will be promulgated later.~~(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~Or, The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46; KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 75(i). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2123, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A/9826 pte Howie Norman Greenbird, 69 Cdn Gen Tpt Coy, RCASC, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 41
Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT

in that he,

in the Field, at about 2130 hrs 6 Dec 44, assaulted Madame De Cuister, Moerstrouat - 12 Gravenwezal, Belgium, by striking her in theface.

Second Charge
Sec 41
Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT

in that he,

in theField, at about 2130 hrs 6 Dec 44, assaulted Jose Van Beemen, Moerstrouat - 12 Gravenwezal, Belgium, by striking her in the face.

In the Field
12 Dec 44

(M.D. Hogg) Major
Officer Commanding
69 Cdn Gen Tpt Coy
R C A S C

To be tried by Field General Court Martial.

In the Field
14 Dec 44

(J.E.R. Roberge) Lt-col
CRASC
HQ Comd 2 Cdn Gen Tpt Coln

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets RP 87(B).
As to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A9626	Pte		Howie Norman	Greenbird	69 CDN GEN TPT COY RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Dec 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a 2 c Offr as President, for the reasons I have~~ XXX ~~attached hereto~~ XXXX.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W.A. Lucas	66 Cdn Gen Tpt Coy R.C.A.S.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 65 Cdn Tk Tptr Coy R.C.A.S.C.	
Lieut	To be detailed by OC 66 Cdn Gen Tpt Coy R.C.A.S.C.	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 14 Dec 44

(Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Commanding HQ Comd 2 Cdn Gen Tpt Coln Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

18 Dec 44

I hereby certify that I have medically examined A-9826 Pte Greenbird, H. N. and have found him in a fit condition to undergo trial by Court-Martial.

Medical Officer

4-AL

FIRST WITNESS FOR THE PROSECUTION

Madame DeCuister having been duly sworn states:

"I am Madame Carolina DeCuister, Maerstraant - 12 Gaeuenwezel. On Wednesday my daughter was in a public house with a certain Bill. Bill was so drunk that he couldn't walk home to his camp. He asked my daughter to take him home to his camp. My daughter came home with the boy to my house and asked me to assist her in taking the soldier home. The three of us left the house to go to the camp. My daughter and the soldier went into the camp and I stayed on the street. As I was standing alone on the street the accused approached and asked me if I spoke English. I replied "no" and walked away. The accused followed me and took me by the hand and asked me if I was afraid of him. I pushed him away and he struck me on my right cheek. After I was struck I walked away until I came to a path and there I waited for my daughter.

CROSS EXAMINATION

BY THE DEFENCE

Q-1 Does Madame DeCuister understand English?
A-1 She understands nothing but Flemish.

Q-2 Was there anyone else present at the time you were struck?
A-2 There was no one else there and it was very dark.

BY THE COURT

Q-1 Do you recognize the accused as the person who struck you?
A-1 No.

Q-2 Was there any light where you were struck?
A-2 There was no light.

Q-3 Did you see the face of the soldier who struck you?
A-3 No.

Q-4 How did you recognize the accused when you laid the complaint?
A-4 I did not recognize the accused.

Rules of procedure 83 (b) has been complied with.

SECOND WITNESS FOR THE PROSECUTION

Jose Van Beeman having been duly sworn states:

"I am Jose Van Beeman, Maerstraat - 12 Gaeuenwezel. Between 9 and 10 o'clock on Wednesday 6 Dec 44 I left the cafe with a soldier to go home to get my mother. I got my mother and the three of us went to the camp with the soldier. I took the soldier into his limes and my mother waited out on the street. When I came outside I met the accused and he said to me "What are you doing here". I answered, "my friend was sick and I brought him home". Then the accused struck me in the face. I ran off calling for my mother. Then I found my mother and told her a soldier had struck me and my mother told me a soldier had hit her too. The soldier who hit me was drunk. I took my mother home and I went back to the cafe and told the soldiers what had happened. The Sgt in the cafe asked me if I could recognize the soldier who struck me. I told the Sgt I could. The Sgt told me to come to the billets at 9 o'clock the following morning and identify the soldier. I came the following morning and the Sgt had the soldiers lined up. I recognised the accused as the person who had struck me.

CROSS EXAMINATION

BY THE PROSECUTION

Q How did you recognize the accused as the person who struck you?
A I had a flashlight and shined it in his face.

Cont'd on page 2.

CROSS EXAMINATION (CONT'D)

BY THE DEFENCE

Q At the time you claim the accused struck you, was there anyone else present?
A. No.

BY THE COURT

Q-1 How long did you shine the light on the soldiers face?
A-1 I put the flash in the soldiers face and he pushed my arm away.

Q-2 Did you know the accused before the night in question?
A-2 I saw him once or twice but did not know him.

Rules of Procedure 83 (h) has been complied with.

THIRD WITNESS FOR THE PROSECUTION

L-74012 Sgt. Watts, J.H. having been duly sworn states:

"I, L-74012 Sgt. Watts, J.H. of 69 Cdn Gen Tpt Coy RCASC on the 6 Dec 44 was sitting in a cafe at approximately 2130 hours when a young lady approached me saying she had been struck by one of my soldiers. I accompanied the young lady to the camp and held an investigation. I could not get any information concerning the incident. I then arranged with the young lady to have a line-up parade at 0900 hours the following morning. This was done and the young lady picked out the soldier, one Pte. Greenberg.

CROSS EXAMINATION

BY THE PROSECUTION

Q-1 Did the mother attend the identification parade?
A-1 No, but the mother later identified the man after she had been shown the accused.

Q-2 Did the mother recognize the accused as the man who had struck her?
A-2 Yes.

Q-3 How did Madame DeCuister tell you that the accused was the soldier who struck her?
A-3 More by sign language.

No cross examination by the defence.

Rules of Procedure 83 (h) have been complied with.

18 Dec 44

Ref R.P. 40 note (i)

I contend that the accused has no case to answer. The reason that I contend this is obvious.

In respect to both the First and Second charge there is only one unsupported claim that the accused committed assault. Madame DeCuister does not even claim that the accused hit her. This charge doesn't even dezerve consideration. As for the second charge Mme Jose Van Beeman claims that the accused hit her. No one knows whether he did or did not. There has been no evidence brought forward that Pte. Greenberg did hit either of them. Anyone can make a claim such as she has made.

I can go into a room alone with anyone of you gentlemen. The two of us can come out, and I can claim that you hit me, that you assaulted me. On the strength of that I can have you up for Court Martial. That's silly.

So are these charges. This man who is a fellow Canadian and who came overseas for the same reason as you did, is up in this Court because of one unsupported claim that he assaulted civilians who in actual fact he came over here to assist. A claim without a witness means nothing.

I know what you gentlemen think of the French and Belgian civilians in general, they are our greatest problem overseas. We claim they will steal us blind, and then swear up and down that they didn't. I am not stating that these women are lying, but I do state that a doubt exists. They are temperamental and excitable and have vivid imaginations. They should not have been near military billets. They should not have been inside them, as this is an offence in itself. Although well-meaning they are a cafe habitue family who should be on charge themselves for being on military premises when there are strict orders against this.

In view of this unsupported claim, I contend that the prosecution has not established a "prima facie" case, that the accused has no case to answer, and that he should not therefore be called upon for his defence. I also contend that it has been complete waste of time for the charges to be placed in the first instance.

W. Kieth Buch Lieut
Defending Officer

Summary of Evidence in the case of A-9826 Pte Greenbird, H. N., 69 Cdn Gen. Tpt Coy, R.C.A.S.C., Canadian Army Overseas, charged with a Civil offence, that is to say, Common Assault in that he in the field, at approx 2130 hrs, 6 Dec 44, did strike Madame De Cuister and Jose Van Beemen.

The Commanding Officer directs that the evidence be taken on oath.

D-166898 Cpl Wilson, C. C., 1 Cdn Field Educ Sec, att to 69 Cdn Gen Tpt Coy, R.C.A.S.C., having been sworn acts as interpreter:-

FIRST WITNESS

Madame De Cuister, Moerstrouat -- 12 Gravenwezal having been sworn states:-

At approx 2130 hrs, 6 Dec 44, I and my daughter Jose Van Beemen accompanied Pte McDougall, B Pl, 69 Cdn Gen Tpt Coy, RCASC to the vicinity of B Pl lines. I stayed outside the entrance to the billets while my daughter brought Pte McDougall into the billets. While waiting for my daughter to return, I was approached by Pte Greenbird who said, "Do you speak English?". I did not understand and was afraid. Pte Greenbird then struck me in the face. I started home as fast as possible and when almost there my daughter caught up to me and said she had been struck by a soldier and I said I had been also. I proceeded home and my daughter went back to report the incident to Sgt Watts.

Question by the accused

Question: Was I under the influence of liquor?

Answer: You were not staggering, but I thought you must have been under the influence of liquor from your actions.

The above was translated and read back to the witness who signed as being correct.

SGD C. De Cuister

SECOND WITNESS

Jose Van Beemen, Moerstrouat -- 12.Gravenwezal, having been sworn states:-

At approx 2130 hrs, 6 Dec 44, I,accompanied by my mother, took Pte McDougall back to his billets as he was slightly under the influence of liquor. I took Pte McDougall into the billets while my mother waited outside. I made Pte McDougall's bed and left to join my Mother outside. Outside the billets a soldier approached and took my arm. I tried to flash a flashlight on him but he pushed it away. I noticed the soldier had dark hair and dark complexion, I walked back to where I left my mother and the soldier accompanied me holding my arm. I told him that Pte McDougall was "Zig Zag" and would he see that he got to bed alright. The soldier then said "Zig Zag" and struck me on the chin. I then ran home calling for my mother who I overtook near home. My Mother stated a soldier had hit her also. I went back to the cafe where my mother and I had taken Pte McDougall back to his billets from and reported what had happened to Sgt Watts.

The accused declines to question the witness.

The above was translated and read back to the witness who signed as being correct.

SGD Jose Van Beemen

THIRD WITNESS

H-59635 Pte McDougall, W. A., 69 Cdn Gen Tpt Coy, R.C.A.S.C. having been sworn states:

At approx 2000 hrs, 6 Dec 44 I visited a cafe in Gravenwezal accompanied by Jose Van Beemen. We left the cafe and I accompanied her home. On arrival there we met her mother and the two of them accompanied me back to my billets at approx 2130 hrs. The mother stayed outside and the daughter accompanied me to the billets. I met and spoke to Pte Greenbird at the entrance to the billets. I made my bed and gave Jose Van Beemen my flashlight and she left to go home.

The accused declines to question the witness.

SGD W. A. McDougall

FOURTH WITNESS

L-741~~6~~2 Sgt Watts, J. H., 69 Cdn Gen Tpt Coy, R.C.A.S.C. having been sworn states:-

While in a cafe in Gravenwezal at approx 2100 hrs, 6 Dec 44 I saw Pte McDougall leave the cafe accompanied by Jose Van Beemen. Jose Van Beemen returned to the cafe alone at approx 2145 hrs and told me that she and her mother had been struck be a soldier around our billets. I accompanied her back to the billets but could not find who had done it. I asked her to return the following day at 0900 hrs and I would have everyone paraded for her and her mother to pick out the one who had struck them. The daughter returned the next day and identified Pte Greenbird as the soldier that had struck her. The mother was later shown Pte Greenbird and also stated he was the soldier that had struck her.

The accused declines to question the witness.

SGD J. H. Watts Sgt

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

The Accused: I have nothing to say at this time.

The accused declines to call witnesses in his own behalf.

SGD A-9826 Pte Greenbird H. N.

I certify that R.P. 4 (c), (d), (e) and (f) have been complied with. Taken by me in the field in the presence and hearing of the accused this 12 day of Dec 44.

SGD J. H. Elliott Capt

Summary of Evidence in the case of A-9826 Pte Greenbird, H.N. 69 Cdn Ger Tpt Coy RCASC, Canadian Army overseas, charged with a civil offence, that is to say, Common Assault in that he, in the field, at approx 2130 hrs 6 Dec 44 did strike Madame De Cuister and Jose Van Beemen

The Commanding Officer directs that the evidence be taken on oath.

D.166898 Cpl. WILSON, C.C., 1 Cdn Guild Educ Sec, att to 69 Cdn Ger Tpt Coy RCASC, having been sworn, acts as interpreter.

FIRST WITNESS

Madame De Cuister, Moerstrouat - 12 Gravenvoerd having been sworn states:-

At approx 2130 hrs. 6 Dec 44 I and my daughter Jose Van Beemen accompanied Pte McDougall, B Pl. 69 Cdn Ger Tpt Coy RCASC to the vicinity of B Pl lines. I stayed outside the entrance to the billets while my daughter brought Pte McDougall into the billets. ~~[illegible]~~

J.M.

While waiting for my daughter to return I was approached by Pte Greenbird who said "Do you speak English?" I did not understand and was afraid. Pte Greenbird then struck me in the face. I started home as fast as possible and when almost there my daughter caught up to me and said she had been struck by a soldier and I said I had been also. I proceeded home and my daughter went back to report the incident to Sgt Watts.

Question by the accused

Q. Was I under the influence of liquor?

A. You were not staggering but I thought you must have been under the influence of liquor from your actions.

The above was translated and read back to the witness who signed as being correct.

C De Cuister

2ND WITNESS

Jose Van Beemen, Moerstraat - 12 Gravenvorel having been sworn states:-

At approx 2130 hrs 6 Dec 44, I accompanied by my mother took Pt McDougall back to his billets as he was slightly under the influence of liquor. I took Pt McDougall into the billets while my mother waited outside. I made Pt McDougall's bed and left to join my mother outside. Outside the billets a soldier approached and took my arm. I tried to flash a flashlight on him but he pushed it away. I noticed the soldier had dark hair and dark complexion. I walked back to where I left my mother and the soldier accompanied me holding my arm. I told him that Pt McDougall was "Zig Zag" and would be see that he got to bed alright. The soldier then said "Zig Zag" and struck me on the chin. I then ran home calling for my mother who I overtook near home. My mother stated a soldier had hit her also. I went back to the cafe where my mother & I had taken Pt McDougall back to his billets from and reported what had happened to Sgt Watts.

The accused declines to question this witness.

The above was translated and read back to the witness who signed as being correct.

Jose Van Beemen

3RD WITNESS

H 59635 Pt McDougall, W.A. 69 Cdn Gen Tpt Coy RCASC having been sworn states:-

At approx 2000 hrs 6 Dec 44 I visited a cafe in Gravenvorel accompanied by Jose Van Beemen. We left the cafe and I accompanied her home. On arrival there we met her mother and the two of them accompanied me back to my billets at approx 2130 hrs. The mother stayed outside and the daughter accompanied me to the billets. I met and spoke to Pt Greenbird at the entrance to the billets. I made my bed and gave Jose Van Beemen my

flashlight and she left to go home.

The accused declines to question this witness.

W H McDougall

4th WITNESS

L.74102 Sgt Hatts, J H, 69 Cdn Gen Tpt Coy RCASC
having her own status:-

While in a cafe in Kravenwel at approx 2100 hrs 6 Dec 44
saw Pte McDougall leave the cafe accompanied by
Jose Van Beemen. Jose Van Beemen returned
to the cafe alone at approx 2145 hrs and told me
that she and her mother had been struck by
a soldier around our billets. I accompanied her
back to the billets but could not find who had
done it. I asked her to return the following
day at 0900 hrs and I would have everyone
paraded for her and her mother to pick out the
one who had struck them. The daughter returned
the next day and identified Pte Grunbird
~~was~~ the soldier that had struck her. The mother
was later shown Pte Grunbird and also stated he was
the soldier that had struck her.
The accused declines to question the witness

J H Hatts Sgt

The accused was warned as follows:-
"Do you wish to make any statement or to give
evidence upon oath? You are not obliged to say anything
or give evidence unless you wish to do so, but whatever
you say or any evidence you give will be taken down
in writing, and may be given in evidence.
The accused:- I have nothing to say at this time
The accused declines to call witnesses in his own behalf

L1-9824 Pte Grunbird H.A.

I certify that R.P. 4(c)(b)(f)(g)(h)(i) have been complied with
Taken by me in the Field in the presence and hearing of the
accused this 12 day of Dec 44

J H Elliott Capt

SK-152

Re Greene, H.R.

5A-152

CPAM/Jus/1 (Jan 44) (40-P.W. & Int.) (40-01)

4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig F N Cabeldu Comd 4 Cdn Inf Bde Dated 13 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
B 119276	Pte	Herbert Russell	GREENE

CERTIFIED TRUE COPY

PROCEEDINGS REVIEWED

Lt.-Col. A.A.G.

Cdn. Sec. 1 Echn. H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) GERMANY on (*date(s)*) 16 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 31/140

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns to RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to 102399 Sgt CJ HODGKINS as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71. (B, MML p 741.))

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	R B DALE HARRIS	6 Cdn Fd regt RCA
Member	Maj	D W McINTYRE	Essex Scottish
Member	Maj	T H CLARKE	Calg Highrs
Judge-Advocate	Lt-col	LAVAL FORTIER	A J A G
Prosecutor	Capt	W T LEES	R H L I
Defending Offr	Lieut	W E C COLTER	R R C

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to this RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence incompatible with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Major J F Ellis Tor Scot being absent on duty, Major D W McIntyre, Essex Scot takes his place as member.

"R H Dale Harris" Lt-col
President

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 557)

I certify that I have this day examined B 119276

Pte Greene, H.R. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station

Date May 16th 45

"N Scratch" Capt
Medical Officer

B H L I
Unit

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 567)

I certify that I have this day examined B 119276

Pte Greene, H.R. and in my opinion he is fit~~xxxxx~~ to undergo trial by Court Martial.

Station .....

Date 17 May 45

.....Capt
Medical Officer

Unit

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 119276	Pte		Herbert Russell	GREENE	RHLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 May 45 endorsed by me, (or ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ " To be tried by Field General Court-Martial ".

F/C

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~xxxxxxxxxxxxxxxxxxxx

C H A R G E S H E E T

The accused, B.119276 Pte Herbert Russell GREENE, Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 41

WHEN ON ACTIVESERVICE COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RAPE

in that he

in the Field, in GERMANY, at approximately 0400 hrs on or about 28 Apr 45, had carnal knowledge of Anny Reisacker, without her consent.

SECOND CHARGE
(Alternative)
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in GERMANY, in a part of the country recently conquered, at approximately 0400 hrs on or about 28 Apr 45, fraternized with Anny REISACKER, an inhabitant of GERMANY, not his wife, by having sexual intercourse with the said Anny REISACKER with her consent.

In the Field
2 May 45

"H C Arrell"
(H C Arell) Lt-col
Comd 1 Bn RHLI, CAO/S)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
2 May 45

"F N Cabeldu"
(F N Cabeldu) Brigadier
Comd 4 Cdn Inf Bde

"R B Dale Harris" Lt-col
President

"RBDH" Lt-col
Pres

MAY 16-45.
DATE

This is to certify that I have examined B119276.
Pte GREENE H.R on this date and he is x FIT to undergo
Mt. capt
trial by Court Martial.

x- Insert FIT or
UNFIT

N. Scratch capt
Medical Officer
R.H.L.I.

17th May 1945
DATE

This is to certify that I have examined B119276 Pte Greene H.R. on this date and he is x fit to undergo trial by Court Martial.

x- Insert FIT or UNFIT

Medical Officer

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 119 276 Pte Herbert Russell Greene

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)
1st	Not Guilty	Not Guilty
2nd alternative	Not Guilty	Guilty
3rd		
4th		
5th		
6th		

(Space for use as required for further charges, accused charged jointly, special findings, etc.)

with the exception that he did not [illegible] with Army Regulations and instructions [illegible] summary not [illegible] with [illegible] having sexual intercourse with the said [illegible] woman. But [illegible] with [illegible] Regulations [illegible] summary [illegible] being [illegible] and [illegible] him to play with his private parts.

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 8.)

As present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(5). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months

(Sgd) [illegible] Judge-Advocate, if any. 17 May 45 Date awarded. (Sgd) R.B. Dale Harris President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-571. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 21 May 45 (Sgd) [illegible] Brig Commanding 4 Cdn Inf Bde Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 119 276 Pte Herbert Russell Greene RHLI.	22 May 1945	[illegible] Capt & Adj. RHLI

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5K-152.

RECEIVED 13 JUN 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

(PAGE 1 to Dec of AFA21 60 P.K.S. 1868 (1945))

4/388

Convened by Order of Brig F N Cabeldu Comd 4 Cdn Inf Bde dated 13 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
B119276	Pte	Herbert Russell	GREENE	RHLI

PROCEEDINGS REVIEWED 14 June 45. [illegible] REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED [illegible] Capt & Adj. Cdn. Sec 1 Fch. H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 16 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 31/140

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)

(1. KR Can 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to 101397 Sgt C.J. HOCHULI as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	R.B. Dale Harris	6 Cdn Inf Bde RCR
Member	Maj	D.W. McIntyre	Essex Scottish
Member	Maj	J.H. Clarke	Calg Highrs
Judge Advocate	Lt-Col	Carol Cotton	A.J.A.G.
Prosecutor	Capt	W.J. Lee	RHLI
Defending Offr	Lieut	W.E.C. Cotton	RHLI

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92.; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 fn 2. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B [illegible]
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pts here Loose Statute of Records.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*C*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the findings of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB* 255 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 343-346, *Overseas RO* 309, 1223, *MML p* 60, 757-759. *As to sentences consequent for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.119276 Pte Herbert Russell GREENE, Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A.Sec. 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE

in that he

in the Field, in GERMANY, at approximately 0400 hrs on or about 28 Apr 45, had carnal knowledge of Anny REISACKER, without her consent.

SECOND CHARGE
(Alternative)
A.A.Sec. 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in GERMANY, in a part of the country recently conquered, at approximately 0400 hrs on or about 28 Apr 45, fraternized with Anny REISACKER, an inhabitant of GERMANY, not his wife, by having sexual intercourse with the said Anny REISACKER with her consent.

In the Field
2 May 45

(H.C. Arnell) Lt-col
Comd 1 Bn RHLI, CA (O/C)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
2 May 45

(R. Cabaldu) Brigadier
Comd 4 Cdn Inf Bde

RBDale Harris
Lt-col
President

RBDH
Lt-col
Pres.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B119276	Pte		Herbert Russell	GREENE	RHLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 May 45 endorsed by me, [redacted], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col (Rank.)	R H Dale Harris (Must be named. RP 106.)	6 Cdn Fd Regt RCA (Unit.)

MEMBERS.

Maj	J F Ellis	Tor Scot (MG)
Maj (Rank.)	F H Clarke (Named or detailed. RP 106.)	Calg Highrs (Unit.)

WAITING MEMBER.

Maj (Rank.)	D W McIntyre (Named or detailed, if any. RP 106.)	Essex Scot (Unit.)

JUDGE-ADVOCATE.

Lt-Col (Rank.)	Laval Fortier (Must be named, if any. RP 106.)	AJAG. (Unit.)

On Active Service in the Fd

in GERMANY (Country.)

(P N Caboldu) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 13 May 45

Commanding 4 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for words and notes for use at trial.)

4/38A(FAAS) (To level of AFAS) 40/P & S/1807 14491]

Major J. F. Elliss Tor sent being absent on duty, Major D.W. McIntyre Esser sent takes his place as member.

R.B. Dale Harris H-ed
President.

THE CASE OF B119276 Pte GREENE H.R.

1st Witness for PROSECUTION

Capt W Rich, 2 1/c "D" Coy, 1 Bn R.H.L.I. sworn states:

At Falkenburg Germany HQ On the morning of 28 Apr 45 at about 0400 hours, a German woman who I later identified as Annie Reisacker living at 100 Falkenburg, Germany, came to Coy HQ and roused me, complaining by way of crying, indicating that she was in some trouble. She wore no shoes or stockings or hat or coat. She pointed to her dress which was torn. I called C.S.M. Dolman, and together we went with the woman to investigate. We went across the street to 100 Falkenburg. We went into a room indicated to us by the woman and found two soldiers sleeping on bed-clothes laid on the floors. The were Pte Greene and Pte Connor of D Coy, R.H.L.I. I identify Pte Greene as the accused here present. Pte Greene was fully dressed but without trousers. Pte Connor was fully dressed. I searched them and the bed clothes and found:

i A womans girdle. (Exhibit "A")

ii A pair of womans under pants (Exhibit "B")

iii One womans silk stocking (Exhibit "C")

iv One service clasp knife open. (Exhibit "D")

Above articles are produced as exhibits and are marked respectively exhibits "A" "B" "C" "D".

I took the woman to the cellar of the house in care of other civilians and gave instructions that the room containing the soldiers, would be guarded. I left the soldiers undisturbed in the room.

The furniture in the room was cleared back to the walls and there were many quilts and bed clothes on the floor.

Cross Examination

Gr. Capt Rich, ~~had you ever seen~~ JHC

I saw the complainant the first time two days before, when she had come to the Company area. She came to HQ and ~~said that~~ JHC from what I understood, said she had lived in the house occupied by HQ. I told her that civilians were not allowed to live in the house and directed her to 100 Falkenburg. I saw her many times after that. I had the impression that she would bear watching and I did so. Most of the day she spent looking out of the window or in some trip up or down the street. On two or three occasions she came across to Coy HQ with small complaints in an endeavor to get articles from the house. I, personally, warned her on three occasions, that it was forbidden to enter Coy HQ. On another occasion, I found her walking up the street with a soldier, at about sunset, and on investigating, she had asked the soldier to accompany her as protection to the house of a friend. I found that she had no friends in the house to which she went, but there were some soldiers drinking. ~~As a result of the above happenings and other observations, I feel that the~~ JHC she appeared to be making overtures to ~~the~~ JHC soldiers in the area.

There were soldiers living at 100 Falkenburg, about ten including an officer. The room to which she took us at 100 Falkenburg was one in which, it appeared, that many

civilians had been living. There were no other civilians sleeping in the room when I inspected it. As far as I know, all other civilians in the house, were in the cellar.

The accused had a service knife when he appeared on orders on the morning of the 28 April 45. To my knowledge, nothing had been said to the accused about a knife, before he was brought up on orders.

We were the first troops to arrive in Falkenburg, we arrived about two days before the ~~offence~~ circumstances of this case.

Although I found only one stocking, the other could have been there. It was very dark, even at that hour.

The general character of the accused is very good. I never had any trouble with him.

In my dealings with the accused, I found him very courteous and diligent. He was not inclined to mix with the civilians ~~to~~ ~~[illegible]~~ under any circumstances.

I did not see any cut on the complainant's finger when she came to me that morning.

~~Re Examination~~ Ive.

R.P. 83(b) has been complied with

2nd Witness For PROSECUTION

B37061 C.S.M. D.G. DOLMAN, D Coy., 1 Bn RHLI sworn

[states]

At Falkenburg, Germany, at approx. 0400 hours, 28 Apr 45, I was summoned by Capt Rich, to accompany him to 100 Falkenburg to investigate a complaint laid by a German woman. The name of woman, I learned to be Anny Reisacker. On entering the woman's room, I found Pte Greene and Pte Connor asleep on the floor. I recognize Pte Greene as being the accused here in the court.

Pte Greene had no trousers on but Pte Connor was fully dressed. I then assisted Capt Rich in searching the room. The following articles are what we found

i One pair of ladies underpants (Marked Ex "B")
ii One silk stocking (Marked Ex "C")
iii One womans girdle (Marked Ex "A")
iv One clasp knife, bladeopen (Marked Ex "D")

Capt Rich then ordered that the two men be guarded and we escorted the lady to the cellar where other civilians were sleeping.

Pte Greene was guarded until being paraded before the Company Commander, later in the morning. He did not have somebody beside him at all times.

Cross Examination.

I saw Anny Reisacker around Coy HQ. at which time, she was ordered to leave, by the Company Commander. She was looking through some of the rooms in Coy HQ apparently seeking something.

I saw her stop two soldiers on the road on another occasion, and start a conversation with them.

I couldn't say whether or not she had been warned against speaking to soldiers.

When I saw her at 0400 hours 28 Apt 45, it appeared to me that she had been drinking. At that time, I did not notice any cut on her finger.

Other than the exhibits listed, I did not find any other womens wearing apparel. Greene was fully dressed except for trousers. It was very dark in the room when we went over to investigate, I used a flashlight in the search. It would not have been possible to recognize anyone in the room without a light.

There was no mention of a knife made to Greene prior to the time he appeared on orders that morning.

Greene was still asleep when he was placed under guard. Other than the woman, no person except Capt Rich and myself knew about the knife.

I've known Greene since last November, and he has always been a good soldier. Very quiet and always a gentleman. Greene was not inclined to mix with civilians. He was never any trouble around the Coy.

RP 83(b) Complied with

3rd Witness for Prosecution

Frau Anny Reisacker, Falkenburg 100, Germany sworn states

I was, on ~~that day~~ 27 Apr 45, in the room with three other ladies and a boy of fourteen. Then a stretcher bearer entered the room with two bottles in his hand. The bottles were one of liquor and one of schnapps. The S.B. asked us to drink with him and because ~~they~~ we were afraid we started to drink. ~~I laid down on the bed because I figured that~~ The S.B. kept telling me to go down in the cellar. I was bold and refused to go down because I liked to sleep in a room together with the other women. I laid down on the bed and slept. This was the same room. The S.B. left the room ~~[illegible] I awakened [illegible]~~ I woke up and found a knife on my neck, the knife on my neck awakened me. ~~[illegible]~~ I felt, on my left side, and tried to run away, and there was another soldier on ~~[illegible]~~ my left side. I felt the first soldier on my right side. I tried to cry and then my mouth was kept shut by a hand. I don't know quite how but something hit me on the head, I was then unconscious. When I awakened again

The soldiers had had a chance to go around with me. One soldier kept me right, the negro penetrated me, the negro was on my right side. I know it was a negro because I felt his hair. I kept saying "good boy" because I was afraid that he would kill me. I recognize the negro as the soldier on my right (the accused) here in the room. I waited until both soldiers were asleep then I went in my bare feet to the commander. Two of them went back with me. They used a flashlight in the room. One of them gave me my money and my jewellery back. The one must an officer. Then they took me down in the cellar. "Next morning, I was brought up and taken to the commander. The events in the bedroom took place after midnight, on the same morning that I went to see the commander. After I saw the commander, an interpreter came and my story was heard. Then a car came and took me to a hospital in Klapperberg. There, a doctor looked after me and I spent several hours there.

~~I was [illegible]~~ The clothes I was wearing were all cut up and I wore a coat over the top.

I recognize as mine

i. the woman's girdle (marked "X" "A")

ii. the woman's stocking (marked "X" "C")

iii. the woman's under pants (marked "X" "B").

I recognize the knife (marked "X" "D") as being similar to the one about which I have told you.

I last wore these clothes on that night.

My body was covered with black and blue marks. There was blood on my neck, ~~my~~ He had cut my neck with the knife

CROSS EXAMINATION

I am married. I first came to Falkenburg last November. I was to Dusseldorf three times and I was searched by the police in Dusseldorf. I went to live at "LIEBIS" when I came to Falkenburg. ~~I have been living at 100 Falkenburg~~ I never quarreled with the women in the house where the events took place except for one time when I quarreled about a soldier. On that night, I quarreled with the civilians. I did not see the soldier at the time he was penetrating me. I do not recognize the man beside me. I saw him for the first time in Oldenburg at the court (the man brought in to stand beside her in court was Pte Nignik) I had not seen the accused before returning to the room with the commander. The accused was continually frightening me with the knife and he was holding my mouth. Both soldiers were holding me, on the left side and on the right side. The one who was penetrating me was holding my hands on my back, I couldn't move. He laid down beside me and tried to penetrate me. I felt happy on this night. I was not sick at my stomach during the night. I was unconscious when he tried to penetrate me. I had not asked soldiers into the house before this time. I had spoken very much with soldiers. I asked several soldiers to look for my sister and her children. I talked a lot with the S.B. who brought the liquor to ~~my~~ room. We did not have a good time at all. I was only seeking information on my sister and

her children.

I stroked the face of a man in the room and said "good, good" This was ~~not~~ the man who tried to penetrate me. I did stroke his face before he tried, when he had the knife. I did not take his penus in my hand and say "good, good". I do not remember having stated this before. I remember making a statement to an officer, the morning of 28 Apr. I remember saying then that I had held the penus of one of the soldiers and said "good, good" This was said to the soldier on my left side. I remember signing that statement (Summary of Evidence) two days after the events took place. The negro cut my underwear. I remember after this length of time, more of the particulars of the case. There were other civilians in the room when I went to sleep, I believe that they were all there. The next morning I knew that the other civilians had gone with the SB to the cellar to sleep. I was more afraid to sleep in the cellar than in the room, more afraid of soldiers. All the soldiers were drunk. I didn't make any noise when I discovered the soldiers were there, I pushed the guard aside and went to the commander. The guard was before the door of the house. I tried to call for help, all the people in the house knew it. The soldiers in the house could hear it and the people in the cellar did not hear it. I went to a farm with one soldier to look for my sister, I did not have sexual intercourse with a soldier before. I had been wearing the pants (Exhibit "B") for three or four days. I lost my jewellery in my house "Liebig" when I was told to leave; this has nothing to do with the accused. No one asked whether or not I was unconscious at the time so I haven't stated it before

RE EXAMINATION

The ~~pleasant~~ police were after me in Dusseldorf because I wouldn't work in a war plant. Of my sister and her children, one was wounded one was killed and has been buried. I can definitely state, that the soldier on my right penetrated me.

Question by J.A.

~~The night before the alleged incident I the understand that some soldiers were in the house, you claimed that you went to the commander it was early in the morning.~~ The evening before, there were soldiers in the house, they lived there. I did not see the accused in my room the previous evening. The accused came into the house from the street. The accused was not in the house before. The first time I saw him was when he had the clasp knife at my throat. There was no light in the room, it was dark. You could not see a person. I awakened with the feeling of a knife on my neck. I reached up to the face of the person with the knife and stroked it and said "Good boy, good boy" then I felt his hair. I was lying on my back when the knife was on my neck. My underwear was cut before penetration, I was lying fully dressed ~~[illegible]~~ My clothing was cut off. The other soldier held me tight so that I couldn't move. I felt the hair of the man who penetrated me and I knew it was a negro. I felt the hair and knew it was a negro before penetration. I have been married twelve years. ~~[illegible]~~ It was full penetration. I don't know where he was holding the knife during penetration. My hands were not held behind my back always.

When I regained consciousness, the soldier was lying on top of me and still penetrating me. I tried to struggle before I became unconscious, afterwards I couldn't move at all.

CORRECTION OF EVIDENCE

The third witness for the prosecution on hearing her evidence read to her, makes the following correction:

"I did not hold the penus of any soldier in my hand at any time that night"

To correct an answer to a question by D.A

"The first time I saw the accused was when I returned to the room with the commander and other person"

Prosecutor and Defending Officer decline to examine on the corrections

R.P. 83(b) has been complied with

FOURTH WITNESS FOR PROSECUTION

Capt. G.E. Dyer, 8th C.G.H, R.C.A.M.C.
Sworn states

Notice was given to the accused that the witness did not appear at the Summary of Evidence but was to appear at the Trial. No objection by the defence

I identify a woman brought in to the court as Anny Reisacher. On 28 Apr 45 I was on duty at 8th Br. G.H. in Cloppenburg, Germany. I examined the complainant on 28 Apr 45 at 1500 hrs. After hearing her story I examined her. My examination divided in to two parts. First, a general examination, she was a rather slovenly dressed woman who looked older than her stated age. She had a small cut, which was healing and scabbed over on the left side of her neck at the "Adams Apple". There was a bruise on the right side of her neck, in size 3½ inch by ½ inch. On her right hand there was a small cut on the

ring finger which was covered with adhesive plaster. Her body skin, was not particularly clean and there was evidence of scratching

I no Special Examinations.

Breasts showed no bruising or scratches

Pudendal Area showed no bruising or scratches.

The introitus admitted two examining fingers easily. There was no evidence of discharge and no blood on the examining fingers. There was no derangement of the female internal organs.

The examination findings are consistent with that of a married woman

It would be impossible to state that she had or had not had sexual intercourse on the previous twelve hours.

CROSS EXAMINATION.

I would suspect that she had had a bath in the previous twelve hours. I found no evidence of semen on the vagina or on the thighs. I would not expect to find evidence of such if she had been raped within the previous twelve hours. The mark on the womans throat, (pointed out in court) could not have been caused in the previous twelve hours to the examination. She complained at the time of a cut on her head but I could find no evidence of such a cut, due possibly to the untidy condition of her hair. I would not expect necessarily to find evidence of a blow sufficient to render her unconscious within the twelve hours. Even if some instrument had been used, evidences of a blow would not necessarily show. Other than the points I have made, she showed no black and blue marks, bruises of the black and blue variety caused within the previous twelve hours would in all probability have still showed at the

type of impregnation. In my opinion, the scratches noted & mentioned were caused by the woman herself. The most common cases of intercourse with violence usually show signs of scratching or bruising around the PUDENDAL area, in this case there were no such signs.

RP 83(b) Complied with

The court was adjourned 1730 hours until 1030 hrs 17 May 1945. At that time the court reassemble, pursuant to adjournment; present the same members as on 16 May 1945

Defending Off. makes a motion of No case Prosecution replies.

Motion for Dismissal of Rape ~~Charge~~ & Fraternization Charges.

Page 13 Bl.

~~Penetration~~ Prosecution must prove each of following
(1) No consent
(2) Penetration
(3) Corroboration

Penetration Only evidence that of complainant - very vague - ~~admits~~ claims was unconscious at time of penetration, & only by leading questions by court could get her to claim real penetration

Consent Fied re mark on neck from knife
Doubt whether it was accused's knife.
No evidence of screams
No evidence of struggle
Said - Good boy, good boy

Corroboration Archbold's Criminal Pleading - Evidence & Practise 31 Ed. by Butler & Garsia 1943
at P. 1025 para 1. "Though corroboration of the evidence of the prosecutrix is not essential in law, it is, in practice, required and it is the practice to warn the jury against the danger of acting upon her uncorroborated testimony, particularly where the issue is consent or no consent" R v Graham 74 J. P 246. Even where there is such a warning but matters are suggested as being corroborative which are not in fact so, the conviction may be quashed in a proper case, on appeal."

at P 1023 para 4 "Such complaint (of rape) cannot be regarded as corroboration of the story of the prosecutrix and it is a misdirection to refer to it as such: R v Coulthread 24 Cr App R 44
⇒ no corroboration here whatsoever.
Accordingly move that first charge (of rape) be dismissed.

All the above as to ~~wit~~ complainant's credibility, impeached as it was by prosecution's own witnesses as to her questionable character, as opposed to good character of accused, applies to the alternative charge of fraternization - accused should not be convicted on complainants unsupported word, and I move the alternative charge of fraternization be dismissed

[illegible] Harris Lord Lt. President.
W E Colter Lt Defending Offr.
[illegible]

Reply to Motion by Defence. 14 Fr.

The Court has heard the evidence for the prosecution. It shows that the complainant in the very early hours of the morning ran in her bare feet to another house to make a complaint — a fact which would strongly suggest that something serious had happened.

A knife with open blade was found in the room — it was an army knife and in a room not inhabited by army personnel. Suspicion must rest in the court's mind that the complainant's references to the knife must be true — and therefore there would be a basis for the argument of submission through fear of immediate bodily harm.

The complainant has sworn she was penetrated — there is nothing in the medical evidence which denies this. Although such a fact does not amount to corroboration, certainly the Court must realize that the fact is possible and demand to hear the defence's story.

If the Court feels there is more to the story than they have heard which might confirm any suspicions in their minds raised by the evidence of the prosecution, then I suggest they must hear out the case.

W Thees Capt.

Mr Dee Hawn
Lieut.
Pres.

L-22741 Sgt Bultitude, J.P. Cdn Sec 1 Ech is duly sworn as shorthand writer. No objection by the acc. D.

First Witness
For Defence

B-119276 Pte Herbert Russell GREENE, 1 Bn Royal Hamilton Light Infantry, having been duly sworn states:

I enlisted in the army on the 13th November 1943. I have been approximately 7 months with the Hamilton Light Infantry. I am 31 years of age and am married with 4 children. I have had no crimes in the army nor in civilian life. On the night 27/28 April 1945 at approximately 2300 hrs in FALKENBURG, Germany we had a drinking party in the cooker. I got feeling very happy. When we had drank all the liquor, we suggested we get another bottle. One of the fellows said he had a bottle at the barracks, so I said I would go over with him. When we got to the house which was across the street from the cooker, I stopped in the hallway while he went to get the bottle in another part of the house. At that time a woman came from the back of the house. She was crying. She ran towards me and threw her arms around my shoulders. This woman was Anny Reisacker. It seemed like there was some kind of difficulty in the house. All I could understand from her conversation was "Nix Kaput Gestapo". Then another woman came running out behind her. She grabbed me by the other arm and pointed towards the back of the house where the cellar was. She wanted to show me something. I didn't know what to make of it all at the time. At this time Pte Samuk was standing in the hall. I asked him what the trouble was. He said "she has just been fucked by four or five fellows". I didn't want anything more to do with her so I stepped outside the house and waited for the other soldier who was getting the bottle to come out. I was there about a minute when he came out. We went back to the cooker. When we got there, two other fellows who had been drinking with us had passed out and we put them to bed. Then I and this other fellow went back to finish the bottle of liquor we had brought over. While we were drinking there was some excitement caused outside by some of the other soldiers firing their rifles and guns. I went out to see what it was, and the boys that had been drinking with me were trying their guns out. Just then Pte Mattrass asked me what I had done with his rifle. I thought a moment and said "I must have left it at the other house where I got the liquor". I thought I had left it in the hallway, so I said that I would go over and get his rifle. Pte O'Connor said he would go with me. We were both very drunk at that time. When we got to the house (100 Falkenburg) we looked over the hallway for the rifle but couldn't find it. We opened up a door in the hallway and entered the room. We distinguished bed clothes on the floor and O'Connor fell on a mattress with the idea of sleeping. There was practically no light at that time. I got down to lay down too and heard a noise and said there was somebody in the room. Pte O'Connor said "I don't think so". I struck a match and was feeling around and my hand touched a leg and when I struck the match I could distinguish this woman lying there with her back towards the door. Her dress was up over her thighs and from my impression she had no pants on. Just then she woke up and sat up and threw her arms around my neck. She said "Good Good", and her passion was so great at the time in the state I was in, I lay down beside her. She was chattering in German, but all I could make out was "Good Good" at that time. She was feeling around where my Dick was and started playing with my Dick. Then she started to kiss me. She was very passionate and when she put her tongue in my mouth, I got very sick and was very disgusted. I turned my back to her at that time. Through all this O'Connor had not said a word or made a move and I figured he had passed out of the picture.

The room started going around and around and I felt I was floating on air. My last remembrance was when I turned my back to this woman. I then passed out of the picture. When I next work up, O'Connor awakened me, and I was told that I was under close arrest. It was about 0700 hours. I got up and found that my pants had been off, which I couldn't remember taking off that morning. I walked out to the hallway and was told that I couldn't leave and that I was under close arrest. I said that I would like to go to the kitchen and get washed and shaved. They argued that they could not let me go, so I just walked out and they followed me. The knife produced as Exhibit "D" is not mine.

Cross-examination by Prosecutor

Prior to the 27th April 1945 I had heard about fraternization. I understood that we were not to have anything to do in any shape or form with German civilians, unless it was a case of duty. Prior to the 27th April, 1945, I had read Field Marshal Montgomery's pamphlet on "Non-Fraternization", and I had signed an acknowledgement that I had read the pamphlet. If I did not leave the room after finding there was a woman there with her dress up over her thighs, it was due to the fact that her passion was so great at the time and I could not resist her, so I lay down beside her. I did not realize at the time that it was fraternization. In the state I was in, I never thought of her as a German woman. I did not have sexual intercourse with her. I would say that she had no pants on. My pants were lying beside me when I woke up. I was sick at the stomach a little.

Re-examination by Defending Officer

I did not at any time place my hand on the woman's private parts. I did not vomit. I had cramps and felt like I was going to womit. I went to the room at 0200 hours. A few minutes after entering the room I struck a match and discovered a woman there. I did not notice when the woman left the room. When I struck the match, I saw the woman whom I recognize as the complainant.

RP 83(B) Complied with.

Second Witness For Defence

Captain A.A.H. Parker, Royal Hamilton Light Infantry having been duly sworn states:

I know Anny Reisacker only by sight. What I know about her is that on the 26th April 1945, "C" Coy was about 1000 yards from the town of FALKENBURG and within the Coy position, I recognized this woman. She first came to me and wanted to know if she could go into FALKENBURG. I told her she couldn't because there were no Canadian troops there. She commenced to argue and remained in Coy HQ for sometime talking to different members of the Coy HQ. I just couldn't tell what she said but I gathered she was making a nuisance of herself. She had a familar sort of tone. I told the SM to take her down the cellar. About one-half hour later I came back to Coy HQ and found she was upstairs and with the same familar tone, roaming about with the soldiers in the building. It is pretty hard to qualify the word "familar" tone. It was entirely foreign to a woman who had been beaten and I gathered at the time she was a loose character.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

17
B.

Third Witness
For Defence

B-1163171 Pte Nattrass, F.R. - Royal Hamilton Light Infantry, having been duly sworn states:

I am employed in the "D" Coy Stores. I saw the accused on the night 27-28 April 1945. On the night 27-28 April 1945, the accused went to the house directly across from the Coy Stores to get my rifle. It was sometime before midnight. I was trying to get some sleep and was in bed at the time.

Prosecutor declines to X-examine Th.

In the opinion of the Court and Judge-Advocate it is not necessary to comply with RP 83(B).

Fourth Witness
For Defence

B-79510 Pte Freelend, A.W.H., Royal Hamilton Light Infantry having been duly sworn states:

On the morning of the 28 April 1945, I was on guard from Coy HQ across the street where the incident took place. I saw the accused Pte Greene go to 100 FALKENBURG. He mentioned something about a rifle. At the time I was standing across the road at the ppposite side of 100 FALKENBURG. The incident I referred to is that the night I was on guard a woman known as Anny Reisacker came out and she was sick. It was 0250 hours. Earlier in the evening, the previous night I was standing out there talking to the guard that was on and there was quite a bit of disturbance going on across the street at 100 FALKENBURG. I walked over there and just talked to some of the fellows and asked what the distrubance was. They just said the boys were feeling good. I could hear women's voices from inside the building. I just went back over to our Coy HQ. After the woman Anny Reisacker was sick, she returned to 100 FALKENBURG where she resided. I went off guard at 0300 hours and went to bed in Coy HQ. I was awakened by a woman coming into Coy HQ and she asked for the Commandant. It was about 0430 or 0500 hours.

Prosecutor declines to cross-examine Th.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

Address to Court on Behalf of Accused (18)

As the charge is framed, it is submitted that the only ground on which the accused may be found guilty of the charge of fraternization is by the court being convinced that the accused had sexual intercourse with the complainant. As the court will no doubt be advised by the A.D.J.A., the guilt of the accused must be established in the court's mind beyond any reasonable doubt. I do not propose to review the evidence, or rather lack of it, in this regard. Suffice it to say that, under the authorities already quoted in the motion for dismissal of the charge, the uncorroborated & vague evidence of the complainant cannot, it is submitted, be accepted by the court as establishing intercourse beyond a reasonable doubt, particularly in view of the accused's definite and strong denial that such intercourse took place, & the evidence of Pte Freeland that complainant was wandering about outside after intercourse was supposed to take place, long before the complaint was made.

Were this question of intercourse the only point at issue, as is the case with the charge as presently framed, the matter would be at an end and the court could not, I submit, do other than dismiss the charge. However, I believe the A.D.J.A. may advise the court that under a certain R.P. there may be a ~~different~~ special finding, disregarding the matter of intercourse. This R.P. 49 (d) specifically states that the difference in facts proved as opposed to facts charged must not be so material as to ~~pre~~ have prejudiced the accused in his defence. It is strongly submitted that to change the whole basis for the laying of the charge does materially prejudice the accused. In his evidence, the accused freely admitted being in the same room as the complainant, which fact might possibly, on a special finding, form some ground for finding him guilty of the offence, whereas had he ~~known~~ known that the charge as framed might be altered, it is unlikely that he would have gone into the box at all, but instead would have relied on the court failing to find ~~evidence~~ ~~against~~ him guilty beyond a reasonable doubt on the flimsy & inconclusive & uncorroborated evidence of the complainant

However, even should the ~~charge be~~ court be satisfied that they may make a special finding by disregarding the necessity for proof of intercourse, I strongly submit there is no evidence which is sufficient to cause the court to find the accused guilty beyond a reasonable doubt. The whole tenor of the evidence goes to prove that the accused was an involuntary agent — that he was in such a state of intoxication that he was incapable of repelling the passionate advances of the complainant at first, but after a moment turned away from her in disgust — it was probably this repulse which galled the pride of this despicable woman who was used to doing what she pleased with men, ~~but~~ and caused her to go to the company H.Q. to make a complaint & get the accused into trouble. In truth, "Hell hath no fury like a woman scorned." This in itself, together with the accused's repulse of the woman earlier in the evening, when she threw her arms about him, must, I submit, leave in the mind of the court a very great "reasonable doubt" as to the guilt of the accused. With strong evidence from the prosecution's own witnesses as to the excellent character & quietness of the accused, plus the same evidence as to the complainant's low character, there cannot I submit, be any doubt that the woman not only was the aggressor throughout, but that under the circumstances the accused was incapable of forming any intent or of realizing that he was committing an offence.

Accordingly, I ask that the charge of fraternization be dismissed

W E C Colter Lt
Defending Offr.

R R Dale Harris, Lieut col
President

Address by Prosecution

The accused is charged with fraternization with a German woman. The topic of fraternization has become notorious throughout the allied armies. The same brilliant leaders who have led us to victory have decreed that allied soldiers will not fraternize with the German people. They have set out carefully and clearly what acts constitute fraternization. Field Marshall Montgomery has issued a pamphlet explaining in simple terms the salient features of the order. Pte. Greene had read that pamphlet and gave the Court a good account of what he understood - before the events in question - concerning non-fraternization. Then he admits laying down beside a half-naked woman in a house where he knew German woman to be living. He admits permitting her to feel around his private parts and kiss him. He tells us he was drunk but it must be remembered that drunkeness is no excuse to a military offence. It may of course be taken into consideration when considering the punishment - see MML p106.

The allied troops have been impressed with the need to win the peace and it has been pointed out that one ingredient to winning the peace is not to fraternize with Germans. It follows that any Canadian soldier who does fraternize is definitely obstructing or helping to obstruct this policy and is guilty of an act or conduct to the prejudice of good order and military discipline. Order and discipline in the Canadian Army will face a serious crisis if cases of fraternization are not firmly dealt with.

I respectfully ~~submit~~ suggest to the Court that you have no alternative but to find the accused guilty of fraternizing with Anny Reisacher, an inhabitant of Germany. It may I submit be necessary for the Court to record a special finding as to which of the acts of the accused amount to fraternization.

[illegible] Hons. [illegible] Pres.

W. Phillips Capt.

Summing up by J.A.

Burden of proof on prosecution
acc innocent until proved guilty
Elements necessary to be proven { [illegible] [illegible] [illegible] [illegible] [illegible].

Temporary intoxication (M M L page 106)

~~Cont~~ Conduct of acc as proved must be both
to prejudice of good order + Military discipline.

Special Finding R.P. 44(D) + footnotes.

Doubt must be in favor of acc.

[illegible]
J.A.

22
Bl.

PLEA IN MITIGATION

PTE HERBERT GREENE, , is 31 years old, married with a wife and 4 children. He joined the Army in 1943 and came to the European Theatre in SHORTLY AFTER and has served from NOV 1944 up to the present with the RHLI.

As yet he has had NO crimes. His conduct sheet is absolutely clear and his companions and offrs speak in the highest terms of his attitude and service in the unit.

This is NOT a flagrant act of fraternization but an act which peculiar circumstances and an immoral and degrading and abhorrent woman engineered him into. He was in a condition of drink and with the advances made by this loose and disgusting woman found himself PRACTICALLY being seduced by her. He had no part of her earlier in the day when she had made advances and was in fact revolted by her. Then he finds her in the same room at night where he was going to sleep with the development as related by the evidence. He does not remember associating with her in any way. He was there and she chose to be there and that's all there is to it. There is no intercourse proven or any other act of volition on his part which the Court can seize upon to say he wanted to have her there with him.

Therefore I ask the Court to regard this thing as a minor offence from these circumstances and lay down the punishment according to the scale provided in 2 Cdn Corps RO 480.

Few soldiers in inf units now exist who have Greene's good record. For the sake of a bad woman, it is a great pity to spoil it at this stage of the game.

I have no hesitation in asking the Court to deal with this charge most leniently and to show to a good Cdn soldier that Courts will assess in no uncertain terms the acts of such German women as appear in this case who are, I submit, beneath contempt.

W E Colter Lt
Defending Officer

R R Dale Harris Lieut-col
Pres.

Exhibits

Exhibit "A" = Woman girdle
" " B = Woman fants
" " C = one woman silk stocking
D = one swiss clasp knifer

The above exhibits are not attached being necessary for another case.

E.J.

Sch. "E"

D coy RHLI Wed 4 April 45

re Pte Green H.

1. The m/n soldier has been in the company which I command for at least six months. During the time I have known him Pte Green has been a very capable, efficient and well mannered soldier. The previous coy comd told me that Pte Green had been perfectly satisfactory

2. In my opinion Pte Green is a gentleman and above average in this respect

3. I also realize that the charge is a very serious one and as such cannot be allowed to go unchecked as others will

page 2/ feel they too can have personal contact with German civilians.

4. In this regard the first cases tried will be doubtless used as a basis for future punishments

5. I sincerely feel this case is not one with intent and should NOT be used as a basis for future punishments or as an example to our troops.

6. The woman in question is in my ~~opinion~~ opinion and from what I have seen a very weak character and the type who would gladly do what she can to cause trouble

L.H. Doering Major
OCD Coy RHU

[illegible] Harris
Lond Col
Pres.

Exhibit F
2.

Statement as to Character of
Pte Herbert Greene

I have known the accused Pte Herbert Greene, since he was a boy of about eight or nine years old. He lives in Owen Sound, went to school there and his family live only about two city blocks from my own home. He comes from a good negro family and has a brother Garfield in the service of the Canadian Army with the Armd Corps now in Germany. They are all members of the B M E church in Owen Sound and are known as hard working people and good citizens in our community.

Herbert Greene is particularly well known to me as he used to call for washing from my mothers house to take to his mother and after this time he used to deliver papers to our home. He was a great favourite of my father and mother.

Later when he went to work

for a living, he was employed as a cook on the boats running from Owen Sound. After he had some experience along this line he was employed by my father as a second cook at his hotel in Owen Sound where he gave good service and where he worked until he joined the army. During his employment at the hotel he was an exemplary employee and got on well with the other servants.

He is always polite, mild mannered and pleasant. He is a person who can be trusted and in my opinion has a high regard for the truth.

I am very much surprised that he found himself involved in circumstances of this kind but I attribute the whole matter to accident and not to a planned ~~or premeditated~~ desire to be with the woman in question.

G.R. Marrian
Capt.

OLDENBERG
12 May 45.

GSO3
6 Can Inf Bde.

Exhibit "G" 23

In lieu of Army Form B.296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment
B119276	Pte	Herbert Russell GREENE	1 Bn RHLI

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within Last 12 months	Since Enlistment
For	Nil times	Nil times
For	times	times
For	times	times

Number of instances of Military or distinguished conduct Nil

There are no entries on the conduct sheet of the accused

2. The accused has not been previously convicted, or

~~[illegible]~~

3. The accused is not under sentence at the present time, ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 19 days in military custody, making a total of 19 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 31 years

6. The date of his attestation specified in his record of service is 13 Nov 43

7. ~~[illegible]~~ is.....

8. The accused is entitled to deferred pay or gratuity in respect of ..... service.

9. ~~[illegible]~~

10. The accused is in possession of, or entitled to, ~~[illegible]~~

11. ~~[illegible]~~

Pte Herbert Russell Greene

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused

No. B119276 Rank Pte Name GREENE, HR Unit 1 RB RHLI

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or of order dispensing with trial	Charges upon which convicted or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge	Punishment remitted.
		---- nil -----		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of MAY

Officer Capt
RAMC.

MFM 6
(AFB 122)
40/P&S/126 (24436)

No B119276 Name GREENE, HR | Sqn, Battery, or Company | Corps CIC | Date of enlistment 13 Nov 44 | GC Badges n/a | Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet 5 Jan 44 | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed 12 May 44. Date of last entry 5 Jan 44. Cases of drunkenness NIL									
Certified true copy from regimental documents in my custody.									
(WO AVERY) Capt, & Adjt, 1 Bn RHLI, CA(Os)									

(PTO)

Summary of Evidence

In the case of B119276 Pte Greene H.R., 1 Bn. Royal Hamilton Light Infantry.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

First charge

First witness for the prosecution

Capt. W. Rich, 2/c D. Coy. 1 Bn. R.H.L.I. sworn, states.

At about 0420 hrs, 28 Apr 45, at Falkenburg I was awakened by a German woman whose name I later ascertained to be Annie Reisacker, living at 100 Falkenburg, Germany, who came into my room crying and complaining of being molested by soldiers. She had no shoes, stockings, hat nor coat on, and she showed me that her dress had been torn in two places. I summoned C.S.M. Dolman and we went together with the woman to the room in which she had been sleeping at 100 Falkenburg. We found there two soldiers B119276 Pte Greene H.R. and D141839 Pte O'Connor L. both of D. Coy R.H.L.I. They were asleep on the floor. Pte Greene had no trousers on. Pte O'Connor was fully clothed. I searched among the bed clothes and found articles as follows.

(1) 1 pr. ladies underpants
(2) 1 silk stocking
(3) 1 ladies girdle
(4) 1 Service clasp knife (open)

There were no other persons in the room I did not disturb the soldiers but ordered them guarded and escorted the lady to the other where she spent the rest of the night with other civilians.

The above articles found in the bedroom were

turned over to the adjutant 28 apr 45 for evidence.

[signature] 30 Apr 45

The accused declines to cross-examine

Pte Greene H.R.

2nd Witness for the Prosecution

B 37061 C.S.M. Dolman D.G., D Coy R H L I. sworn states

At approx. 0430 hrs 28 Apr 45 I was summoned by Capt. Rich to accompany him to 100 Falkenburg, Germany to investigate a complaint made by a German woman whose name I later learned to be Annie Reisacker. On entering the woman's room I found 2 men, B 119276 Pte Greene H.R. and D 141839 Pte O'Connor both of D. Coy R H L I. They were asleep on the floor. Pte Greene had no trousers on Pte. O'Connor was fully clothed. I then assisted Capt. Rich in searching the room. The following articles were found.

(1) 1 pr. ladies underpants
(2) 1 silk stocking
(3) 1 woman's girdle
(4) 1 service clasp knife (open)

I did not disturb the men and Capt. Rich ordered them guarded, and escorted the woman to the cellar where other civilians were sleeping. We then returned to our own quarters.

3

Question by the accused

Q. Did the woman appear to be intoxicated

A. It was apparent she had been drinking.

D G Dolman 30 April 45

There were no further questions by the accused

Pte Greene H. R.

4

FRAU ANNY REISACKER, Falkenberg 100, sworn states: 30th April 1945.

At the 28th April 194.

We were at the evening together with 5 persons in one room. Then entered a Canadean soldier, which was billeted in the house. He felt happy when he entered the room. He had two bottles 1 liquor 1 Schnaps. "Everyone should have a drink" he sais. We drunk all. I should have said many bad words, because the latter days I was hindered very much by the soldiers. It was about 11 o'clock. I slept in the same room. I woke up and found out a knife was put on my neck. "Deutsche Frau kaputt" said the soldier. On both my sides there was laying down a soldier. He, I don't know, which one cut my underwear, stockings etc with the knife. I tried to get him quiet. He tried several times to cut me with the knife. He who laid down on my right hand side forced me and I felt on his hand that he was a negro. Then he kept my mouth closed and penetrated me. Both soldiers slept then and I went out. I kicked the guard before the house and went down for help. Two persons came down with me. They took the knife and underwear. They sent me in the cellar and I slept there. One of the stretcher-bearers woke me up and I had to come down to the captain. He asked me several questions. Then I was sent down to the hospital in Oppenberg. The doctor chequed me and I came back 29th April.

Questioned by the accused.

Q. At what point in the above story am I supposed to have made my first appearance.

A. The first time I saw the negro was when he put the knife on my neck.

Q. Who else other than those mentioned above were present during the alleged rape

A. No one.

Frau Anny Reisacker

There were no further questions by the accused.

Pte Greene H.R.

I hereby state that the foregoing evidence by Frau Anny Reisacker is the true translation of her evidence given in German

Sgt. C. J. Hoogheiss
30th April 1945.

The accused having been duly cautioned in accordance with R.P. 4(c) says

"I dont wish to say anything at this time"

The accused does not wish to call witnesses in his defense at this point

Pte H. R. Greene

Certified that R.P. 4 complied with

In the field
25 Jan 45

W V Howarth Cpl.
Officer detailed to take summary

R.B. Dale Harris
Lieut. and
Pres.

IN THE CASE OF B 119276 Pte Greene, H.R.

1st WITNESS FOR PROSECUTION

Capt W Rich, 2 i/c "D" Coy, 1 Bn RHLI sworn states:

At FALKENBURG, GERMANY on the morning of 28 Apr 45 at about 0900 hrs, a German woman who I later identified as Annie Reisacker living at 100 FALKENBURG, Germany, came to Coy HQ and roused me, complaining by way of crying, indicating that she was in some trouble. She wore no shoes or stockings or hat or coat. She pointed to her dress which was torn. I called CSM Dolman, and together we went into a room indicated to us by the woman and found two soldiers sleeping on bed clothes laid on the floor. The were Pte Greene and Pte Connor of D Coy, RHLI. I identify Pte Greene as the accused here present. Pte Greene was fully dressed but without trousers. Pte Connor was fully dressed. I searched them and the bed clothes and found,

i A woman's girdle (Exhibit "A")
ii A pair of womens under pants (Exhibit "B")
iii One Womans' sild stocking (Exhibit "C")
iv One service clasp knife-open (Exhibit "D")

Above articles are produced as exhibits and are marked respectively exhibits "A" "B" "C" "D".

I took the woman to the cellar of the house in care of other civilians and gave instructions that the room containing the soldiers, would be guarded. I left the soldiers undisturbed in the room. The furniture in the room was cleared back to the walls and there were many quilts and bed clothes on the floor.

Cross Examination

I saw the complainant the first time two days before, when she had come to the Company area. She came to HQ and from what I understood, said she had lived in the house occupied by HQ. I told her that civilians were not allowed to live in the house and directed her to 100 Falkenburg. I saw her many times after that. I had the impression that she would bear watching and I did so. Most of the day she spent looking out of the window or in some trip up or down the street. On two or three occasions she came across to Coy HQ with small complaints in an endeavor to get articles from the house. I, personally, warned her on three occasions, that it was forbidden to enter Coy HQ. On another occasion, I found her walking up the street with a soldier, at about sunset, and on investigating, she had asked the soldier to accompany her as protection to the house of a friend. I found that she had no friends in the house to which she went, but there were some soldiers drinking. She appeared to be making overtures to soldiers in the area.

There were soldiers living at 100 Falkenburg, about ten including an officer. The room to which she took us at 100 Falkenburg was one in which, it apreared, that many civilians had been living. There were no other civilians sleeping in the room when I inspected it. As far as I know all other civilians in the house, were in the cellar.

The accused had a service knife when he appeared on orders on the morning of the 28 April 45. To my knowledge, nothing had been said to the accused about a knife, before he was brought up on orders.

We were the first troops to arrive in Falkenburg, we arrived about two days before the circumstances of this case.

Although I found only one stocking the other could have been there. It was very dark, even at that hour.

The general character of the accused, is very good. I never had any trouble with him.

In my dealings with the accused, I found him very courteous

and diligent. He was not inclined to mix with the civilians under any circumstances.

I did not see any cut on the complainant's finger when she came to me that morning.

R P 83 (b) has been complied with.

2nd WITNESS FOR PROSECUTION

B 37061 CSM D G DOLMAN "D" COY, 1 Bn RHLI sworn states:

At Falkenburg, Germany, at approx 0400 hours, 28 Apr 45, I was summoned by Capt Rich, to accompany him to 100 Falkenburg to investigate a complaint laid by a German woman. The name of woman, I learned to be Anny Reisacker. On entering the woman's room, I found Pte Greene and Pte Connor asleep on the floor. I recognize Pte Greene as being the accused here in the court. Pte Greene had no trousers on but Pte Connor was fully dressed. I then assisted Capt Rich in searching the room. The following articles are what we found:

i One pair of ladies underpants (Marked Ex "B")
ii One silk stocking (Marked Ex "C")
iii One womans girdle (Marked Ex "D")
iv One clasp knife, bladeopen (Marked Ex "D")

Capt Rich then ordered that the two men be guarded and we escorted the lady to the cellar where other civilians were sleeping.

Pte Greene was guarded until being paraded before the Company Commander, later in the morning. He did not have somebody beside him at all times.

Cross Examination

I saw Anny Reisacker around Coy HQ at which time, she was ordered to leave, by the Company Commander. She was look' g through some of the rooms in Coy HQ apparently seeking something.

I saw her stop two soldiers on the road on another occasion, and start a conversation with them.

I couldn't say whether or not she had been warned against speaking to soldiers.

When I saw her at 0400 hrs 28 Apr 45, it appeared to me th at she had been drinking. At that time, I did not notice any cut on her finger.

Other than the exhibits listed, I did not find any other womans wearing apparel. Greene was fully dressed except for trousers. It was very dark in the room when we went over to investigate. I used a flashlight in the search. It would not have been possible to recognize anyone in the room without a light. There was no mention of a knife made to Greene prior to the time he appeared on orders that morning.

Greene was still asleep when he was placed under guard. Other than the woman, no person except Capt Rich and myself knew about the knife.

I've known Greene since last November, and he has always been a good soldier. Very quiet and always a gentleman.

Greene was not inclined to mix with civilians. He was never any trouble around the Coy.

R P 83 (b) complied with.

3rd WITNESS FOR PROSECUTION

Frau Anny Reisacker, Falkenburg 100, Germany sworn states:

I was, on 27 Apr 45, in the room with three other ladies and a boy

of fourteen. Then a stretcher bearer entered the room with two bottles in his hand. The bottles were one of liquor and one of schnapps. The SB asked us to drink with him and because we were afraid we started to drink. The SB kept telling me to go down in the cellar. I was bold and refused to go down because I liked to sleep in a room together with the other women. I laid down on the bed and slept. This was the same room. The SB left the room. I woke up and found a knife on my neck, the knife on my neck awakened me. I felt on my left side, and tried to run away and there was another soldier on my left side. I felt the first soldier on my right side. I tried to cry and then my mouth was kept shut by a hand. I don't know quite how but something hit me on the head. I was then unconscious. When I awakened again the soldiers had had a chance to go around with me. One soldier kept me tight, the negro penetrated me, the negro was on my right side. I know it was a negro because I felt his hair, I kept saying "good boy" because I was afraid that he would kill me. I recognize the negro as the soldier on my right (the accused) here in this room. I waited until both soldiers were asleep then I went in my bare feet to the commander. Two of them went back with me. They used a flashlight in the room. One of them gave me my money and my ~~jewelery back~~, this one was an officer. Then they took me down in the cellar. Next morning, I was brought up and taken to the commander. The events in the bedroom took place after midnight, on the same morning that I went to see the commander. After I saw the commander, an interpreter came and my story was heard. Then a car came and took me to a hospital in Clappenburg. There, a doctor looked after me and I spent several hours there.

The clothes I was weaing were all cut up and I wore a coat over the top.

I recognize as mine
i the woman's girdle (Marked ex "A")
ii the woman's stocking (marked Ex "C")
iii The woman's under pants (marked Ex "B")

I recognize the knife (marked Ex "D") as being similar to the one about which I have told you.

I last wore these clothes on hat night.

My body was covered with black and blue marks. There was blood on my neck. He had cut my neck with the knife.

Cross Examination

I am married. I first came to Falkenburg last November. I was to Dusseldorf three times and I was searched by the police in Dusseldorf. I went to live at "LIEBIJ" when I came to Falkenburg. I never quarreled with the women in the house where the events took place except for one time when I quarreled about a soldier. On that night, I quarreled with the civilians. I did not see the soldier at the time he was penetrating me. I do not recognize the man beside me. I saw him for the first time in Oldenburg at the court (the man brought in to stand beside her in court was Pte Niznik). I had not seem the accused before returning to the room with the commander. The accused was continually frightening me with the knife and he was holding me, on the left side and on the right side. The one who was penetrating me was holding my hands on my back, I couldn't move. He laid down beside me and tried to penetrate me. I felt happy on this night. I was not sick at my stomach during the night. I was unconscious when he tried to penetrate me. I had not asked soldier's into the house before this time. I had spoken very much with soldiers. I asked several soldiers to look for my sister and her children. I talked a lot with the SB who brought the liquor to my room. We did not have a good time at all. I was only seeking information on my sister and her children.

I stroked the face of a man in the room and said "good, good". This was the man who tried to penetrate me. I did stroke h's face before he tried, when he had the knife. I did not take his penis in my hand and say "good, good". I do not remember having stated this before. I remember making a statement to an officer, the morning of

2nd Apr. I remember saying then that I had held the penus of one of the soldiers and said "good, good". This was said to the soldier on my left side. I remember signing that statement (Summary of Evidence) two days after the events took place.

The negro cut my underwear. I remember after this length of time, more of the particulars of the case. There were other civilians in the room when I went to sleep, I believe that they were all there. The next morning I knew that the other civilians had gone with the SB to the cellar to sleep. I was more afraid to sleep in the cellar than in the room, more afraid of soldiers. All the soldiers were drunk. I didn't make any noise when I discovered the soldiers were there, I pushed the guard aside and went to the commander. The guard was before the door of the house. I tried to call for help, all the people in the house knew it. The soldiers in the house could hear it and the people in the cellar did not hear it. I went to a farm with one soldier to look for my sister, I did not have sexual intercourse with a soldier before. I had been weaing the pants (Exhibit "B") for three or four days. I lost my jewellery in my house "Leiby" when I was told to leave;this had nothing to do with the accused. No one asked whether or not I was unconscious at the time so I havent stated it before.

Re-examination

The police were after me in Dusseldorf because I wouldn't work in a war plant. Of my sister and her children, one was wounded one was killed and has been buried. I can definitely state that the soldier on my right penetrated me.

Question by JA

The evening before, there were soldiers in the house, they lived there. I did not see the accused in my room the previous evening. The accused came into the house from the street. The accused was not in the house before. The first time I saw him was when he had the clasp knife at my throat. There was no light in the room, it was dark. You could not see a person. I awakened with the feeling of a knife on my neck. I reached up to the face of the person with the knife and stroked it and said "good boy, good boy" then I felt his hair. I was lying on my back when the knife was on my neck. My underwear was cut before penetration, I was lying fully dressed. My clothing was cut off. The other soldier held me tight so that I couldn't move. I felt the hair of the man who penetrated me and I knew it was a negro. I felt the hair and knew it was a negro before penetration. I have been married twelve years. It was full penetration. I don't know where he was holding the knife furing penetration. My hands were not held behind my back always.

When I regained consciousness, the soldier was lying on top of me and still penetrating me. I tried to struggle before I became unconscious afterwards I couldn't move at all.

CORRECTION OF EVIDENCE

The third witness for the prosecution on hearing her evidence read to her, makes the following correction.

"I did not hold the penus of any soldier in my hand at any time that night".

To correct an answer to a question by JA

"The first time I saw the accused was when I returned to the room with the commander and other person."

Prosecutor and Defending Officer decline to examine on the corrections.

FOURTH WITNESS FOR PROSECUTION

Capt G E Fryer 8 CGH RCAMC sworn states:

Notice was given to the accused that this witness did not appear at the Summary of Evidence but was to appear at the trial. - No objection by the defence.

I identify a woman brought in to the court as Anny Reisacker. On 28 Apr 45 I was on duty at 88 Br G H in Cloppenburg, Germany. I examined her. My examination divided into two parts. First, a general examination, she was a rather slovenly dressed woman who looked older than her stated age. She had a small cut, which was healing and scabbed over on the left side of her neck at the "Adams Apple". There was a bruise on the right side of her neck, in size ½ inch by ¼ inch. On her right hand there was a small cut on the ring finger which was covered with adhesive plaster. Her body skin, was not particularly clean and there was evidence of scratching

Two Special Examinations

Breasts showed no bruising or scratches.
The entroilus admitted to two examining fingers easily.
There was no evidence of discharge and no blood on the examining fingers. There was no derangement of the female internal organs.

These examination findings are consistent with that of a married woman.

It would be impossible to state that she had or had not had sexual intercourse in the previous twelve hours.

Cross Examination

I would suspect that she hadn't had a bath in the previous twelve hours. I found no evidence of semen in the vagina or on the thighs. I wouldn't expect to find evidence of such if she had been raped within the previous twelve hours. The mark on the womans throat, (pointed out in court) could not have been caused in the previous twelve hours to the examination. She complained at the time of a cut on her head but I could find no evidence of such a cut, due possibly to the untidy condition of her hair. I would not expect necessarily to find evidence of a blow sufficient to render her unconscious with previous twelve hours. Even if some instrument had been used evidences of a blow would not necessarily show. Other than the points I have made, she showed no black and blue marks. Bruises of the black and blue variet caused with the previous twelve hours would in all probability have still showed at the time of my examination. In my opinion the scratches which I mentioned were caused by the woman herself. The most common cases of intercouse with violence usually show signs of scratching or bruising around the PUDENDAL area, in this case there were no such signs.

R P 83 (b) complied with.

The court was adjourned 1730 hours until ~~1030 hrs 17 May 1945~~. At that time the court reassembled pursuant to adjournment: present the same members as on 16 May 1945.

Defending Offr makes a motion of No case.

Prosecutor replies.

MOTION FOR DISMISSAL OF RAPE & FRATERNIZATION

Prosecution must prove each of the following:
(1) No Consent
(2) Penetration
(3) Corroboration

Penetration — Only evidence that of complainant - very vague - claims was unconscious at time of penetration, & only by leading questions by court could get her to claim feal penetration.

Consent — Lied re mark on neck from knife.
Doubt whether it was accused's knife.
No evidence of screams
No evidence of struggle
Said "Good boy, good boy".

Corroboration — Archibold's Criminal Pleading - Evidence & Practise 31 Ed by Butler & Tarsia 1943. At p 1025 para 1 "Though corroboration of the evidence of the prosecution is not essential in law, it is, in practice, required and it is the practice to warn the jury against the danger of acting upon her uncorroborated testimony, particularly where the issue is consent or no consent" R V Graham 74 J.P. 246. Even where there is such a warning but matters are in fact so, the conviction may be quashed in a proper case, on appeal."

At P 1023 para 4 "Such complaint (of rape) cannot be regarded as corroboration of the story of the prosecutrix and it is a misdirection to refer to it as such. R V Coulthread 24 Cr app R 44. No corroboration here watsoever.

Accordingly move that first charge (of rape) be dismissed.

All the above as to complainant's credibility, impeached as it was by prosecution's own witnesses as to hard questionable character, as opposed to good character of accused, applies to the alternative charge of fraternization - accused should not be convicted on complainants unsupported word, and I move the alternative charge of fraternization be dismissed.

"R B Dale Harris" Lieut-Col
President.

"WEC Colger" Lt
Defending Officer

REPLY TO MOTION BY DEFENCE

The Court has heard the evidence for the prosecution. It shows that the complainant in the very early hours of the morning ran in her bare feet to another house to make a complaint - a fact which would strongly suggest that something serious had happened.

A knife with open blade was found in the room - it was an Army knife and in a room not inhabited by Army personnel. Suspicion must rest in the court's mind that the complainant's references to the knife must be true and therefore there would be a basis for the argument of submission through few of immediate bodily harm.

The complainant has sworn she was penetrated - there is nothing in the medical evidence which denies this. Although such a fact does not amount to corroboration certainly the court must realize that the fact is possible and demand to hear the defence's story.

If the Court feels there is more to the story than they have heard which might confirm any suspicions in their minds raised by the evidence of the prosecution, then I suggest they must hear out the case.

"W J Lees" Capt

"R B Dale Harris" Lieut-col
Pres.

L-22741 Sgt Bultitude, J P Cdn Sec 1 Ech is duly sworn as shorthand writer. No objection by the accused.

First Witness For Defence

B-119276 Pte Herbert Russell GREENE, 1 Bn Royal Hamilton Light Infantry, having been duly sworn states:

I enlisted in the army on the 13th November 1943. I have been approximately 7 months with the Hamilton Light Infantry. I am 31 years of age and am married with 4 children. I have had no crimes in the army nor in civilian life. On the night 27/28 April 1945 at approximately 2300 hrs in FALKENBURG, Germany we had a drinking party in the cooker. I got feeling very happy. When we had drank all the liquor, we suggested we get another bottle. One of the fellows said he had a bottle at the barracks, so I said I would go over with him. When we got to the house which was across the street from the cooker, I stopped in the hallway while he went to get the bottle in another part of the house. At that time a woman came from the back of the house. She was crying. She ran towards me and threw her arms around my shoulders. This woman was Anny Reisacker. It seemed like there was some kind of difficulty in the house. All I could understand from her conversation was "Nix Kaput Gestapo". Then another woman came running out behind her. She grabbed me by the other arm and pointed towards the back of the house where the cellar was. She wanted to show me something. I didn't know what to make of it all at the time. At this time Pte Sanuik was standing in the hall. I asked him what the trouble was. He said "she has just been fucked by four or five fellows". I didn't want anything more to do with her so I stepped outside the house and waited for the other soldier who was getting the bottle to come out. I was there about a minute when he came out. We went back to the cooker. When we got there, two other fellows who had been drinking with us had passed out and we put them to bed. Then I and this other fellow went back to finish the bottle of liquor we had brought over. While we were drinking there was some excitement caused outside by some of the other soldiers firing their rifles and guns. I went out to see what it was, and the boys that had been drinking with me were trying their guns out. Just then Pte Nattrass asked me what I had done with his rfile. I thought a moment and said "I must have left it at the other house where I got the liquor". I thought I had left it in the hallway, so I said that I would go over and get his rifle. Pte O'Connor said he would go with me. We were both very drunk at that time. When we got to the house (100 Falkenburg) we looked over the hallway for the rifle but couldn't find it. We opened up a door in the hallway and entered the room. We distinguished bed clothes on the floor and O'Connor fell on a mattress with the idea of sleeping. There was practically no light at that time. I got down to lay down too and heard a noise and said there was somebody in the room. Pte O'Connor said "I don't think so". I struck a match and was feeling around and my hand touched a leg and when I struck the match I could distinguish this woman lying there with her back towards the door. Her dress was up over her thighs and from my impression she had no pants on. Just then she woke up and sat up and threw her arms around my neck. She said "Good Good", and her passion was so great at the time in the state I was in, I lay down beside her. She was chattering in German, but all I could make out was "Good Good" at that time. She was feeling around where my Dick was and started playing with my Dick. Then she started to kiss me. She was very passionate and when she put her tongue in my mouth, I got very sick and was very disgusted. I turned my back to her at that time.

Through all this O'Connor had not said a word or made a move and I figured he had passed out of the picture. The room started going around and around and I felt I was floating on air. My last remembrance was when I trumed my back to this woman. I then passed out of the picture. When I next woke up, O'Connor awakened me, and I was told that I was under close arrest. It was about 0700 hours. I got up and found that my pants had been off, which I couldn't remember taking off that morning. I walked out to the hallway and was told that I couldn't leave and that I was under close arrest. I said that I would like to go to the kitchen and get washed and shaved. They argued that they could not let me go, so I just walked out and they followed me. The knife produced as Exhibit "D" is not mine.

Cross-examination by Prosecutor

Prior to the 27th April 1945 I had heard about fraternization. I understood that we were not to have anything to do in any shape or form with German civilians, unless it was a case of duty. Prior to the 27th April, 1945, I had read Field Marshal Montgomery's pamphlet on "Non-Fraternization", and I had signed an acknowledgement that I had read the pamphlet. If I did not leave the room after finding there was a woman there with her dress up over her thighs, it was due to the fact thather passion was so great at the time and I could not resist her, so I lay down beside her. I did not realize at the time that it was fraternization. In the state I was in, I never thought of her as a German woman. I did not have sexual intercouse with her. I would say that she had no pants on. My pants were lying beside me when I woke up. I was sick at the stomach a little.

Re-examination by Defending Officer

I did not at any time place my hand on the woman's private parts. I did not vomit. I had cramps and felt like I was going to vomit. I went to the room at 0200 hours. A few minutes after entering the room I struck a match and discovered a woman there. I did not notice when the woman left the room. When I struck the match, I saw the woman whom I recognize as the complainant.

RP 83(B) Complied with.

Second Witness For Defence

Captain A.A.H. Parker, Royal Hamilton Light Infantry having been duly sworn states:

I know Anny Reisacker only by sight. What I know about her is that on the 26th April 1945, "C" Coy was about 1000 yards from the town of FALKENBURG and with the Coy position, I recognized this woman. She first came to me and wanted to know if she could go into FALKENBURG. I told her she couldn't becasue there were no Canadian troops there. She commenced to argue and remained in Coy HQ for sometime talking to different members of the Coy HQ. I just couldn't tell what she said but I gathered she was making a nuisance of herself. She had a familar sort of tone. I told the SM to take her down the cellar. About one-half hour later I came back to Coy HQ and found she was upstairs and with the same familar tone, roaming about with the soldiers in the building. It is pretty hard to qualify the word "familar" tone. It was entirely foreign to a woman who had been beaten and I gathered at the time she was a loose character.

Prosecutor declines to cross examine.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83 (B).

Third Witness
For Defence

B-1163171 Pte Nattrass, F.R. - Royal Hamilton Light Infantry, having been duly sworn states:

I am employed in the "D" Coy Stores. I saw the accused on the night 27/28 April 1945. On the night 27/28 April 1945, the accused went to the house directly across from the Coy Stores to get my rifle. It was sometime before midnight. I was trying to get some sleep and was in bed at the time.

Prosecutor declines to X-examine.

In the opinion of the Court and Judge-Advocate it is not necessary to comply with RP 83 (B).

Fourth Witness
For Defence

B-79510 Pte Freeland, A.W.H., Royal Hamilton Light Infantry having been duly sworn states:

On the morning of the 28 April 1945, I was on guard from Coy HQ across the street where the incident took place. I saw the accused Pte Greene go to 100 FALKENBURG. He mentioned something about a rifle. At the time I was standing across the road at the opposite side of 100 FALKENBURG. The incident I referred to is that the night I was on guard a woman known as Anny Reisacker came out and she was sick. It was 0250 hours. Earlier in the evening, the previous night I was standing out there talking to the guard that was on and there was quite a bit of disturbance going on across the street at 100 FALKENBURG. I walked over there and just talked to some of the fellows and asked what the distrubance was. They just said the boys were feeling good. I could hear women's voices from inside the building. I just went back ov r to our Coy HQ. After the woman Anny Reisacker was sick, she returned to 100 FALKENBURG where she resided. I went off guard at 0300 hrs and went to bed in Coy HQ. I was awakened by a woman coming into Coy HQ and she asked for the Commandant. It was about 0430 or 0500 hrs.

Prosecutor declines to cross-examine.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83 (B).

ADDRESS TO COURT ON BEHALF OF ACCUSED

As the charge is framed, it is submitted that the only ground on which the accused may be found guilty of the charge of fraternization is by the Court being convinced that the accused had sexual intercourse with the complainant. As the court will no doubt be advised by the ADJA, the guilt of the accused must be established in the court's mind beyond any reasonable doubt. I do not propose to review the evidence, or rather lack of it, in this regard. Suffice it to say that, under the authorities already quoted in the motion for dismissal of the charge of rape, the uncorroborated & vague evidence of the complainant cannot, it is submitted, be accepted by the court as establishing intercouse beyond a reasonable doubt, particularly in view of the accused's definite and strong denial that such intercouse took place & the evidence of Pte Freeland that the complainant was wandering about outside after intercouse was supposed to take place, long before the complaint was made.

Were this question of intercouse the only point at issue as is the case with the charge as presently framed, the matter would be at an end and the court could not, I submit, do other than dismiss the charge. However, I believe the ADJA may advise the court that under a certain RP there may be a special finding, disregarding the matter of intercouse. This RP 49(d) specifically states that the difference in facts proved as opposed to facts charged must not be so material as to have prejudiced the accused in his defence. It is strongly submitted that to change the whole basis for the laying of the charge does materially prejudice the accused. In his evidence, the accused freely admitted being in the same room as the complainant, which fact might possibly, on a special finding, form some ground for finding him guilty of the offence, whereas had he known that the charge as framed might be altered, it is unlikely that he would have gone into the box at all, but instead would have relied on the court failing to find him guilty beyond a reasonable doubt on the flimsy & unconclusive & uncorroborated evidence of the complainant.

However, even should the court be satisfied that they may make a special finding by disregarding the necessity for proof of intercourse, I strongly submit there is no evidence which is sufficient to cause the court to find the accused guilty beyond a reasonable doubt. The whole tenor of the evidence goes to prove that the accused was an involuntary agent - that he was in such a state of intoxication that he was incapable of repelling the passionate advances of the complainant at first, but after a moment turned away from her in disgust - it was probably this repulse which galled the pride of this despicable woman who was used to doing what she pleased with men, and caused her to go to the company HQ to make a complaint & get the accused into trouble. In truth, "Hell hath no fury like a woman scorned". This in itself, together with the accused's repulse of the woman earlier in the evening, when she threw her arms about him, must, I submit, leave in the mind of the court a very great "reasonable doubt" as to the guilt of the accused. With strong evidence from the prosecution's own witnesses as to the excellent character & quietness of the accused, plus the same evidence as to the complainant's low character, there cannot I submit, be any doubt that the woman not only was the aggressor throughout, but that under the circumstances the accused was incapable of forming any intent or of realizing that he was committing an offence.

Accordingly, I ask that the charge of fraternization be dismissed.

"W E C Colter" Lt
Defending Officer

"R B Dale Harris" Lieut-col
President

ADDRESS BY PROSECUTION

The accused is charged with fraternization with a German woman. The topic of fraternization has become notorious throughout the allied armies. The same brilliant leaders who have led us to victory have decreed that allied soldiers will not fraternize with the German people. They have set out carefully and clearly what acts constitute fraternization. Field Marshall Montgomery has issued a pamphlet explaining in simple terms the sailent features of the order. Pte Greene had read that pamphlet and gave the court a good account of what he understood before the events in question - concerning non-fraternization. Then he admits lying down beside a halfnaked woman in a house where he knew German women to be living. He admits permitting her to feel around his private parts and kiss him. He tells us he was drunk but it must be remembered that drunkeness is no excuse to a military offence. It may of course be taken into consideration when considering the punishment - see MML p 106.

The allied troops have been impressed with the need to win the peace and it has been pointed out that one ingredient to winning the peace is not to fraternise with Germans. It follows that any Canadian soldier who does fraternize is definitely obstructing or helping to obstruct this policy and is guilty of an act or conduct to the prejudice of good order and military discipline. Order and discipline in the Canadian Army will face a seriouscrisis if cases of fraternization are not firmly dealt with.

I respectfully suggest to the court that you have no alternative but to find the accused guilty of fraterizing with Anny Reisacher, an inhabitant of Germany. It may I submit be necessary for the court to record a special finding as to which of the acts of the accused amount to fraternization.

"R B Dale Harris" Lieut-col
Pres.

"W J Lees" Capt

SUMMING UP BY JA

Burden of proof on prosecution.

Acc innocent until proved guilty.

Elements neccessary to be proven (German Woman
(Fraternization
(Sexual intercourse

Temporary intoxication (MML page 106)

Conduct of acc as proved must be both to prejudice of good order and military discipline.

Special Finding RP 44 (5) & foot notes.

Doubt must be in favor of acc.

"Laval Portier" Lt Col
JA

"LP"

PLEA IN MITIGATION

Pte Herbert GREENE, , is 31 years old, married with a wife and 4 children. He joined the Army in 1943 and came to the European Theatre shortly after and has served from Nov 1944 up to the present with the RHLI.

As yet he has had NO crimes. His conduct sheet is absolutely clear and his companions and offrs speak in the highest terms of his attitude and service in the unit.

This is NOT a flagrant act of fraternization but an act which peculiar circumstances and an immoral and degrading and abhorrent woman engineered him into. He was in a condition of drink and with the advances made by this loose and disgusting woman found himself practically being seduced by her. He had no part of her earlier in the day when she had made advances and was in fact revolted by her. Then he finds her in the same room at night where he was going to sleep with the development as related by the evidence. He does not remember associating with her in any way. He was there and she chose to be there and that's all there is to it. There is no intercourse proven or any other act of volition on his part which the Court can seize upon to say he wanted to have her there with him.

Therefore I ask the Court to regard this thing as a minor offence from these circumstances and lay down the punishment according to the scale provided in 2 Cdn Corps RO 480.

Few soldiers in inf units now exist who have Greene's good record. For the sake of a bad woman, it is a great pity to spoil it at this stage of the game.

I have no hesitation in asking the Court to deal with this charge most leniently and to show to a good Cdn soldier that Courts will assess in no uncertain terms the acts of such German women as appear in this case who are, I submit, beneath contempt.

"W E C Colter" Lt
Defending Officer

"R B Dale Harris" Lieut-col
Pres.

Exh "E" "LF" "RBDH"
Lt Col
4 April 45

D Coy RHLI

Re Pte Green H

1 The m/n soldier has been in the company which I command for at least six months. During the time I have known him Pte Green has been a very capable, efficient and well mannered soldier. The previous coy Comd told me that Pte Green had been perfectly satisfactory.

2 In my opinion Pte Green is a gentleman and above average in this respect.

3 I also realize that the charge is a very serious one and as such cannot be allowed to go unchecked as others will feel they too can have personal contact with German civilians.

4 In this regard the first cases tried will be doubtless used as a basis for future punishments.

5 I sincerely feel this case is not one with intent and should NOT be used as a basis for future punishments or as an example to our troops.

6 The woman in question is in my opinion and from what I have seen a very weak character and the type who would gladly do what she can to cause trouble.

"P W Voering" Major
OC D Coy RHLI.

Exhibit F "LF"

STATEMENT AS TO CHARACTER OF PTE HERBERT GREENE.

I have known the accused P'e Herbert Greene, since he was a boy of about eight or nine years old. He lives in Owen Sound, went to school there and his family live only about two city blocks from my own home. He comes from a good negro family and has a brother Garfield in the service of the Canadian Army with the Armd Corps now in Germany. They are all members of the BME church in Owen Sound and are known as hard working people and good citizens in our community.

Herbert Greene is particularly well known to me as he used to call for washing from my mothers house to take to his mother and after this time he used to deliver papers to our home. He was a great favourite of my father and mother.

Later when he went to work for a living, he was employed as cook on the boats running from Owen Sound. After he had some experience along this line, he was employed by my father as a second cook at his hotel in Owen Sound where he gave good service and where he worked until he joined the Army.

During his employment at the hotel he was an exemplary employee and got on well with the other servants.

He is always polite, mild mannered and pleasant. He is a person who can be trusted and in my opinion has a high regard for the truth.

I am very much surprised that he found himself involved in circumstances of this kind but I attribute the whole matter to accident and not to a planned or premeditated desire to be with the woman in question.

Oldenberg
12 May 45

"G A Marron" Capt
GSO3
6 Cdn Inf Bde

"R B Dale Harris" Lieut-col
Pres.

Exhibit "G" "RBDH"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
B.119276	Pte	Herbert Russell GREENE	1 Bn RHLI

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For ....Nil..... .....Nil..... times

For .... times

For .... times

For .... times

2. [illegible]

3.* [illegible]

[illegible] .....

[illegible] ..... [illegible] .....

4. The accused has been awaiting trial on the present charges for ..Nil.. days in civil custody; and for ..19.. days in military custody, making a total of ..19.. days of which ..Nil.. days were spent in hosp.

5. The present age of the accused is ..21 years.....

6. The date of his attestation is ..13 Nov 43.....

7. [illegible]

[illegible] .....

8. The accused is in possession of #

State the military decorations (if any) held by accused.

9. [illegible]

[illegible],

[illegible] -

	Date of Promotion
[illegible]	.....
[illegible]	.....
[illegible]	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

--------nil--------

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ..16..... day of ..May.....

..."W F Lees" Capt. RULI.....

Exhibit "H" "RBD"

No B119276 Name GREENE HR | Sqn, Battery, or Company | Corps CIC | Date of enlistment 13 Nov 43 | GC Badges n/a | Service or Proficiency Pay n/a | MFM 6 (AFB 122, 40/PAS/136 (2nds))

Date of last entry in Company Conduct Sheet 5 Jan44 | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed 12 May 44. Date of last entry 5 Jan 44. Cases of drunkenness NIL									

Certified true copy from regimental documents in my custody.

"W O Avery"
(WO AVERY) Capt & Adjt.
1 Bn RHLI, CA(Gs)

"R B Dale Harris" Lieut-col
President

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1) RBDH
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first and second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the second charge(s), and allowed on the first RBDH charge(s), and that, accordingly, the trial will proceed on the former, but the accused is ~~(not)~~ found Not Guilty on RBDH the latter charge(s).(4) RBDH
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete para not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans Yes, give evidence. Do you intend to call witnesses on your behalf?
Ans Yes. Are they witnesses as to character only? Ans No.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(5).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I RBDH of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the findings RBDH of the Court on the Second charge(s), being subject to confirmation, will be promulgated later.(1) RBDH
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ RBDH RBDH
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No but I wish to produce statements as to character RBDH
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true RBDH copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for RBDH examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and RBDH marked Ex G and Ex H respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes (2)
(1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, ~~if any~~.(2) RBDH
(1. When several accused tried seperately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 119276 Pte Herbert Russell GREENE

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	With the exception that he did not fraternize with Amy REISACKER an inhabitant of Germany not his wife by having sexual intercourse with the said Amy Reisacker with her consent, but fraternized with Amy Reisacker, an inhabitant of Germany, not his wife, by lying beside her and allowing her to play with his private parts.
2nd Alternative	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 751, and in loss of kit, see RP 44 fn 6.)

FNC ~~At present under sentence for~~ beginning on (date) (2) NSDW
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which no days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months.

(Sgd) "Laval Fortier" Lt-Col — Judge-Advocate, if any.
17 May 45 — Date awarded.
(Sgd) "R B Dale Harris" Lt-Col — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

FNC ~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) "F N Cabeldu" Brig

Date 21 May 45 — Commanding 4 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
B 119276 Pte Herbert Russell GREEN R H L I	22 May 1945	"W O Avery" Capt Adj RHLI

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SK-13.

Cpl. Greene, L. C.

RECORDED AT CMHQ IN AB 160, 5K-83.

FIELD GENERAL COURT-MARTIAL

CPA98 (In lieu of AFA9) 40-P.M. 51, 1608 (2864)

Convening Order of Brig G.R.D. Farmer Coms 2 Can M.C. & Units dated 11 April 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B52287	Cpl	LLOYD CLARENCE	GREENE	2 Can Fd Tech Coy RCE

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 11 April 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Army Rls. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp. 741 to 759. A brief record of such variation or procedure will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes", for general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1320 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2). NA

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ——— as interpreter? Ans ———

The Interpreter is sworn.(1) Do you object to ——— as shorthand writer? Ans ———

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.R.D. Farmer	2 Can M.C. RCASC
Member	Capt	G.E. Simpson	2 Can C Tpt RASC RCE ME
Member	Lieut	J.A. Nolan	HQ 763 Can Fd Pk Coy
Judge Advocate			
Prosecutor	Lieut	A.K. Young	2 Fd Coy RCE ME
Defending Offr	Lieut	J.M. Yorburgh	2 Fd Coy RCE ME

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B52287 Cpl LC Greene before arraignment make(s) (no) objn to the (3) Jurisdiction

Guilty

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Sentence B 5 E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B52287 Cpl Greene L.C. 2 Can Fd Coy RCE ME

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 1A Sec 40	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for NIL beginning on (date) NIL (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be reduced to the ranks NIL and to undergo six months Detention ~~effective from date of arrest~~ NIL

(Sgd) ——— 11 April 45 (Sgd) G.R.D. Farmer Brig President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ——— (Sgd) ——— Commanding ———

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) End 7

(1. AA 57A. Delete if not used.)

(Sgd) G.R.D. Farmer Brig

Date 13 Apr 45. Commanding Reame 2 Can Corps Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B52287 Cpl Greene L.C.	15 Apr 45.	R Shawing Major a/ D.C. 2 Can. RECOVERY POY RCME

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of J A see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of J A or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his plea~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly

(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fit here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is cleared to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(J) (6), RP 45, 120(A). 2. AA 54(J), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RF 37(C) fn 4, 46 fn 3. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. ~~The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true~~ copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(2) Ans. Yes (3)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 828, 330, 561-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-52837 Corporal Lloyd Clarence GREENE, 4 Cdn Hy Rec Sect. No 2 Cdn Rec Coy RCEME, a soldier of the Canadian Army Overseas is charged with;-

First Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

IN THAT HE

in the Field on March 4 1945 improperly and without lawful authority sold to Mr. H.F. Jillisen, a civilian, one BSA motorcycle, public property.

R.S. LAURIA A/MAJOR
Officer Commanding
2 Cdn Rec Coy RCEME.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
9 Apr 45

(G.R.D.Farmer) Brigadier
DDMS 2 Cdn Corps

~~[illegible]~~

CFA95 (In lieu of AFA2)
40/P&S/1697 (2663)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.52837	Cpl		Lloyd Clarence	GREENE,	2 Cdn Rec Coy R.C.E.M.E.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 9 apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	J. H. G. Banting	2 Cdn MAC RCASC
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	R. E. Simpson	2 Cdn C Tps Wksp RCEME
Lieut	J. A. Nolan	H.Q. No. 1 Cdn FMC RCOC
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

G R D Farmer (Signed personally. RP 105 fn 2.) (G.R.D.Farmer)

Brigadier (Rank.)

Date 9 apr 45

Commanding RCAMC 2 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

To: [illegible]

MEDICAL OFFICER'S CERTIFICATE

I certify that No B-52837, CPL GREENE LLOYD CLARENCE- 2 CDN REC COY RCEME. Regiment,

is* fit to undergo trial by Court-Martial.

11 April 1945

Alec Lerner Maj.

Signature of the Medical Officer.

*Insert "fit" or "unfit"

(a) Here insert name of:—

(i) Officer who investigated the charges.

(ii) Company, etc., Commander who made preliminary enquiry into the case.

(iii) Officer who took down the Summary of Evidence (R.P. [illegible]

Plea for Mitigation of Punishment in the Case of B52837 Cpl. Greene R.C.

Cpl. Green, the accused, was born in Canada and is 26 years old. He joined the Canadian army on 17 July 1941, came overseas to England in Jan. '42, and has been in this theatre since 10 Aug '44. Cpl. Greene is single but since the age of sixteen has been the sole support of his invalid mother.

In connection with this case, let me point out that equipment thrown into a "Help yourself Park" is considered junk by the army and AB 108's are not signed for anything that is removed from them. If equipment is considered repairable or, if it is thought that there are serviceable parts on the equipment it is backloaded to an Army Backloading Point when the Corps Backloading Point is closed down. In this case the motor cycle was made up entirely of parts picked up in the H.Y.P. and although it ran feebly at first it soon broke down and was useless to the army. When the rear party left the park it was left unguarded hence civilians could roam at will through the dump and take anything they wanted. In this case, had the bike not been sold, all Pte Gillieen had to do was wait until the rear party moved away and then take the bike and no blame could have been placed on Cpl Greene. It seems to me that if the army valued the things left behind in that H.Y.P. they would have taken steps to have someone take over the guarding of it.

Cpl. Greene has been in the army almost four years now and has got a crime on his M.F.M.C, he is also an excellent worker which is borne out by the fact that he draws "A" group trades pay. In closing I hope the above facts will help the court in arriving at their decision.

G.M. Rosburgh Lt.
Defending Off.

11 Apr '45

EXHIBIT "A" (to page) 1

SUMMARY OF EVIDENCE

in the case of

B-52837 CPL GREENE L.C.

of 4 Cdn Hy Rec Sect - No 2 Cdn Rec Coy RCEME. a soldier of the Canadian Army Overseas is charged with:-

W.O.A.S. Stealing Public Property in the Field, in that he on March 4 1945 stole a B.S.A. motorcycle, public property from a " Help Yourself Dump."

AA-16 (4)

W.O.A.S. conduct to the prejudice of good order and Military Discipline, in that he, in the Field on March 4 1945 sold a B.S.A. Motorcycle, public property to a civilian Mr. Herman Francisons Jillisen.

AA-40

The Commanding Officer of 2 Cdn Recovery Coy RCEME directs that the evidence be taken on oath.

First Witness

Capt RS Lauria, Officer Commanding 4 Cdn Heavy Recovery Sect. RCEME having been duly sworn states:

On Feb 26 1945 I was ordered by the OC of 2 CDN Rec COY RCEME to prepare to move my Section on the following morning Feb.27 1945. At that time I was in charge of M 2CBP at Schaijk Holland and the OC instructed me to leave a rear party of one NCO and one Cfn in charge of the Help Yourself Park at the CBP. I detailed B-52837 CPL GReene LC and Cfn Charlebois as rear party and ordered Cpl Greene to remain there and await further instructions. I then told Cpl Greene that he would be in full charge of the HYP. and that he and the Cfn were to remove the tires from all vehicles in the park, and hold them until they were sent for and put into Salvage. He was also told that Civilians were not to be allowed in or near the Park and that any allied army personnel could remove parts from any vehicle in the dump without authority. I ordered that rations be left with Cpl Greene and told him that we would be in constant touch with him and pick up his rear party as soon as we had the necessary order.

The accused declined to cross examine this witness.

Signed (RS Lauria Capt)

RS Lauria Capt.

OC 4 HY REC SECT RCEME

EXHIBIT "A" (10 pages)

Second Witness B-97061 S/Sgt Harju H.J. of 4 Cdn Hy Rec Sect RCEME having been duly sworn states:

I was detailed by Lt JM Roxburgh acting OC of 4 Cdn Hy Rec Sect on March 3 1945 to send a breakdown Vehicle to M 2CBP,to clean up the area and to bring back to our Unit Lines-Cpl Greene and Cfn Charlebois with the vehicle which was being used as a CBP office. I detailed the breakdown Vehicle and it returned on March 4 1945 to our lines with Cpl Greene ,Cfn Charlebois and the Office Vehicle.

The accused declines to cross examine this witness.

Signed B-97061 S/Sgt Harju HJ.

No 4 Cdn Hy Rec Sect RCEME

****

Attached as App A, certified true copy of statement from A-86074 Cpl Beecroft CE of II Cdn Prov Coy.

This statement has been read to the accused.

Signed AK Piercy Lt.
.....
NO 2 CDN REC COY RCEME

Attached as App B, certified true copy of statement from F-86205 Sgt Musgrove MW of II Cdn Prov Coy.

This statement has been read to the accused.

Signed AK Piercy Lt.
.....
NO 2 CDN REC COY RCEME

Attached as App C, certified true copy of statement from Mr. Herman Francisons Jillisen (farmer) as given to Police HQ at Schaijk Holland,and picked up by F-86205 Sgt Musgrove MW of II Provost Coy.

This statement has been read to the accused.

Signed AK Piercy Lt.
.....
NO 2 CDN REC COY RCEME

Attached as App D,certified true copy of statement from R-82857 Cpl Greene LC as given to F-86205 Sgt Musgrove MW of II Cdn Provost Coy and witnessed by A-86074 Cpl Beecroft CE of II Provost Coy

This statement has been read to the accused.

Signed AK Piercy Lt.
.....
NO 2 CDN REC COY RCEME

I certify that in my opinion the attendance of the three witnesses, owing to the exigencies of the Service ,not readily procurable,and written statements of their evidence signed by them are readto the accused and attached hereto as Exhibit A.B.C.&D.

.....
A.K. PIERCY Lt.
(Officer taking Summary)

EXHIBIT "D" (1 page)

Appendix A

At approx 1100 hrs, Mar 9 1945, while on traffic patrol on the Maple Leaf Route, in the area of SCHAIJK HOLLAND, I A-56074 Cpl Beecroft CE, accompanied by H-1576 L/Cpl Penner G. of No II Cdn Prov Coy. observed a civilian policeman namely Mr. M Molenberg of Schaijk, pushing what I thought to be a WD motorcycle. On questioning the policeman I learned that he had confiscated the machine from a farmer by the name of Mr. Herman F. Jillisen, residing in Schaijk. Examining the motorcycle I found that it had been newly painted in a bright red color and that the engine serial number had been removed. I instructed the policeman to hold the vehicle and the farmer at his HQ and that I would be back to pick up the motorcycle and any other information that he may have; I then reported the matter to my Sect Sgt. to carry out further investigations.

Certified true copy of original statement on file of A-56074 Cpl Beecroft CE

Signed A-56074 Cpl Beecroft CE.

.....
NO II CDN PROVOST COY.

Signed RS Lauria Capt

Capt

.....
OC NO 4 CDN HY REC SECT RCEME

Appendix B

At approx 1300 hrs March 9 1945, I F-86206 Sgt Musgrave MW., accompanied by A-86074 Cpl Beecroft CE of II Cdn Prov Coy proceeded to Police HQ at Schijk where wem learned that the farmer had given a statement as attached.

Acting on further information received from this farmer an identity Parade of eight soldiers was held at 4 Cdn Hy Rec Sect RCEME under the supervision of a Sgt of this Unit and myself. Mr Herman Francisons Jillisen was told to pick out the soldier who had sold him the motorcycle if he was in the parade. The farmer identified Cpl Greene LC , as the soldier who had sold him the machine. I then received permission from an Officer of this Unit to take Cpl Greene with me for further questioning and on doing so Cpl Greene LC made a statement as attached.

Certified true copy of original statement on file of Sgt Musgrove MW. F-86206

Signed RS Lauria Capt.

RS Lauria Capt.

OC NO 4 CDN HY REC SECT RCEME

Appendix C

The Corporal from the cars standing near the dump at Schaijk at the crossing point came several times to my house; that Cpl belonged to the Canadian Army,and his first name was Leon. The Army part to what that Cpl belonged is what I do not know, I will recognize him when I see him again, I have been at that Cpl in the little tent standing in the field ofhis car (lorry). When I was there that Cpl asked me if I did not want to buy a motorcycle from him; with that Cpl is another soldier whose name is unknown. The last called soldier called as the price for a motorcycle one thousand guilden. The Cpl said to me when I found the price too high,that I had to say how much money I would give; I offered him for that cycle from the allies,that was standing ready at the little tent and after I had looked first at the cycle,200 guilden. The Cpl accepted that offer, as Sunday after-noon March 4 1945 at 4 ~~22~~ O'clock. That Cpl brought the cycle which he sold to me at the house of my parents standing at Schaijk, B-19. I knew that Cpl should bring that cycle there because I came out of church and saw that the cycle should be ready,because I knew also that the Cpl was going to the house of my parents and saw him going with the cycle. I went to my parents house and at my parents house I took that cycle from that Cpl and paid him the 200 guilden. I paid that cycle with four papers from x 50 guilden, he expected that money. The Cpl told me that he had to do something with the cycle,so that nobody should recognize it.

I did the number from that cycle out of it so make that nobody could see where the cycle came from. When I received and took that cycle my brother WIM and LEONARDUS were there too my brother WIM was there and saw that I paid the cycle.

Certified true copy of the original statement on file of Mr. Herman Francisons Jillisen.

Signed RS Lauria Capt

RS Lauria Capt

OC NO 4 CDN MY REC SECT RCEME

EXHIBIT A (12 pages) 4

Appendix D

I have been warned that I am Not obliged to say anything, unless I wish to do so, but anything that I do say may be taken down in writing and may be given as evidence.

I am Cpl Greene LC. of No 4 Cdn Hy Rec Sect RCEME and during the month of March 1945 I was stationed near Schaijk Holland, with the Section, on or about Feb 27 1945 the section moved to a new location leaving a rear party consisting of one Cfn and myself in charge to see that no civilians were permitted entry into the Help Yourself Park, which had contained used and damaged parts of Vehicles for xx salvage. This Park was for Military use only and any allied serviceman was allowed to try to salvage any parts available and rfquired without authority.

On or about March 1 1945 while keeping the dump under observation I saw a WD motorcycle lying in the dump which I had not noticed before I went over and examined it, and saw that it was a B.S.A. machine painted brown, but I could not see any Unit or Formation patches on it although there were remnants of what might have been a Red patch and some remnants of some blue paint also visible on another section of the machine. I tried to start the machine but was not able to do so until I repaired the Magneto. I did xxxxx a considerable amount of repairs work before I was able to operate the machine, this work took me about four days to complete.

I repaired the motorcycle because I intended to use it in the case of necessity as we had no transport left with us, all the parts which I used in repairing this motorcycle and the motorcycle itself were salvaged from the Help Yourself Park.

On March 4 1945 I was advised to join the section at the new location. I had been trying to start up this motorcycle as I intended riding it up to the Section but was unable to do so. While I was so engaged, a civilian whose name I do not know but who is the brother of another civilian known to me as (VIM) and whose house I have visited on occassions approched and spoke to me. We had a conversation while I was still trying to start the motorcycle. I got fed up trying to start the motorcycle and asked him how much he would give me for it.

He offered me 200 guildens for the motorcycle and I accepted his offer. I pushed the motorcycle down to his house where he gave me 200 guilden and I left him in possession of the motorcycle.

Later in the day I joined my Section, where I remained until taken into Military Custody by Sgt M. Musgrave, NO II Prov COY on March 9 1945.

I would also like to state that when Cfn and myself left the "Help Yourself Dump" and rejoined the Section nobody took over from me to continue guard duties at the camp dump.

I have read this statement over and do not wish to change it in any way.

Certified true copy of original statement on file of B-52837 Cpl Greene LC

Signed-RS Lauria Capt.

R S Lauria Capt.

OC NO 4 CDN HY REC SECT RCEME

Do you wish to make any statement or to give any evidence under oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence that you may give will be taken down in writing and may be given in evidence against you

The accused:- I have nothing further to say at this time.

Signed B-62837 Cpl Greene LC
L.C. Greene
NO 4 CDN HY REC SECT RCEME

The accused declines to call witnesses on his own behalf.

Signed B-62837 Cpl Greene LC
L.C. Greene
NO 4 CDN HY REC SECT RCEME

I certify that Rules of Procedure 4(c)(d)(e)(f) have been complied with.

Taken by me in the Field in the presence and hearing of the accused this 30 th day of March 1945.

Signed-AK Piercy Lt.
A.K. Piercy Lt.
NO 2 CDN REC COY RCEME

1/38A

CANADIAN PROVOST CORPS

FILE REFERENCE: 11Pro/5-4-7

COMPANY: 11 COY FORMATION: 1ST CDN ARMY CORPS. NIL

LOCATION: FIELD DATE: 9 MARCH 1945

SUBJECT: RE: ACCEPTING MONEY FOR WD PROPERTY (MOTOR CYCLE) FROM CIVILIAN

B.52837 CPL. GREEN, L.C.
4 Cdn Hy Rec Sec RCEME

File Numbers

1. At approx 1100 hrs, 9 Mar 45, while on traffic patrol on the Maple Leaf Route, in the area of SCHAICK, HOLLAND, I, A.56074, Cpl. BEECROFT CE, accompanied by H.1576, L/Cpl. PENNER, G, No. 11 Cdn Pro Coy, observed a civilian policeman, namely Mr. M. MOLENBERG, of SCHAICK, pushing what I thought to be a WD motorcycle. On questioning the policeman I learned that he had confiscated the machine from a farmer by the name of Mr. HERMAN F JILLISEN, residing in SCHAICK. Examining the motor cycle I found that it had been newly painted in a bright red colour and that the engine serial number had been removed. I instructed the policeman to hold the veh and the farmer at his HQ and that I would be back to pick up the motorcycle and any other infm he may have; I then reported the matter to my Sec Sgt. to carry out further investigations.

2. At approx 1300 hrs 9 Mar 45, I, F.86205 Sgt. MUSGRAVE, M.W., accompanied by A56074 Cpl BEECROFT CE 11 Cdn Pro Coy, proceeded to the Polic HQ At SCHAICK, where we learned that the farmer had given a statement as ~~follows:~~ attached.

Previous Report

3. This is a certified true copy of the statement given by Mr. HERMAN FRANCISONS JILLISEN, (Farmer) on the 9 Mar 45.

The Corporal from the cars standing near the Dump at SCHAICK at the crossing point came several times to my house; that Corporal belonged to the Canadian Army, and his first name was LEON. The Army part to what that Corporal belonged is what I do not know, I will recognize him when I see him again, I have been at that Corporal in the little tent standing in the field of his car (lorry). When I was there that Corporal asked me if I did not want to buy a motorcycle from him; with that Corporal was another soldier whose name is unknown. The last called soldier called as the price for a motorcycle one thousand guilden. The Corporal said to me when I found that price too high, that I had to say how much money I would give; I offered him for that cycle from the Allies, that was standing ready at the little tent and after I had looked first to that cycle, 200 Guilden. The Corporal accepted that offer, as Sunday afternoon 4 March 45 at 4 o'clock, the Corporal brought the cycle which he sold to me at the house of my parents standing at SCHAICK, B19. I knew that Cpl should bring that cycle there because I just came out of church and saw that the cycle should be ready, because I knew also that the Cpl was going to the house of my parents and saw him going with the cycle. I went to my parents house and at my parents house I took the cycle from that Corporal and paid him the 200 guilden. I paid that cycle with four papers from 50 guilden, he expected that money. The Corporal told me I had to do something with that Cycle, so that nobody should recognise it.

Diary Date

I did the number from that Cycle out of it so make that nobody could see where that Cycle came from. When I received and took that Cycle my brother WIM AND LEONARDER were there too, my brother WIM was there and saw that I paid the Cycle.

4. Acting on further information received from this farmer an indentity parade of eight soldiers was held at 4th. Canadian Heavy Recovery Section, R.C.E.M.E. under supervision of a S/Sgt of this Unit and myself. Mr. HERMAN FRANCISONS

WILLISEN was told to pick out the soldier who had sold him the motorcycle if he was in the parade. The Farmer identified Cpl. GREEN, L.C. as the soldier who had sold him the machine. I then received permission from an Officer of this Unit to take Cpl. GREEN with me for further questioning and on doing so Cpl. GREEN, L.C. made ~~the following~~ a statement: as attached.

CERTIFIED TRUE COPY OF A STATEMENT GIVEN BY B.52837, CPL. GREEN, L.C.
4 Cdn Hvy Recovery Sec,
R.C.E.M.E.

I have been warned that I am not obliged to say anything, unless I wish to do so, but that anything I do say maybe taken down in writing and may be given in evidence.

SIGNED: L.C. GREEN.

I am Cpl. GREEN, L.C. on strength of the 4th Canadian Heavy Recovery Section and during the month of March, 45 I was stationed near SCHAICK, HOLLAND, with the section, on or about the 27th Feb 45. the section moved to a new Location leaving a rear party consisting of one Cfn. and myself in charge to see that no civilians were permitted entry into the Help Yourself Park, which had contained used and damaged parts of vehicles for salvage. This Park was for Military use only and any Allied Service man was allowed to try and salvage any parts available and required without authority.

On or about 1st. March 45 while keeping the dump under observation I saw a WD Motorcycle laying in the dump which I had not noticed before I went over and examined it, I saw it was a B.S.A. machine painted Brown, but I could not see any Unit or Formation patches on it, although there were remnants of what might of been a Red patch and some remnants of some Blue paint also visible on another section of the machine. I tried to start the machine but was not able to do so until I repaired the Magneto. I did considerable amount of repairs work before I was able to operate the machine, this work took me about four days to complete.

I repaired the Motorcycle because I intended to use it in the case of necessity as we had no transport left with us, all the parts which I used in repairing this Motorcycle and the Motorcycle itself were salvaged from the Help Yourself Park.

On the 4th March 45 I was advised to join the section at the new location. I had been trying to start up this Motorcycle as I intended riding it up to the Section but was unable to do so. While I was so engaged, a civilian whose name I do not know but who is a brother of another civilian known to me as (VIM) and whose house I have visited on occasions approached and spoke to me. We had a conversation while I was still trying to start the motorcycle. I got fed up trying to start the motorcycle and asked him how much he would give me for it.

He offered to give me 200 Guldens for the motorcycle and I accepted his offer. I pushed the motorcycle down to his house where he gave me 200 Gulden and I left him in possession of the motorcycle.

Later in the day I rejoined my section, where I remained until taken into Military Custody by Sgt. M. MUSGRAVE, No. 11 Cdn Provost Coy, on the 9th March, 1945.

I would also like to state that when Crwt. and myself left the "Help Yourself Dump" and rejoined the Section nobody took over from me to continue guard duties at the Dump.

I have read over this statement and do not wish to change it in any way.

(Signed.) L.C. GREEN.

Statement taken by
F.86205 Sgt. M.W. MUSGRAVE,
"E" Section, No. 11 Cdn Provost Company
1st Cdn Army.

M Musgrave Sgt.
F.86205 (M.W. Musgrave) 11 Pro Coy

I have read the above and corroborate same.

C.E. Beecroft Cpl.
A.56074 (C.E. Beecroft) 11 Pro Coy

10 Mar 45

Statement of B/52837 Gnr Green L. G.
4 Cdn Heavy Recovery Section R.C.E.M.E.

I have been warned that I am not obliged to say anything, unless I wish to do so, But that anything I do say may be taken down in writing and may be given in evidence.

L.C. Green

I am Gnr Green L.G. on Strength of 4 Canadian Heavy Recovery Section and during the Month of March 45 I was Stationed near Schaik Holland with the Section. On or about the 27 Feb 45, the Section moved to a new location leaving a rear party consisting of 1 Cpl and myself in charge to see that no Civilians were permitted entry into the "help yourself park" which had contained used and damaged parts of Vehicles for salvage. This park was for Military use only and any allied Service man was allowed to try and salvage any parts available and required, without authority.

On or about 1 March 45, While Keeping the dump under observation I saw a W.D. Motor Cycle laying in the dump which I had not noticed before. I went over and examined it. I saw it was a B.S.A machine painted brown, but I could not see any unit or Formation patch on it, although there was remnants of what might have been a red patch with white remnants of some other paint also visible on another section of the machine. I tried to start the machine but was not able to do so until I repaired the magneto. I did a considerable amount of repair work before I was able to operate the machine. This work took me about four days to Complete.

I repaired this Motor Cycle because I intended to use it in the Case of necessity as we had no transport left with us. All the parts which I used in repairing this Motor Cycle, and the Motor Cycle itself, were salvaged from the "help yourself dump".

On the 4 March 45 I was advised to rejoin the Section at the new location. I had been trying to start up this Motor Cycle as I intended riding it up to the Section but was unable to do so. While I was so engaged, a Civilian, whose name I do not know, but who is a brother of another Civilian known to me as (Vim) and at whose house I have visited on occasions, approached and spoke to me. We had a Conversation, while I was still trying to start the Motor Cycle. I got him trying to start the Motor Cycle and asked him how much he would give me for it.

He offered to give me 200 Guilders for the Motor Cycle and I ~~accepted~~ accepted his offer. I pushed the Motor Cycle down to his house, where he gave me 200 Guilders, and I left him in possession of the Motor Cycle.

Later in the day, I rejoined my Section, where I remained until Taken into Military Custody by Sgt M. Musgrave, No 11 Can Provost Company on the 9 March 45.

I would also like to state that when the Gen. awards myself left the "help yourself dump" and reported the Section nobody took over from me to Continue Guard duties at the dump.

I have read over this statement and do not wish to change it in any way.

[illegible]

Statement, taken by
F 86205 Sgt M. Musgrave
No 11 Provost Company ("K" Section)
1st Canadian Army.

Schaick 9 March 1945 11 o'clock

Declaration from Herman Franciscus Jilesen, farmer, R.K. born in Linden 23 March 1913, evacuated in Schaick at Jan den Brok - B20.

The corporal from the cars standing near the dump at Schaick at the crossing point came several times at the house of my parents. That corporal belonged at the Canadian Army and his first name was Leon. The army-part, to what that corporal belonged is, what I do not know. I will recognise him, when I see him again. I have been at that corporal in a little tent, in the nabour of his car (lorie). When I was there, standing that corporal asked me, if I did not want to buy a motor-cycle from him. With that corporal was another soldier, whose name is unknown. The last called soldier asked as the price for a cycle one thousand guilden.

The corporal said to me, when I found that price to high, that I had to say, how much money I would give. I offered him for a cycle from the Allies, that was standing ready at the little tent and after I had looked first to the cycle, 200 guilden. That corporal accepted that offert.

At sunday afternoon, 4 March 1945, at 4 o'clock that corporal brought the cycle, which he sold to me, at the house of my parents, standing at Schaick B 19.

I knew that the corporal should bring the cycle there at that time, because I just came out of church, and saw that the cycle should ready for me and I just had spoken to that corporal.

Because I knew also that the corporal was going to the house of my parents and saw him going with the cycle, slept by a motor car. I went too to the my parents house

of my parents house. I took the cycle from that corporal and paid him 200 guilders.
I paid that cycle with fons papers from 50 guilders.
He accepted that money.
The corporal told me that I had to do something with that cycle, so that nobody should recognize it.
I did the number from that cycle out of it. to make that nobody could see where that cycle came from.
When I received and took that cycle my brothers Wim and Leonardus were there too.
My brother Wim was there and saw that I paid the cycle.

This corporal is going to Kleef at 4-3-'45.

EXHIBIT "B"

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B-52857	Cpl	GREENE Lloyd Clarence	2 CDN REC COY ROMM

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—As a trial by field general court martial* this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is one of drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For NONE	times	NONE times
For "	times	" times
For "	times	" times
For "	times	" times
For "	times	" times

Number of instances of gallantry or distinguished conduct. None

or

There are no entries in the conduct sheets of the accused. None .

2. The accused has not been previously convicted ~~as follows~~ by a court martial or a civil court, ~~Previous convictions~~ of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 79 of the Army Act are set out in the schedule annexed to this form. } nil.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence of~~ imprisonment for ~~beginning on the~~ days

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 27 25 1941 days in military custody, making a total of 27 25 1941 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~enrolment~~ attestation paper is 26 years & 5 months nil.

6. The date of his ~~enrolment~~ attestation specified in his ~~enrolment~~ attestation paper is July 17 1941 nil.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve 5 yrs 6 mos 20 d

8. The accused is entitled to deferred pay or gratuity in respect 5 yrs 6 mos 20 days service.

9. ~~The accused is entitled to follow~~ nil.

10. The accused is in possession of ~~no entitled to no military decoration or military badge. He is in possession~~ nil.
~~entitled to wear no military decoration as shown~~ 1939-45 Star, C.V.S.M. & Clasp

11. ~~The amount to his credit in the~~ nil.
~~of~~

12. ~~The balance to the credit of the accused~~ is the same as that of ~~the~~ in the ~~regimental~~ Bank of ~~Canada~~ dated nil.
~~Regimental Funds Department~~ dated nil.

Wt.53637/1559 20M. 5/40 P. Ltd. T51-1

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

			Date of Promotion
In the rank of	A/CPL	3 months XXXX	NOV 6 1942
In the rank of	Confirmed CPL	2 years 2 months XXXX	FEB 5 1943
In the rank of		years.	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-52837 *Rank* CPL *Name* GREENE Lloyd Clarence of 2 Cdn Rec Coy RCEME Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of APRIL 1945

R. Shouria Maj.
O.C. - 2 Cdn. Recovery Coy. R.C.E.M.E.

EXHIBIT "C"

M.F.M. 6
(A.F. B.122)
40/P & /3136 (2965)

No. B52837 Name GREENE L.C. Sqn., Battery, or Company Corps R.C.E.M.E. Date of enlistment 17 Jul41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 3 Signature O.C. Company, etc. C.S.Lawrie Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Last sheet destroyed on 17 Jan 44- Last offence nil- Cases of drunkeness nil- last instance on nil.									

Certified true copy of the original on file

C.S.Lawrie Capt.

OC HQ 4 CDN ET RPC SECT RCEME

(P.T.O.)

VVV-107

PTE GREENE W G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C21337 Fte William Garfield GREENE - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (by)

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which 0 days were spent in hospital.(1)

(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for (18) eighteen Months

(Sgd) ..... Judge-Advocate, if any. 4 Sept 44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. ~~MINUTE WHERE CONFIRMATION RESERVED.~~ (AA 54(5), RP 120(F), MML p 760.)

~~Date ..... (Sgd) ..... Commanding .....~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (I. AA 57A. Delete if not used.)

5 - SEP 1944 Date. (Sgd) [signature] (G S N Gostling) Brig Commanding "A" Gp Cdn Rft Units CAO Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. O.O. 212/44 Date. 6 Sept 44 Signature of Offr. Promulgated before a full parade [signature] Capt.

C-21337 (Fte) Greene William Garfield - 6 CIRU - C.I.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED [illegible]

RECORDED AT CMHQ IN AD 100. VVV-107

RECEIVED 15 SEP 1944 AND C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brig GSN Gostling, ED Cond "A" GP CRU dated 3 SEP 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C21337	Pte		William Garfield	GREENE	6 CIRU CIC

PROCEEDINGS REVIEWED [signature] Capt. 15 Sept 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 4 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(I. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1725 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(I. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(I. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(I. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	C E JARDINE	2 CIRU
Member	Capt	P Poisson	6 CIRU
Member	Lt	KC Costagnay	6 CIRU
~~Judge-Advocate~~			
Prosecutor	Lieut	W P Smallman	6 CIRU
Defending Offr	Lieut	H W Watson	6 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir

(I. RP 26, 27, 102N, 111. List of offrs sworn insts will be retained separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (B) and fn 2 were not followed. See RP ...)

A8. The accused C21337 Fte GREENE, W G before arraignment makes(s) ~~no~~ plea(s) [illegible]

(I. If a special plea is made for separate trial on one or more charges (RP 22(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit., the evidence, if any, and finding are recorded per Notes. For forms of record see references in (I) to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(I. RP 35, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and, considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 89, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his ples of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be asked to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by usn of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement, or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. .....
Do you intend to call witnesses on your behalf ?
Ans. .....
Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex F respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *AFM 6.* 3. *RP 46, KR Can 556. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. I'm entitled to leniency
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*a*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its gravamen, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 65, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(15), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No C-21337, Private William Garfield GREENE, of the Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, whilst a defaulter, did absent himself without leave from 2300 hours on the 5th day of July, 1944, until 1045 hours on the 21st day of August, 1944.

(Total absence: 46 days, 11 hours, 45 minutes).

(W.E. MORGAN), Col.
Commander
6 Cdn Inf Rft Unit

In the Field
2nd Sep 44.

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
3 Sep 44

President

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C21337	Pte		William Garfield	GREENE	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Sep 44 endorsed by me, ~~(or by an offr of my staff (or me))~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the next Pd Offr in order of seniority.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	C H JARDINE	2 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CC 6 CIRU	
Lt	to be detailed by CC 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by CC 6 CIRU	

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 3 Sep 44

Commanding "A" Gp Cdn Rft Units C A (C)
(G S N Gostling)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAS (To item of AFAT) 40-P & S/1697 (4891)

(See overleaf for oaths and notes for use on trial.)

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: C21312 (Rank)

Pte Green, W.C of 6 C.I.R.U and in my opinion he is
(Name)

10 fit ~~unfit~~ to undergo trial be Court Martial.

Station

Date 4-9-44

SCD Anthony Capt
(Medical Offr)

Plea in the case of C21337 pte Greene W.G.
by H.W. WATSON Lt. defending Offr.

Here is another case of a soldier with a Category A — with four years fd experience and the desire to fight — I ask you gentlemen why are these men kept around?

This is his first court martial so from the stand point of law he is not an old customer of the Courts.

On returning from the fd — this man was posted to A wing as a driver — He commenced trying to get on draft — to his surprise, despite his perfect qualifications, they did not want him. How can a pte soldier explain that to himself?

Finally he was placed on an Army Service Corps draft. He was warned for a draft for a solid month, in which time he was granted No passes — then the draft was called off.

How would he feel about that? — The same way we all would. —— completely disgusted —

Thus he disappeared for a couple of weeks.

Please consider these facts as undoubted mitigating factors — we can not punish those who wish to do right, but whose plans are destroyed by unfortunate but nevertheless trying accidents that are caused by the stress and strain of war —

Let me recommend that you deal leniently with the accused and that you recommend that he receives a draft notice for the field as soon as is humanly possible — Thank You

H.W. Watson

(H.W. WATSON) Lt.
defending Offr — 4 Sep 44.

E + A 0/2

SUMMARY OF EVIDENCE

In the case of No C-21337 Private William Garfield GREENE, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

By direction of The Commanding Officer this summary of evidence is taken on oath.

First Witness for the Prosecution — Lieut M.P. Menard, of The Cdn Inf Corps, on the strength of No 6 C.I.R.U., having been duly sworn states as follows:

"I hereby produce the following documents relating to the accused, C-21337 Pte Greene, W.G. ;

(a) A certified true copy of MFB 375, Declaration of a Court of Inquiry, purporting to be signed by Capt L.G.A. Barette, Adjutant of 6 C.I.R.U. This is marked as exhibit "A" and is attached to this summary of evidence.

(b) A certified true copy of an extract from 6 C.I.R.U. Daily Orders Part II d/28 Aug 44, purporting to be signed by Capt L.G.A. Barette, Adjutant of 6 C.I.R.U. This is marked as Exhibit "B" and is attached to this summary of evidence

The accused declines to cross-examine this witness.

M.P. Menard Lieut
(M.P. Menard)

The accused was then cautioned as follows: "Do you wish to make any statement or to give evidence on oath?" "you are not obliged to say anything or to give any statement unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in thepresence and hearing of the accused, and that Rules of Procedure 4 (C),(D),(E),(F),&(G) have been duly complied with.

L Morel Lt
.....
(Officer detailed to take the Summary of Evidence.

In the Field
31 Aug 44

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of No C-21837, Private William Garfield GRENNEK, Cdn Inf Corps, on the strengt of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this supplementary summary of Evidence is taken under Oath.

First Witness for the Prosecution

Lt M.P. MENARD, Cdn Inf Corps, on the strength of No 6 CIRU., having been duly sworn, states as follows:

I hereby produce a certified true copy of an extract of Daily Part II Orders (6 CIRU) relating to the accused, whom I now recognise, purporting to be signed by the adjutant of No 6 CIRU. This document is marked Exhibit "A" and is attached to this Supplementary summary of Evidence.

The accused declines to cross-examine this Witness

.....Lt.

The accused was then cautioned as follows: "Do you wish to make a statement or to give evidence on Oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(D),(F) and (G) have been duly complied with.

.....Lt.
Officer detailed to take the Summary of Evidence.

In the Field
2nd Sep 44.

F + B

RECORD of the Declaration of a Court of Inquiry assembled at Farnley Park, Otley, Yorks on the 28th day of July, 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. C.21337 Pte Green, W.C. C.I.C. No. 6 C.I.R.U.

DECLARATION

The Court declare that C.21337 Pte Green, W.C. Canadian Infantry Corps - No. 6 Canadian Infantry Reinforcement Unit illegally absented himself without leave from 2300 hrs on the 5th day of July, 1944 and that he is still so absent and that on the 5th day of July, 1944 he was deficient and is still so deficient of the following articles mentioned in the evidence in the amount of: £7-3-11.

ARTICLES	NO	VOCAB PRICE	APP VALUE
Blouse Battle Dress	2	$ 10.80	$ 8.40
Boot ankle prs	1	5.46	4.37
Drawers Woollen prs	2	2.40	1.92
Gloves knitted drab prs	1	.47	.30
Shirts angola drab	2	4.05	3.25
Shoes canvas	1	.65	.52
Trousers battle dress	2	10.78	8.62
Vests woollen	2	2.40	1.92
Badges cap C.W. of C.	1	Price not available	
Braces	1	.28	.22
Brush shaving	1	.37	.30
Brush shoe polishing	1	.28	.22
Comb hair	1	.04	.04
Discs Identity set	1	Price not available	
Knife clasp	1	.86	.69
Knife table	1	.15	.12
Razor safety set	1	.25	.20
Bottle water	1	.82	.66
Carrier water bottle	1	.37	.30
Ointment A/G	1	.16	.13
Piller, Sten Mag	1	Price not available	
		$ 40.27	$ 32.17

Total in English money £7-3-11.

Names of President and Members:

President	Capt HR Sheehan	Cdn Inf Corps
Members	Lt. HH Chate	Cdn Inf Corps
	Lt. AC Clement	Cdn Inf Corps

Signature of Commanding Officer sgd W.E. Morgan, Colonel.

A.H. Barrett. CAPT.
ADJT., 6 CDN. INF. RCT. UNIT

Certified true copy.....
Signature of Officer having custody of original record.

LAST ORDER NO 202 23 aug 44

6 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDER PART II
issued by
COLONEL W.T. MORGAN, OBE, MC? COMMANDING OFFICER

THIS ORDER NO 203 28 aug 44

SECTION "B" OTHER RANKS

11. STRENGTH INCREASE (CONTINUED)

11-7 T.O.S. on spp from des w.e.f. 1045 hrs 21 aug 44 and posted to "C" Coy.

(C H of O(MG)

C-21357 Pte Greene W.T.

Sgd R. Laverdure
(R.Laverdure) A/Captain
For Adjutant
6 Cdn Inf Rpt Unit

Certified true copy dated:
28 Aug 44

Adjutant, 6 C.I.R.U.
Officer having custody
of original documents.

E + D

LAST ORDER NO 161 7 Jul 44 | 6 CANADIAN INFANTRY REINFORCEMENT UNIT DAILY ORDERS PART II issued by COLONEL W.E.MORGAN,O.B.E.,M.C.,COMMANDING OFFICER | THIS ORDER NO 162 8 Jul 44

SECTION "D" OTHER RANKS

17. PUNISHMENTS

17-C On 5 Jul 44 awarded 14 days C.B. and a forf of 21 days pay under FRAI 149(2) for an offence under Sec 15(1) A.A.(AWL from 0100 hrs 5 Jul 44 to 0630 hrs 5 Jul 44 - 5 hrs 30 mins).

C 21337 Pte Greene, W.G. (C.W.of.O(MG)

Sgd E. Lamoureux Lieut
for (R. Lavedure) A/Captain
for Adjutant
6 Cdn Inf Rft Unit

Certified true copy dated: SEP 2 1944

Adjutant , No 6 C.I.R.U.
Officer having custody
of original documents.

E x E (N)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
C-21337	Private	GREENE, W.G.	No 6 Cdn Inf Reinf Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AA Sec 15(1) AWL	17 times.
For	AA Sec 40	2 times.
For	AA Sec 10(4)	2 times.
For		times.

Date of first entry in Field Conduct Sheet 31 Oct 41

Date of last entry in Field Conduct Sheet 5 Jul 44

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

~~*3. The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for ..... days in military custody, i.e., NIL days in open arrest, 14 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 28 yrs

6. The date of his attestation ~~[illegible] up for military service~~ is 30 May 40

7. The service which the accused is allowed to reckon is 3 yrs 178 days

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, [illegible]~~ without reduction, to the present date—

~~Date of Promotion.~~

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be [illegible] from the regimental books the paragraph must be struck [illegible]*

(21114) Wt.8670/666 300,000 4/42 A. & E. W. Ltd. Gp.636 Forms/B.296(War)/2
(22459) Wt.29256/1872 60,000 9/42 " "

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-21337	Private	GREENE, W.G.	No 6 Cdn Inf Reinf Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, punishments being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AA Sec 15(1) AWL	17 times.
For	AA Sec 40	2 times.
For	AA Sec 10(4)	2 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 31 Oct 41

Date of last entry in Field Conduct Sheet 6 Jul 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for ~~imprisonment~~ ~~detention~~ ~~penal servitude~~ ~~hard labour~~ ~~forfeiture of service~~ ~~dismissal~~ ~~reduction to the ranks~~ ~~fine~~ ~~forfeiture of pay~~ ~~stoppages~~ ~~severe reprimand~~ ~~reprimand~~ ~~admonition~~ ~~caution~~ ~~to be discharged with ignominy~~ ~~to be discharged with disgrace~~ ~~to be discharged~~ ~~to be dismissed the service~~ ~~to be cashiered~~ ~~to be dismissed~~ ~~to be removed from the service~~ ~~to be removed from his office~~ ~~to be removed from his employment~~ ~~to be removed from his appointment~~ ~~to be removed from his command~~ ~~to be removed from his rank~~ ~~to be removed from his position~~ ~~to be removed from his post~~ ~~to be removed from his duty~~ ~~to be removed from his station~~ ~~to be removed from his unit~~ ~~to be removed from his regiment~~ ~~to be removed from his corps~~ ~~to be removed from his division~~ ~~to be removed from his brigade~~ ~~to be removed from his battalion~~ ~~to be removed from his company~~ ~~to be removed from his platoon~~ ~~to be removed from his section~~ ~~to be removed from his squad~~ ~~to be removed from his team~~ ~~to be removed from his group~~ ~~to be removed from his party~~ ~~to be removed from his crew~~ ~~to be removed from his ship~~ ~~to be removed from his aircraft~~ ~~to be removed from his vehicle~~ ~~to be removed from his tank~~ ~~to be removed from his gun~~ ~~to be removed from his weapon~~ ~~to be removed from his equipment~~ ~~to be removed from his kit~~ ~~to be removed from his uniform~~ ~~to be removed from his clothing~~ ~~to be removed from his boots~~ ~~to be removed from his hat~~ ~~to be removed from his cap~~ ~~to be removed from his helmet~~ ~~to be removed from his beret~~ ~~to be removed from his badge~~ ~~to be removed from his insignia~~ ~~to be removed from his medal~~ ~~to be removed from his ribbon~~ ~~to be removed from his decoration~~ ~~to be removed from his award~~ ~~to be removed from his honour~~ ~~to be removed from his reputation~~ ~~to be removed from his character~~ ~~to be removed from his name~~ ~~to be removed from his record~~ ~~to be removed from his file~~ ~~to be removed from his dossier~~ ~~to be removed from his personnel file~~ ~~to be removed from his service record~~ ~~to be removed from his pay book~~ ~~to be removed from his identity card~~ ~~to be removed from his passport~~ ~~to be removed from his driving licence~~ ~~to be removed from his bank account~~ ~~to be removed from his will~~ ~~to be removed from his estate~~ ~~to be removed from his inheritance~~ ~~to be removed from his property~~ ~~to be removed from his land~~ ~~to be removed from his house~~ ~~to be removed from his home~~ ~~to be removed from his family~~ ~~to be removed from his wife~~ ~~to be removed from his children~~ ~~to be removed from his parents~~ ~~to be removed from his siblings~~ ~~to be removed from his relatives~~ ~~to be removed from his friends~~ ~~to be removed from his acquaintances~~ ~~to be removed from his colleagues~~ ~~to be removed from his superiors~~ ~~to be removed from his subordinates~~ ~~to be removed from his peers~~ ~~to be removed from his equals~~ ~~to be removed from his inferiors~~ ~~to be removed from his servants~~ ~~to be removed from his slaves~~ ~~to be removed from his prisoners~~ ~~to be removed from his captives~~ ~~to be removed from his hostages~~ ~~to be removed from his enemies~~ ~~to be removed from his allies~~ ~~to be removed from his friends~~ ~~to be removed from his neighbours~~ ~~to be removed from his community~~ ~~to be removed from his society~~ ~~to be removed from his country~~ ~~to be removed from his nation~~ ~~to be removed from his state~~ ~~to be removed from his province~~ ~~to be removed from his territory~~ ~~to be removed from his region~~ ~~to be removed from his district~~ ~~to be removed from his county~~ ~~to be removed from his city~~ ~~to be removed from his town~~ ~~to be removed from his village~~ ~~to be removed from his hamlet~~ ~~to be removed from his farm~~ ~~to be removed from his ranch~~ ~~to be removed from his plantation~~ ~~to be removed from his estate~~ ~~to be removed from his manor~~ ~~to be removed from his castle~~ ~~to be removed from his palace~~ ~~to be removed from his mansion~~ ~~to be removed from his villa~~ ~~to be removed from his cottage~~ ~~to be removed from his hut~~ ~~to be removed from his shack~~ ~~to be removed from his tent~~ ~~to be removed from his caravan~~ ~~to be removed from his boat

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4 day of [illegible]

officer having custody of original documents

No. C 21337 Name GREENE, W.G. Sqn, Battery, or Company E + F Corps Cdn Inf Corps Date of enlistment 30 May 40 GC Badges N/A Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/P&S/136 (5412)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc W.G. McLean Lieu Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31-10-41	Pte		(1) AA 15(1) AWL 7 hrs 35 mins	Cpl Gervais Cpl McDonald	4 days CB	3 Nov 41	Capt Boyd	forf 1 days pay for AWL
				(2) AA 40 Conduct to the prejudice etc	Sgt Fox				
Field	28-12-41	Pte		AA 15(1) AWL 4 days 12 hrs 30 mins	Cpl Cumming	14 days pay 14 days C.B	3 Jan 42	Lt col Rogers	forf 5 days pay for AWL
Field	26-2-42	Pte		AA 15(1) AWL 5 days 21 hrs 59 mins	Sgt Robillard	14 days F.P. 14 days pay	7 Mar 42	Lt col Rogers	forf 6 days pay for AWL
Field	4-4-42	Pte		AA 15(1) AWL 1 day 1 hr 35 mins	Cpl Harrison	28 days F.P. 28 days pay	9 Apr 42	Lt col Laing	forf 2 days pay for AWL.
Field	3-6-42	Pte		AA 15(1) AWL 6 days 4 hrs AA 15(1) AWL whilst under arrest.	Sgt Robillard	28 days F.P. 28 days pay	9 Jun 42	Maj Clingan	forf 7 days pay for AWL

Certified true copy consisting of one pages, dated 4 Sep. 44 ..... Officer having custody of original documents.

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16-10-42	Pte		AA 15(1) AWL 20 days 4 hrs 30 mins	Documentary	28 days F.P. 28 days pay	No records		forf 21 days pay for AWL
Field	14-12-42	Pte		AA 15(1) AWL 1 day 1 hr 45 mins	Cpl Long	7 days F.P. 7 days pay	16 Dec 42	Maj Gilroy	forf 2 days pay for AWL
Field	21-12-42	Pte		(1) AA 10(4) Breaking out of barracks whilst a defaulter (2) AA 15(1) AWL 6 days 10 hrs 30 mins	Documentary	28 days F.P. 28 days pay	28 Dec 42	Lt col Conrad	forf 7 days pay for AWL.
Field	27-3-43	Pte		AA 15(1) AWL 2 days	Cpl Mallett	14 days C.B.	30 Mar 43	Maj Burgess	forf 2 days pay for AWL
Field	9 Apr 43	Pte		AA 15(1) AWL 2 days 15 hrs 30 mins	Cpl Mallett	14 days F.P	12 Apr 43	Lt col Conrad	forf 3 days pay for AWL.
Field	26-4-43	Pte		AA 10(4) Breaking out barracks when a defaulter AA 15(1) AWL 8 days 14 hrs 15 mins	Documentary	14 days pay 28 days pay	5 May 43	DO 69/43	forf 9 days pay for AWL.

Certified true copy consisting of two pages, dated. 11 Aug 44 ..... Officer having custody of original documents.

No. C 21337 Name [redacted], W. G. Sqn, Battery, or Company [redacted] Corps Cdn Inf Corps Date of enlistment 30 May 40 GC Badges N/A Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/PAS/136154-2

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc W. C. McLean Lieut Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-5-43	Pte		(1) AA 15(1) Awl 4 hrs 15 mins (2) AA 15(1) AWL 9 hrs 15 mins	Documentary	7 days F.P. 7 days pay	18 May 43	DO 78/43	forf 1 day AWL.
Field	7-9-43	Pte		AA 15(1) AWL 3 days 16 hrs	Documentary	14 days F.P. 14 days pay.	11 Sep 43	DO 167/43	forf 4 days pay for AWL
Field	13-3-44	Pte		AA 40 conduct to prej etc (2 chgs)	Lt col Klaehn	21 days detn	14 Mar 43	Lt col Klaehn	
Field	13-5-44	Pte		AA 15(1) AWL 3 days	Cpl Lambert	14 days pay 14 days F.P.	17 May 44	Lt col Clingan	forf 3 days pay for AWL
Field S	5-7-44	Pte		AA 15(1) AWL 5 hrs 30 mins	Cpl Fertuson	21 days pay 14 days C.B.	5 Jul 44	Lt col Clingan	

Certified true copy consisting of two pages, dated 14 Sep 44 ..... Officer having custody of original documents.

(P10)

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

.....St. Watson.....(TSR) (6 EIRY.

if he is available.

.....Wm E Evans.....

In the Field
31 day of Aug 1940.
1510 hrs

LIST OF EXHIBITS

In the case of No C-21337, Private William Garfield GREENE, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A" Record of the Declaration of the Court Of Inquiry

Exhibit "B" Certified true copy of an extract of Part II Orders (6 CIRU).

Exhibit "C" Certified true copy of an extract of Part II Orders (6CIRU).

In the Field
31st Aug 44.

LIST OF WITNESSES

In the case of No C-21337, Private William Garfield GREENE, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

Lt M.P. Memmrd, Cdn Inf Corps, on the strength of No 6 CIRU.

Defence

Nil

In the Field
31st Aug 44.

CERTIFICATE RE WAITING MEMBER

In the case of C/1337 Pte GREENE WG 6 CIRU

I hereby certify that there were no objections to the Members who constituted the Court which tried the a/m soldier by Field General Court-Martial. The Waiting Member R.T. Holroyd was therefore permitted to withdraw.

In the Field.
4 Sept 44

.....Major.
President.

LIST OF OFFICERS FOR INSTRUCTION

In the case of C/1337 Pte GREENE WG 6 CIRU

The following Officers attended the a/m Field General Court-Martial for instruction:-

NIL

.....Major.
President.

In the Field.
4 Sept 44

SK-98

Ste. Genevieve, Mo.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C.1586 Private Warrin Lowell Greene

Charge (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st S.9(1)(a)	Guilty	Guilty	
2nd S.9(1)(a)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of list see RP 44 fn 8.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 22 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one (1) year

(Sgd) ..... Judge-Advocate, if any. 4 May 45 Date awarded. (Sgd) D.C. MacDougall Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is Confirmed.

~~I direct that the accused be not committed to prison or detention barracks pending further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) J.F. Luby Lieut
Date 8 May 45 Commanding 3 CBR Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
C.1586 Pte. Greene, W.L.	7 May 45	Lieut. J.F. Luby

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 4 JUN 1945 JA BRANCH CMHQ

RECORDED AT CMHQ IN AB 150 5K-98

CFA66 (To take place of AFA2) A.G.P. O.R. 16/68 (12664)

FIELD GENERAL COURT-MARTIAL

Convened by Brigadier [illegible] DSO Comd 2 CBRC dated 2 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C. 1586	Pte	Warrin Lowell	Greene	4 CBRBn

J. Ridgewell Capt 12 June 45
REVIEWING OFFICER, JA BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 4 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 31/55.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... ~~no interpreter?~~ Ans ~~No~~

~~The Interpreter is sworn.(1) Do you object to~~ ..... ~~no shorthand writer?~~ Ans ~~No~~

~~The shorthand writer is sworn.(2)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.C. MacDougall	4 CBR Bn
Member	Capt	J.W. McLean	4 CBR Bn
Member	Lieut	J.R. Ball	4 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	J.F. Luby	4 CBR Bn
Defending Offr	Lieut	C.E. Johnston	4 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See Dir p 33.)

A8. The accused C.1586 Pte. Greene, W.L. before arraignment make(s) (no) ~~No~~ plea(s).(1)
(1. If a special plea is made for separate trial as one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or opposit, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB numl and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is informed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 3 CBRG Box 2 #65

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 83, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any pleas standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by voir dire paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 154, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans ..... Do you intend to call witnesses on your behalf?

Ans ..... Are they witnesses as to character only? Ans .....

(1. *RP 155.* 2. *RP 40(A), see 80(2).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)

Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....

(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or refute anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 42, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 98, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S CERTIFICATE

MAY 4 1945

K.R. (CAN) Para 557

I hereby certify that I have this morning examined No G15.86

PTE. GREENE W.L. on strength 4 Cdn

Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

C.W. Grant Capt

Medical Officer 4 Cdn Rft Bn.

CHARGE SHEET.

THE ACCUSED, NO. G1586 PRIVATE Warren Lowell GREENE, (NSR) ON THE STRENGTH OF 4 CDN RFT BN 3 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH:

1st Charge
AA Sec. 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, in BELGIUM, absented himself without leave from 0800 hrs on the 31 Mar 45 until being apprehended by CMP at 0215 hrs on the 11 Apr 45.
(Total time absent: 10 days 18 hrs 15 mins)

2nd Charge
AA Sec. 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, in BELGIUM, absented himself without leave whilst in close arrest from 2300 hrs on the 13 Apr 45 until being apprehended by CMP at 1930 hrson the 16 Apr 45.
(Total time absent: 2 days 20 hrs 30 mins)

(J.R.H. Morgan) Major,
T/Commanding,
4 Cdn Rft Bn - 3 Cdn Base Rft Group -CAO.

In the Field.
25 Apr 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J S H Lind) Brig
Comd 3 Cdn Base Rft Gp

In the Field
2 May 45

President

CHARGE SHEET.

THE ACCUSED, NO. G1586 PRIVATE Warren Lowell GREENE, (NSR) ON THE STRENGTH OF 4 CDN RFT BN 3 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH:

1st Charge
AA Sec. 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, in BELGIUM, absented himself without leave from 0600 hrs on the 31 Mar 45 until being apprehended by CMP at 0215 hrs on the 11 Apr 45.
(Total time absent: 10 days 18 hrs 15 mins)

2nd Charge
AA Sec. 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, in BELGIUM, absented himself without leave whilst in close arrest from 2300 hrs on the 13 Apr 45 until being apprehended by CMP at 1930 hrs on the 16 Apr 45.
(Total time absent: 2 days 20 hrs 30 mins)

(J.R.H. Morgan) Major,
T/Commanding,
4 Cdn Rft Bn - 3 Cdn Base Rft Group -CAO.

In the Field.
25 Apr 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J S E Lind) Brig
Comd 3 Cdn Base Rft Gp

In the Field
2 May 45

D MacDougall Maj
Assistant

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.1586	Pte		Warren Lowell	GREENE	4 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and endorsed (date) 2 May 45 by me, (~~or by an offr of my staff (or me)~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	D.C. MacDOUGALL	9 CBR Bn

MEMBERS.

Capt or Lt	To be detailed by CO 4 CBR Bn	
Capt or Lt (Rank.)	To be detailed by CO 4 CBR Bn (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lt (Rank.)	To be detailed by CO 4 CBR Bn (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 2 May 45

(Signed personally. RP 105 fn 2.)
(J S H LIND)
Commanding 5 Cdn Base Rft Gp
Convening Officer. RMC (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 90 (In lieu of AFA 3) 40/P & S/1697 (8163)

Lt. MacDougall may preside.

The defense presents a plea for mitigation of punishment.

The accused enlisted for overseas service on the 1st June 1939, nearly 6 years ago. He proceeded overseas, and on D plus two joined the North Shore Regt in Normandy, and stayed with them for 8 months, when he went to hospital with influenza. During his stay in the Army, his parents have become seriously ill and the accused is desirous of returning home soon to take care of his parents, as he is their only support.

His record of crime is light in this theatre as born out by his M. F. M. 6.

V. E. Johnston Lieut.
4 C. B. R. Btn.

RMM

SUMMARY OF EVIDENCE in the case of G1586 Private Warren Lowell GREENE (NSR) on strength of 4 Cdn Rft Bn, a soldier of the Cdn Army Overseas, who is charged with WOAS Absenting Himself Without Leave AA Sec 15(1)

By direction of the Commanding Officer this evidence is taken on oath.

The accused is informed of his rights.

First Witness

B91985 CSM French, K.E. of 41 Coy on strength of 10 Cdn Base Rft Bn.

I certify that, in my opinion, the attendance of B91985 CSM French, K.E. is, owing to exigencies of the service, expense and loss of time involved, not readily procurable, a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as EXHIBIT "A"

J.F. Juby Lieut
(J.F. Juby) Lieut.,
Officer detailed to take Summary of Evidence.

I do not require the attendance of B91985 CSM French, K.E. for the purpose of cross-examination.

W L Greene
(G1586 Pte. Greene, W.L.)

Second Witness

F54900 CSM MacDonald, R.E. of 22 Coy on strength of 4 Cdn Base Rft Bn having been duly sworn, states:

I am F54900 CSM MacDonald, R.E. of 22 Coy on strength of 4 Cdn Base Rft Bn. At approximately 1200 hrs 31 Mar 45 I was present at the mustering, into this Bn (4 Bn), of a draft from 10 C.B.R.Bn. I checked the roll and the accused Pte. Greene, whose name was on that roll, failed to answer to his name.
He has not answered his name on any roll call in 22 Coy, 4 Bn since that date.

R.P. 83(B) complied with. R.E. MacDonald.
(F54900 CSM MacDonald, R.E.)

Accused declines to cross-examine this witness.

Documentary Evidence

The Certificate of Apprehension in accordance with AA 163 (i)(j) produced as documentary evidence, was read to the accused, marked exhibit "B", signed by me and attached hereto.

J.F. Juby Lieut
(J.F. Juby) Lieut.,
Officer detailed to take Summary of Evidence.

(6)

Ex. A.
Hmac Shagall my President.

Continued on Page 2.

Third Witness

K50669 Pte. Hoff, W.M. P.E.(R.P.) of 4 Bn, 3 C.B.R.D. having been duly sworn, states:

I am K50669 Pte. Hoff, W.M. P.E.(R.P.) of 4 Cdn Base Rft Bn. At 2000 hrs, 2100 hrs and 2200 hrs 13 Apr 45 I made a bed check in the Detention cell block of all personnel in arrest and the accused, whom I now recognize, was present along with all personnel.
At approximately 2300 hrs 13 Apr 45 I assisted L/Cpl. Mitchell in a further bed check and found four beds empty. We immediately called a roll and Pte. Greene, the accused, who was in close arrest, was one of the men missing.
We made an immediate search of the detention area and the accused could not be found.
We immediately notified the Orderly Officer and then made a complete search of the Bn Area, and the accused could not be found and was absent.

R.P. 83(B) complied with.

(K50669 Pte. Hoff, W.M.)

The accused declines to cross-examine this witness.

Fourth Witness

M16305 L/Cpl. Mitchell, G.M. P.E. (R.P.) of 4 Bn, 3 C.B.R.D. having been duly sworn, states:

I am M16305 L/Cpl. Mitchell, G.M. P.E. (R.P.) of 4 Cdn Base Rft Bn. At approximately 2300 hrs 13 Apr 45 I walked into the 4 Bn Guard Room and I noticed there were Beds, of soldiers in close arrest, empty. I immediately awoke the R.P's, who were off duty, and had a roll call. There were four soldiers (in arrest) who were missing. Pte. Greene, the accused, whom I now recognize was one of the missing.
I immediately warned the Orderly Officer of the occurence and then I had a search of the Bn Area made and the accused was not found and was absent.

R.P. 83(B) complied with.

(M16305 L/Cpl. Mitchell, G.M.)

The accused declines to cross-examine this witness.

Fifth Witness

H35205 CQMS Wardale, L.T. of 22 Coy on strength of 4 Cdn Base Rft Bn, having been duly sworn, states:

I am H35205 CQMS Wardale, L.T. of 22 Coy on strength of 4 Cdn Base Rft Bn. I hereby submit a list of deficiencies for the kit of Pte. Greene. I checked the accused kit on the 17 Apr 45. The accused was present on this kit inspection. His kit was deficient $34.68 at 100% value and $25.98 at 75% value.

R.P. 83(B) complied with.

(H35205 CQMS Wardale, L.T.)

The accused declines to cross-examine this witness.

Continued on Page 3

Fifth Witness Cont'd
The list of deficiencies referred to in the evidence of the above witness is attached hereto as EXHIBIT "C"

J.F. Juby Lieut.

(J.F. Juby) Lieut.,
Officer detailed to take Summary of Evidence.

Documentary Evidence
The Certificate of Apprehension in accordance with AA 163 (i)(j) produced as documentary evidence, was read to the accused, marked EXHIBIT "D" , signed by me and attached hereto.

J.F. Juby Lieut

(J.F. Juby) Lieut.,
Officer detailed to take Summary of Evidence.

The accused having been cautioned as follows:
Do you wish to make any statement, or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but what-so-ever you may say or any evidence you may give, will be taken down in writing and may be used in evidence.

Answer by the accused
Declines to give any evidence and reserves his defence.

W L Greene

(81586 Pte. Greene, W.L.)

I certify that the foregoing Summary of Evidence, consisting of 3 pages, was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.P. 4 (C), (D), (E), (F) and (G) have been complied with.

J.F. Juby Lieut

In the Field.
25 Apr 45

(J.F. Juby) Lieut.,
CMofO., 4 Cdn Base Wkt Bn.,
Officer detailed to take Summary of Evidence.

EXHIBIT "A"
[illegible]

12 Apr. 45

Documentary Evidance in the Case of
G1586 PTE GREEN W.L.

I, the undersigned A/CSM of 41 Coy., 10 CBR Bn. called a Muster Roll of all personnel who were proceeding to 4 CBR Bn. wef 31 Mar. 45(Auth: EA2/5979 d/29 Mar. 45), and I I was informed that G1586 Pte. Green W.L., was being held under close arrest in 10 CBR Bn. Guard Room. On checking this report I found this information to be false. Therefore Pte. Green W.L. was Absent Without Leave from 0800 hrs., 31 Mar. 45. He had been present at Tattoo Roll Call at 2230 hrs., 30 Mar. 45.

To the best of my knowledge he is still absent.

K E French

(B91905 SGT French K.E.)

EXHIBIT "B" J.A. Thomson Lieut
Officer detailed to take Summary of Evidence

23 Coy

CERTIFICATE UNDER ARMY ACT. SECTION 163 (i) (j)

Certified that No. G.1586 Rank Pte. Name GREENE W.L.

of the 23 Coy. 4 Bn. 3 C.B.R.G Regt, ~~[illegible]~~ No. A.103180

was apprehended by

Rank L/C. Name Hanley W.F. of the 9 Sec. 2 Cdn. LofC Pro. Coy.

Ghent Detachment at Ghent at 0215 hrs, on the 11th

day of April 1945 as an absentee without leave.

He was wearing Military Uniform at the time of his ~~Surrender.~~ Arrest.
~~Civilian Clothes.~~

J. A. Thomson Lieut.
(J.A. Thomson) A/DAPM 2 C.B.R.G

Place Ghent

Date 11 April 45

Canadian Provost Corps.

A DR ORDERLY ROOM
RECEIVED
12 Jan 60
4071
CAN. EASE RFT. GROUP

17 Apr

KIT DEFICIENCIES OF: G 1586 Pte GREENE W L

	100%	75%
1 Pair Gloves	.47	.36
1 Greatcoat	11.31	8.45
1 Sweater P.O.	1.79	1.34
1 Shirt. Ang.	2.03	1.53
2 Pairs Socks W.	.74	.54
1 Vests W.	1.20	.90
1 Haversack	1.79	1.34
5 Blankets	15.35	11.52
TOTALS	$34.68	$25.98

EXHIBIT "C"

J. T. July next
Appear detailed to take
Summary of Evidence

...S. T. Wardale.....
(L T Wardale) BQMS
"22" Company. 4 Bn.

KIT DEFICIENCIES OF: G 1586 Pte GREENE W L 17 Apr 45

	100%	75%
1 Pair Gloves	.47	.36
1 Greatcoat	11.31	8.45
1 Sweater P.O.	1.79	1.34
1 Shirt. Ang.	2.03	1.53
2 Pairs Socks W.	.74	.54
1 Vests W.	1.20	.90
1 Haversack	1.79	1.34
5 Blankets	15.35	11.52
TOTALS	$34.68	$25.98

EXHIBIT "C"

J. T. Wardale
Officer detailed to take
Summary of Evidence

S. T. Wardale
(L T Wardale) RCMS
"22" Company. 4 Bn.

CERTIFICATE UNDER ARMY ACT. SECTION 163 (i) (j)

Certified that No. G-1586 Rank Pte Name Green W.C.

of the North Shore Regt 4 Bn 3 CBRG Regt, ~~xxxxxxxxxxxxxxxxxxxx~~ No. F-24291

was apprehended by

Rank L/cpl Name MacKenzie N.D. of the 2 Cdn L of C Prov Coy

~~Ghent~~ Detach at Ghent Belgium at 1930 hrs, on the 16

day of April 45 as an absentee without leave.

He was wearing Military Uniform at the time of his ~~Sentence~~ Arrest.

~~[illegible]~~.

Place Ghent Belgium

Date 16 April 45

J. A. Thomson Lieut i/c Ghent Detach

Canadian Provost Corps.

2 Cdn L of C Prov Coy 21 Army Grp.

No. 4 BN ORDERLY ROOM RECEIVED 17 Apr 45 4 CDN [illegible] DFT. GROUP

EXHIBIT "D"

J. A. Thomson Lieut Officer detached to the Summary of Evidence

Amn

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
G-1506	Private	Greene, W.L.	(HSR) 4 Cdn Rft Bn, 3 CBRD.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be entered to the proceedings. The numbers herein noted should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec. 15(1) ..... 2 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 5 Jan 45

Date of last entry in Field Conduct Sheet 28 Feb 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. Nil

*3. The accused at the present time is under sentence for ~~NIL~~ NIL

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for from 0215 hrs 11 Apr 45 until 2300 hrs 13 Apr 45 and from 0230 hrs 15 Apr 45 days in civil custody; and for ..... days in military custody, i.e.

Nil days in open arrest, 22 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation / ~~enlisting up for military service~~ is 28 Jun 43

7. The service which the accused is allowed to reckon is 1 Yr 10 Mos.

8. The accused is in possession of CVSM & Clasp.

*State the military decorations (if any) held by accused.

9. ~~On the issue of a warrant dated as NIL~~ The accused was served continuously without reduction to the present date.

*Strike out if not applicable.

	Date of Promotion.
In the substantive rank of	Pte
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Ex S. Howe Sherrill Maj
Adjutant

W 15000/1802 20,000 3/44 51-4755. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27th day of April 1945.

(R.W.E. Davy) Capt., T/A/Adjt.,
4 Cdn Rft Bn - 3 Cdn Base Rft Gp.

MFM 6
(APR 622)
40/P&S/128 (3438)

No 01586 Name GREENE, W L Sqn, Battery, or Company Corps CIC Date of enlistment 28Jun43 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	5 Jan45	Pte		AA 15(1) AWL from 1335 hrs 5 Jan 45 to 1730 hrs 9 Jan 45		21 days pay	12Jan45		Forfs 21 days pay
Field	28Feb45	Pte		AA 15(1) AWL from 2230 hrs 28Feb45 to 0630 hrs 1 Mar 45		5 days pay	7Mar 45		Forfs 5 days pay

Duplicate created from MFM 4 26 Apr 45 Record of conduct in Canada prior to TOS Cdn Army O/S 13 Jul 44 not availa ble

(Sgd) "R.S.C. Williams, Lieut."
(R.S.C. Williams) Lieut.,
Officer i/c X-List Section
Cdn Sec 2nd Ech HQ 21 A Gp.

Lt. "C"
Damas Dougherty
presented

CERTIFIED TRUE COPY OF MFM6 FROM REGIMENTAL BOOKS IN MY CUSTODY

In the Field. - 27 Apr 45.

R E Davy
(R.W.E. Davy) Capt., T/A/Adjt.,
4 Cdn Rft Bn - 3 Cdn Base Rft Gp.

(PTO)

LIST OF WITNESSES

FOR THE PROSECUTION

First Witness - B-91985 CSM French, K.E. - 10 Cdn Rft Bn.

Second Witness - F-54900 CSM MacDonald, R.E. - 4 Cdn Rft Bn.

Third Witness - R-50669 Pte. Hoff, W.H. - 4 Cdn Rft Bn.

Fourth Witness - M-16305 L/Cpl. Mitchell, C.E. - 4 Cdn Rft Bn.

Fifth Witness - H-35205 CQMS Wardale, L.T. - 4 Cdn Rft Bn.

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

Exhibit "A" - A written statement of evidence given by B91985 CSM French, K.E. (41 Coy-10 Bn.)

Exhibit "B" - The Certificate of Apprehension in accordance with AA 163 (i)(j).

Exhibit "C" - List of deficiencies of the Accused Kit.

Exhibit "D" - The Certificate of Apprehension in accordance with AA 163 (i) (j).

RECEIPT FOR CHARGE SHEET AND SUMMARY OF EVIDENCE (MML Ch 5 Sec 5 SS24)

I hereby acknowledge that I have this date 25 Apr 1945 received from 4 Cdn Rft Bn. (unit) one copy of Charge Sheet and Summary of Evidence referring to charge(s) of AA Sec. 15(1), (Two) and AA Sec. 24(2) for which I was remanded for Court Martial.

W L Greene
Signature of Accused

REQUEST FOR DEFENDING OFFICER (MML Ch 5 Sec 5 SS 27)

I hereby request that Lt ~~L~~ GE Johnston Wilson W L G if available, act in my defence. If this officer is not available, I request the Commanding Officer of 4 Cdn Rft Bn. 3 CBRGp (unit) appoint an officer to act on my behalf.

W L Greene
(Signature of Accused)

I hereby certify that Lt ~~L~~ GE Johnston Wilson (rank & name) was appointed to defend G-1586 Pte. Greene, W.L. (number, rank and name) at his forthcoming trial by Court Martial and that the said Lt L Wilson (rank and name) was notified that he was to act as defending Officer on 25 Apr 45 (date)

[signature]
(L.P.J. Mongeon) Lieut.,
for Adjt of Unit
4 Cdn Rft Bn - 3 Cdn Base Rft Group.

WHEN PROSECUTING OFFICER POSSESSES LEGAL QUALIFICATIONS (MML Ch 5 Sec 5 SS 25)

I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Signature of Accused)

Dm

4A-23

Spr Grubbell RC

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-19259 Spr Kenneth Currie GREENHILL 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.18(4)	NOT GUILTY	NOT GUILTY	
2nd A.A. 40	NOT GUILTY	NOT GUILTY	
3rd A.A. 40	NOT GUILTY	NOT GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~Accused under sentence for~~ ~~beginning on (date)~~ (*)
(*. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which 7 1/2 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo Detention for a period of six (6) months

(Sgd) Judge-Advocate, if any. Date awarded. 5 Oct 44 President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 571. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) ~~I do not~~
(1. AA 57A. Delete if not used.)

Date 7 Oct 44 (Sgd) A H Connelly Brig
Commanding 2 Div Comp CRU
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. A-19259 Spr Greenhill KC Date 11 Oct 44 Signature of Offr. [illegible] Lieut Col
Officer i/c Records

ENTERED PART II ORDERS
13-10-44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. A.

RECORDED AT CMHQ IN AB 160. 4A-23

RECEIVED 19 OCT 1944 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CFAAG (In lieu of AEA2) 40. P.A.C. 1608 (2864)

Convened at Brig A.B. Connelly Comd "B" Gp CRU dated 30 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-19259	Spr		Kenneth Currie	GREENHILL	1 CERU

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 5 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant from RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1630 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans A/M.
~~The Interpreter is sworn.~~(1) Do you object to 28126 Sgt Sinclair as shorthand writer? Ans NO
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans N.O. N.A.M.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.I. Redman, V.D.	HQ CRU
Member	CAPT	F.R. CRESSEY	1 CARU
Member	LT	J.E. HAZIER	2 CARU
~~Judge-Advocate~~			
Prosecutor	LT	W.R. NEWMAN	1 CERU
Defending Offr	CAPT	BRM SMILEY	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans N.A. (2)
(1. RP 26, 27, 109, 111. List of offrs under instrs will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 52(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 35(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without leave from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death etc RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and, -

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect to which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 126(3) fn 5 para 3, MML p 54 para 47.* 4. *See para E1 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO, SIR (2)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE ATT
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans NEITHER Do you intend to call witnesses on your behalf? Ans YES SIR Are they witnesses as to character only? Ans NO SIR
(1. *RP 155.* 2. *RP 80(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Second charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1)
Ans NO, SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans NO SIR (NOTE ATT) (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(e), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP 26(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, (116(A), KR Can 306, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A-19259 Spr GREENHILL, Kenneth, Currie, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

First Charge
A A Sec 18(4)

WHILE ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY

in that he

in the field at No. 1 CERU on 2 Sep 44 did steal from No. 1 CERU Records Office, public property, to wit, Railway Warrant Book No. 540505 to 540600, the property of the Canadian Government.

Second Charge
Alternative
A A Sec 40

WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at No. 1 CERU, on 15 Sep 44 was in improper possession of public property, to wit, Railway Warrant Book No. 540505 to No. 540600, the property of the Canadian Government.

Third Charge
A A Sec 40

WHILE ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at No. 1 CERU on 2 Sep 44 did issue for use to B-28096 Spr McATAMNEY, J.J., a person subject to Military Law, warrant No. 540505, the property of the Canadian Government, without authority to issue same.

(G.H. WHYTE) Colonel
Commanding Officer
No. 1 Cdn Engr Rft Unit,
Canadian Army (Overseas)

In the Field
26 Sep 44

Approved on behalf of Judge Advocate Gen. Can Army Overseas pursuant to K.R. Can 540 and C.A.O.R.O. 4756 (13)
28 Sept 44. J. Ritchie Capt. H.Q. C.R.U.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

30 Sep 44

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(5).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-19259	Spr		Kenneth Currie	GREENHILL	1 CBRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 30 Sep 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto:~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman, V.D.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	1 CARU
Lieutenant	to be detailed by	2 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(A.B. Connelly) (Signed personally. RP 105 fn 2.) (Rank.)

Date 30 Sep 44

Commanding (A.B. Connelly) Brig Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Beg of AFAS) 40/F & S/1307 14631

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 357

I certify that I have this morning examined

No. A 19259 Spr Greenhill K.C.

of #1 C.E.R.U. and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station FIELD

Date 5 Oct 1944

[signature]

Medical Officer.

CASE OF

A.19859 Gnr GREENHILL RC 1 CERU

PROSECUTION

FIRST WITNESS

Mr. W. CLYMAN, Feltham, Middx, an employee of the Southern Ry Company, being duly sworn, states:

A search was made for a ry warrant and it was discovered and read from Bournemouth Ry Stn. The period of ry was from the 1-10 Sep 44. This is the document we were requested to find and according to the name on the reverse the number is R.[illegible] Gnr Heatherway, and the warrant was used. I offer this in evidence.

RAILWAY WARRANT MARKED EXHIBIT 1 BY COURT

CROSS-EXAMINED

Q. Is there ever any occasion to doubt the signature on a warrant or to investigate who signs warrants?
A. No, there is no reason to suspect any signature, just so long as it is signed.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(8).

SECOND WITNESS

Capt J.P. MOAR, 1 CERU, having been duly sworn, states:

I'm the Records Offr 1 CERU, and I recognize the accused. I have here in my hand a book of ry warrants Nos. 540505 to 540600 which are on charge to 1 CERU. I offer these in evidence.

BOOK OF RY WARRANTS MARKED EXHIBIT 2 BY COURT

On 15 Sep these warrants were brought to my office and Nos. 540505 to 54514 inclusive were missing. This is the first occasion that I know these were missing.

Q. Has the accused any access to these warrants in his duties?
A. The accused's job was in connection with the movement of personnel in my office and if the occasion arose that it was necessary for him to make out a warrant he would have access to the warrant box where they are kept. If it were at night and there would be no reason to watch him making out a warrant he would have as much access as anyone to open the warrant box and take out a book of warrants. The warrants are kept in a box under lock and key and during the daytime if the accused was asked to make out a warrant he would have been given the key which is kept IC of an officer and there is a warrant man whose job is to make out warrants and he would have the key during the day and when he is off duty it is given to an offr and if at any time the accused wanted to make out a warrant he could have got the key from an offr.

Q. Do you recognize Exhibit 1 and the signature of the person who signed it?
A. It is not the signature of any offr authorized to sign warrants at 1 CERU.

CROSS-EXAMINED

Q. You say there might be an occasion at night for the accused to help himself and again you say the key is always in possession of an offr?
A. The key is IC always of an offr, during the day it is given to the man whose job it is to make out warrants, and when he goes off duty he gives the key to an offr and if at some occasion during the night the warrant had to be made out the only occasion would be if the accused were there and he were handed the key by an offr. There is always an offr available with the key. In my

knowledge this key is never available in the Records Office except Spr Halswell who is the warrants man and the only other person to my knowledge, Spr Elliott was had the Key, I gave it to him myself. On 3 Sep the offr IC of the key was Lt Burton and he continued to be the offr IC of the Key until 3 Sep.

Q. Is it available to the duty clerk if there is not an offr there?
A. No.

Q. Ever see the accused in possession of warrants other than while issuing them?
A. No.

Q. Ever signed any warrants outside the office?
A. No.

RE-EXAMINED

Q. Was the accused on duty 2-3 Sep?
A. The accused was on duty as one of the day clerks on 3 Sep.

Q. On 2 Sep?
A. He was on that morning of the 2 Sep.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(2).

THIRD WITNESS

K.75442 A/Cpl LUSCOMBE, RE, 1 CSRU, having been duly sworn, states:

I am the Security Cpl of 1 CSRU. At approx 10 o'clock on 15 Sep I had read infm previous to that and I went to Spider 6, Room 1 and the Hut Orderly was cleaning up the room. I looked at one bed that wasn't made up and looked under the pallyass and I saw a book of warrants. The nos of the warrants were 540505 to 540600, and Exhibit 2 is the book I found. I left then there and reported, and at approx 1130 the same day I walked into the same room and saw Col Wood, RSM Nicholls and RSM Cusack there. I waited there until Cpl Wilson came in and Col Woods sent Wilson to get the accused and when the accused was brought in he was placed under arrest and escorted to the Od Room. The bed under which I found the warrants is the bed of the accused whom I now recognize, as I've seen him sleeping in it. Col Wood and RSM Cusuack saw the book of warrants and Col Woods took the book of warrants away with him.

CROSS-EXAMINED

Q. Were you alone when you found the warrants there under the bed?
A. No, Sir, the Hut Orderly was there.

Q. Was he there with you?
A. No, Sir, not right with me.

Q. Anything on top of the pallyass?
A. Packs were thrown on the bed. I merely lifted up the pallyass and saw the book there.

Q. Have you ever seen the accused in possession of or with warrants?
A. No, but I've had some stuff to go on.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(2).

FOURTH WITNESS

A.19100 RSM (WO 1) H. NICHOLLS, 1 CSRU, having been duly sworn, states:

On 15 Sep in the morning I accompanied Col Woods on a tour of inspection of the quarters and on the inspection we went to Spider 6, Room 1, which is occupied by Command Post personnel and there was one bed not made up according to regulations. The mattress was pulled back and underneath there was a book of ry warrants and also some other papers. On inquiring

from the Orderly Room who occupied the bed we were informed it was the accused whom I now recognize. We sent for the accused and he admitted occupying the bed and he said he was using the warrants at night time studying for a course. Col Wood gave the order for the accused to be placed under arrest. I'd say Exhibit 2 is similar to the book of warrants.

CROSS-EXAMINED

Q. This routine inspection that you made with the Col, was there any reason to believe that anything was wrong other than a routine inspection.
A. In my opinion, no, Sir.

Q. Was the mattress pulled back when you arrived?
A. It was by the Colonel.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH R 86(3).

SIXTH WITNESS

M.84414 Spr CUNNINGHAM, KL, 1 CERU, having been duly sworn, states:

On 15 Jan I was hut orderly in Spider 6, Room 1, and at about 11 o'clock Col Woods and RSM Cusack and RSM Nicholls came into the hut and asked me where the accused's bed was and I showed them and then the Col pulled the great coat back and the packs off the unmade bed and the mattress back and held 2 books up and called the RSMs attention to it. They then sent for the accused whom I now recognize and placed him under arrest after Col Woods asked the accused what he was doing with the book and the accused said he was using it on a course that he was studying for.

CROSS-EXAMINED

Q. Are you sure what the accused said and can you repeat the words?
A. I'm sure he said that but I couldn't take my oath as to the exact words.

Q. Were they in your sight all the time while they were in the hut?
A. That is a hard question to answer, I couldn't say for sure - the men I mean.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH R 86(3).

SEVENTH WITNESS

M.1004434 Spr HALSALL, S, 1 CERU, having been duly sworn, states:

I make out all the warrants at Command Post 1 CERU, and on the 15th I heard the accused had been arrested and in the afternoon Capt Agar showed me a warrant and asked me if it was mine and I said it was after checking my books.

Q. Is Exhibit 2 the book you are speaking of?
A. Yes.

Q. Has the accused access to these warrants in the course of his duties?
A. No, most of the time the offrs make their own out and sometimes they get one of the clerks to make one out.

CROSS-EXAMINED

Q. You often check your warrants?
A. At the end of the month I turn them in and get new warrants if I need any on the 20th of the month.

Q. Ever seen any other clerk or anyone in the office other than an offr in possession of the key to the box?
A. No, Sir, other than myself.

Q. Ever seen anybody in possession of warrants floating around the office?

A. Not to my knowledge, Sir.

Q. Ever any doubt that everything was not quite alright?
A. No.

Q. Ever see the accused in possession of anything out of the box?
A. Not while I was there, but after I leave it is entirely up to the discretion of the offr.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RJ 83(8).

SEVENTH WITNESS

D.46840 Spr COOK, VD, 1 CEMU, having been duly sworn, states:

Q. Did the accused at any time approach you about warrants?
A. I was going on a weekend and he said he would fix me up for a cheap rate for the weekend - a cheap rate railway travel. However, I didn't take it, Sir, I went on the weekend but paid my own fare.

Q. At any later date the same offer?
A. No.

Q. Ever see any warrants on the accused's bed or under the bed?
A. Yes, one night on his bed while looking for a pillow of mine. It was underneath his blanket.

Q. Anybody else see it?
A. Not that I know of.

CROSS-EXAMINED

Q. On what date did you see these?
A. About 18 Sep.

Q. Ever see the accused in possession of these warrants?
A. No, just on his bed.

Q. How close were you to the bed?
A. I was looking for a pillow right by the bed.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RJ 83(8).

EIGHTH WITNESS

B.28096 Spr McATAMNEY, JJ, 1 CEMU, having been duly sworn, states:

Q. Recognize Exhibit 1?
A. It looks like one I've seen, Sir. I got that warrant and another from the accused's bed by taking it from the bed.

Q. Was the accused around?
A. Not at the time. I took it to the accused at his work and asked him to make it out for me and later he gave me the warrant.

Q. What happened to the other?
A. The other one was turned in at WOKING.

Q. What made you go to the accused's room to get this?
A. I went to get a magazine I had loaned him.

Q. Pay the accused anything for it?
A. No, Sir, nor was there any discussion between us as to ~~xxxxx~~ whether he should be paid or not.

Q. Did the accused owe you money?
A. A pound.

Q. Was the warrant exchanged for this loan?
A. No.

Q. Was this the proper way to get a warrant?
A. No, Sir, I got it because I thought it was a good way to get there as I did not have too much money with me. I would have had to pay 11/7 for my return ticket and this way I could get there & back for nothing.

CROSS-EXAMINED

Q. You figure you made a sucker out of the accused for signing the warrants?
A. I might have, Sir.

Q. I understand you have been punished already?
A. Yes, Sir, 21 days pay, and the cost of the warrant.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

- D E F E N C E -

FIRST WITNESS

S.22069 L/Cpl CAHILL, HS, 1 CERU, having been duly sworn, states:

I am employed at Records Office as a Clerk and despatch all drafts and movement orders at 1 CERU, and I have had occasion to make out warrants at different times, and a few times while off duty, and I'd turn the key over to whoever was on duty. I could say that several men have had that key at times.

Q. Have you ever seen the accused in possession of warrants other than in the office?
A. No.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS

N.69130 Spr CRAIG, R, 1 CERU, having been duly sworn, states:

Approx around 1 Sep I was working in Command Post. I've been employed at the Records Office there, and I left them about 11 Jul and in my tour of duty there I never had occasion to make out a warrant, but while duty clerk I've had the key to the box in my possession and when I went off duty I turned it over to the Records Sjt or the Cpl and at times to an officer.

Q. Was it a laid down procedure that you should give it to an officer?
A. I don't believe it was at the time, Sir.

NO CROSS-EXAMINATION
IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS

S.26509 Spr ELLIOTT, AD, 1 CERU, having been duly sworn, states:

At 1 CERU I file the MFsM 4 in the Records Office and at no time have I had any occasion to make out a warrant, but I've had occasion to possess the warrant box key, on Sun Sep 10, which I turned over to Capt Agar

Q. Ever seen the accused in possession of my warrants?
A. No, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

STATEMENT BY THE DEFENDING OFFICER ON THE FINDING

Summing up for the Defence I would like first to dwell on the second witness's statement that the accused would not have access to the warrant box, and on the other hand I've brought up witnesses to say that they have had the key in their possession at one time or another. The accused happened to be working in the Records Office, but so did a lot of other chaps. The Prosecution has evidence that the warrants were found underneath the accused's bed, but there has been no evidence whatsoever that the accused put them there himself, nor has it not been proven that Cpl Luscombe didn't put them there either. As far as the issuing of the warrant goes, the story seems quite clear cut there, there is no evidence that the accused signed it and the fact that he was in illegal possession has not been proven I don't think, except that they were under his bed.

STATEMENT BY THE PROSECUTOR ON THE FINDING

The Prosecution has brought forth evidence to prove the guilt in all charges, and the Prosecution has brought forward witnesses to show this, of the accused's access to these warrants, then at a later date the finding of them in his bed, and his admission of the possession of the book of warrants for some course he was studying for, and that establishes he had these warrants in his possession illegally. There has been sufficient evidence brought forth by the Prosecution without reviewing the evidence to show that the accused is guilty as charged.

THE COURT IS CLOSED TO CONSIDER THE FINDING

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE COURT FINDS THE ACCUSED NOT GUILTY OF THE FIRST CHARGE.

PLEA IN MITIGATION

I have seen the accused's work for the past year and he has been doing his job in the Records Office in a very satisfactory manner, and up to now there has been no reason to find fault with it, and I don't think there is anyone who can point to his record and say that there is anything wrong with it. The accused is married here in England, and has one child. In school he went for 5 yrs to High School and in civil life was a clerk in a basket factory in London Ontario. I ask the Court to be as lenient as possible in sentencing the accused.

5 Oct 44

I acknowledge receipt of Exhibits 1 & 2 herein, which I agree to deliver to the Adjutant to be held by him, subject to direction for disposal.

W. K. Hageman DA
#1 C.E.R.U.
Prosecuting Officer

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
A 19259	Spr	GREENHILL, K.C.	# 1 C.E.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. 40 motor accident ..... 1 times.

For A.A. Sec 15 (1) ..... 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 10 Apr 43

Date of last entry in Field Conduct Sheet 30 Nov 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for~~ WW ~~beginning on the~~ WW ~~[illegible]~~ WW

4. The accused has been awaiting trial on the present charges for ..... WW ~~days in civil custody and for~~ 20 days in military custody, i.e., ... WW ~~days in open arrest,~~ 20 days in close arrest; WW ~~[illegible] days were spent in hospital.~~

5. The present age of the accused is 26 yrs

6. The date of his attestation ~~[illegible]~~ is 15 Sep 39 WW

7. The service which the accused is allowed to reckon is 4 yrs 11 mos

8. The accused is in possession of † C.V.S.M. and Clasp

†State the military decorations (if any) held by accused.

~~9. [illegible] the accused has served con[illegible] WW [illegible] to the present date~~ WW

~~[illegible]~~ WW

WW ~~[illegible]~~

WW ~~[illegible]~~

WW ~~[illegible]~~

Ex B MW

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 35,000 5/44 51-432 T.Ltd. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of October 1917

Lieut. [illegible] Adjt.

1 C. Eng. R.U.

No. A 19259 Name GREENHILL, K.C. Sqn., Battery, or Company | Corps RCE | Date of enlistment 15-9-39 | G.C. Badges 15-9-[illegible] | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 25-7-42 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. H.D. Ball Lieut

M.F.M. 6

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Old sheet destroyed 15-12-42 on completion of 2 years Service without an entry							H.H. Ball, Lt.,	
Field	13-4-43	Spr		A.A. Sec 40 C to P Damage to W.D. £13-0-0	Doc	Damages £13-0-0	10-4-43		
Field	9 Oct 43	Spr		A.A. 15 (1) AWL from 0745 hrs 9 Oct 43 to 1830 hrs 17 Nov 43 (Absent 39 days 10 hrs 45 mins)	Doc	27 Days F.P. F'fts 27 days pay FR&I 149 (2)	30 Nov 43	Lt. Col AS Rutherford	F'fts 40 days pay FR&I 149 (1) (a) F'fts 12 days pay FR&I 149(1)(c)
				CERTIFIED TRUE COPY					

Officer Having Custody of Regtl Books 1 C Eng Bn

Sept. 44.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of A-14254 Spr. Greenhill K.C. Royal Canadian Engineers. No 1. Canadian Reinforcement Unit, a Soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

First Witness for prosecution

CAPT. J.P. AGAR Royal Canadian Artillery on strength of No 1 CERU a soldier of the Canadian Army Overseas, having been duly sworn states;

I am Capt. J. P. Agar Record Officer of No 1 CERU. A14254 Spr. Greenhill K.C., whom I now recognize as the accused, was employed at Records Office 1 CERU during the period 15 Aug 44 to 15 Sep 44 when Travel Warrant book serial numbers 540505 to 540600 was received by this Unit. I herewith submit the book of Travel Warrants serial

Numbers 540505 to 540600 as evidence, warrants nos. 541515 to 540514 inclusive are missing (marked exhibit 'A' and appended)

I further submit Warrant No. D540505 purporting to have been signed for Officer i/c Records 1 CERU. (marked exhibit 'B' and appended). This warrant does not bear the signature of any Officer authorized to sign on behalf of the Officer i/c Records 1 CERU.

I also submit a statement from the Audits Accounts Office of the Southern Railway, purporting to be stamped and initialed by an agent for that Company, stating that the above Warrant # D540505 was issued in favour of No B58046 Spr. McAtamney J. S. and handed in to the Southern Railway at Bournemouth Central Station. (marked exhibit 'C' and appended).

Q. In the course of his duties did Spr. Granhill have access to the travel Warrant Book.

A. Only if it might be considered necessary for an Officer to instruct him to make out a Warrant. I would further state that such an

2

occasion would not ordinarily arise

Q. What were the duties of Spr. Greenhill in the ~~Orderly Room~~ Record Office at 1 CEKU.

A. Spr. Greenhill was employed as clerk in the movement section making out clearances and dispatching personnel

J. P. Agar Capt

The accused declines to cross examine this witness

MJ

Second Witness for prosecution

B23274 R.S.M. Cusack J. in strength of 1 SERU a soldier of the Canadian army overseas having been duly sworn states;

I am R.S.M. Cusack J. On 15th Sept 44 at about 1130 hrs I accompanied Lt. Col. H.G. Woods of 1 SERU for inspection of the sleeping quarters of Command Post personnel. During the inspection of Room 1 Spider C. it was noted that the bed used by H19254 Spr Greenhill, whom I now recognise as the accused, was not made up in accordance with Unit Standing Orders, while Lt Col Woods was discussing with the Room Orderly the reason for the bed not being made up he had occasion to turn over the blankets and mattress under the mattress was a file of documents and a book of Railway Warrants.

Q. Was Spr Greenhill present at this time.

A. No sir!

M

5

Q. What action did you then take

A. I detailed a N.C.O. to bring Spr Greenhill back to his quarters. He arrived a few minutes later and Lt Col Woods asked him in my presence &c. if he was the occupant of the bed concerned, he replied "Yes Sir" he was then asked, in my presence, why he had the book of Warrants in the bed. His reply was that he had the articles to assist him in studying for a clerical course.

Lt. Col Woods then ordered Spr Greenhill under close arrest.

J Cusack Bros

The accused declines to cross examine this witness

MB

Third Witness for prosecution

M 54414 Spr Cunningham K.L.

on the strength of ICERU, a soldier of the Canadian Army Overseas, having been duly sworn states;

I am M 54414 Spr Cunningham K.L. On 15 Sep. 44 I was Hut Orderly in Room 1 Hut 6 of ICERU in which Spr Greenhill, whom I now recognise as the accused, was sleeping. About 11 00 hrs on that morning Lt Col Woods, LSW Nichols, & RSW Cusack came into the hut and asked me what bed was Spr Greenhills I ~~told them~~ walked up and showed them. They stood at the foot of the bed which was not made up and there was a great coat a small rack and a large pack on top of the bed

Lt Col Woods pulled the great coat to the foot of the bed and then the packs. one of them flew open. and Lt Col ~~he looked at~~ He then pulled back the mathers and pulled out a warrant book which he showed to the RSWs and which I clearly saw He asked where Greenhill worked

MJ

I said at Records, so he sent for him. after questioning Greenhill he placed him under close arrest.

1 MS4914 Spr Kh Cunningham,

The accused declines to cross examine this witness

Fourth witness for prosecution

No D 46240 Spr Cook V.D. RCE on strength of ICERU. a soldier of the Canadian Army Overseas having been duly sworn states;

I am D 46240 Spr Cook V.D. and have been a runner at Command Post ICERU for about five months about the end of August this year I was going to Brighton for a week end, I mentioned this to Spr Greenhill, whom I now recognise as the accused, he said he could fix me up with a ~~[illegible]~~ W.O. Warrant. I didn't wait for the Warrant as he had gone for dinner.

Q. Did Spr. Greenhill offer to give you a warrant or to sell it to you.

A. ~~He offered to give it to me.~~ He didn't say.

Q. Did Spr Greenhill ever give you a warrant to which you weren't entitled

A. No Sir.

D46240 Spr Jemal Cook.

The accused declines to cross examine this witness

Fifth Witness for the prosecution

No M100434 SPR HALSALL S. RCE on strength of ICERH a soldier of the Canadian Army Overseas, having been duly sworn states;

I am M100434 Spr. Halsall S. and employed in Records Office ICERH. on preparation of Travel Warrants. on the afternoon of 15 Sep 44 I learned that Spr Grunhill, whom I now recognise as the accused had been placed under arrest. I Later Capt. Agar, Officer i/c Records came to me with a book of Warrants and asked me to check and see if it was one of mine; I check and found it to be one I had received on the 24th of August. we then check through all the Warrant books and found all the others correct.

Q. Could you identify the book shown you by Capt Agar.

A. Yes Sir on receiving it from Command Post the first four stubs were missing from the book. I checked this and found that the C.E.H. receipt at Command Post listed it in that manner.

Q. Had this book been out of your possession

H. I had all the books in the cupboard and didn't know this was out until Capt Agar brought it in.

Q. Who would have access to the Warrant books, other than yourself.

H. Any of the Officers employed in Records office. I have possession of the key while I am in the office on leaving I turn the key over to an officer.

Q. Do any of the other O.Rs in Records office have access to their Warrant books

H. Not while I am around, what is done when I'm not there I don't know.

The accused, ~~in~~ cross examination ~~this~~ witness

Q. During the time you worked on Warrants was the key ever handed to you by a Duty Clerk.

H. No.

Q. Do you know of any occasion when another O.R., other than yourself, had the key to the warrants

H. There are lots of times when there have had the keys but I always get it from and return it to an Officer

S. Halsall

Sixth witness for prosecution

No B28046 Spr McATAMNEY J.J.
R.C.E. of 1 CERU. a soldier of the Canadian Army Overseas having been duly worn states;

I am B28046 Spr McAtamney J.J. and am employed in Records Office 1 CERU. on Pt II Orders for the Unit. On 2 Sep 44 I was going to Bournemouth and Spr Greenhill gave me a Travel Warrant for the journey both ways.

Q. Did you pay Spr Greenhill for this warrant.
A. No sir;
Q. Did you believe this warrant to be legitimate
A. I didn't think anything about it I just took it and used it.
Q. Who had signed this warrant
A. I don't know sir
Q. Was it an officer's signature
A. I didn't look at the signature other than to see it was signed
Q. Had you received warrants from Spr Greenhill on other occasions
A. No sir.

J. J. McAtamney

The accused declines to cross examine this witness

Seventh Witness for prosecution

No K 75443 A/Cpl. LUSCOMBE R.C.

R.C.E. of 1 CERU a soldier of the Canadian Army Overseas, having been duly sworn states:

I am K 75443 A/Cpl Luscombe RC employed as Security N.C.O. at 1 CERU. On 15 Sep 44 shortly after 1130 hrs I was passing by Room 1 Spider 6 and I saw Lt Col Woods RSM Nichols & RSM Cusack in the room. Col Woods asked me to come inside as he may need me. A few minutes later Cpl Wilson came into the room & Col Woods sent him to get Spr. Greenhill. Spr Greenhill ~~came down~~ whom I now recognise as the accused arrived, Col Woods spoke to Spr Greenhill placed him under close arrest and detailed me to get an escort to take Greenhill to the Unit Detention.

Q. Did you know why Spr Greenhill was placed under arrest.

A. Yes it had something to do with a book of Travel Warrants which I saw on the bed.

Q. Do you know anything about these warrants

A. I knew that they shouldn't be where they were

Cpl. R.C. Luscombe.

The accused declines to cross examine this witness

The accused was cautioned as follows

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement and reserves his defence

I certify that the foregoing summary of evidence consisting of eleven (11) pages was taken down by me in the presence and hearing of the accused and that rules of Procedure 4 (c)(d)(e)(f) & (g) have been complied with

1 CERU
in the Field
23 Sep. 44

[illegible]
Officer Detailed to take
Summary of Evidence

SUMMARY OF EVIDENCE

Summary of evidence in the case of A.19259 Spr. Greenhill K.C. Royal Canadian Engineers No.1. Canadian Reinforcement Unit.a soldier of the Canadian Army(Overseas)
Bydirection of the Commanding Officer this summary of evidence is taken on oath.

First Witness for prosecution

CAPT.J.P. AGAR Royal Canadian Artillery on strength of No.1. C E R U a soldier of the Canadian Army Overseas,having been duly swarn states.

I am Capt.J.P.Agar record Officer of No 1.C.E.R.U. A-19259 Spr. Greenhill K.C. whom I now recognize as the accused.was employed at Records Office 1.C.E.R.U. during the period 25 Aug 44 to 15 Sept. 44 when travel warrant book serial numbers 540505 to540600 was received by this Unit. I herewith submit the book Travel Warrants serial numbers 540505 to540600 as evidence, warrants Nos. 540505 to 540514. inclusive are missing (marked exhibit(A) and appended)

I further submit warrant No D540505 purporting to have been signed for Officer i/c Records 1.C.E.R. U.(marked exhibit(B) and appended)
This warrant does not bear the signature of any officer authorized to sign on behalf of the Officer i/c Records (1.C.E.R.U.)

I also submit a statement from the audits accounts office of the Southern Railway purporting to be stamped and initialed by an agent for that Company, stating that the above Warrant No.D540505 was issued in favour of No.528096 Spr. McAtammey J.S. andhanded in to the Southern Railway at Bournemouth Central Station.(marked exhibit C and appended)
(Q) In the course of his duties did Spr. Greenhill have access to the travel warrant book
(A) Only if it might be considered necessary for an Officer to instruct him to make out a Warrant I would further state that such an occassion would not ordinarely arise,
(Q) What were the duties of Spr. Greenhill in the (R.F.O.) Records office at 1.C.E.R.U.)
(A) Spr. Greenhill was employed as clerk in the movement section making out clearances and dispaching personnel

Signed Capt.J.P. Agar

The accused declines to cross examine this witness

SUMMARY OF EVIDENCE

Second witness
For prosecution

B33274 R.S.M. Cusack J. on strength of 1. C.E R.U. a soldier of the Canadian Army Overseas having been duly sworn states;

I am R.S.M. Cusack J. on 15th Sept. 44 at about 1130.Hrs. I accompanied LT.Col.H.Q.J. Woods of 1C E R U for inspection of the sleeping quarters of Command Post personnel. during ~~them~~ the inspection of Room (1) Spider (6) it was noted that the bed used by A 19259. Spr Greenhill, whom I now recognise as the accused,was not made up in accordance with H Unit standing Orders. while LT. Col. Woods was ~~disc~~ discussing with the Room Orderly the reason for the bed not being made up he had occassion to turn over the blankets and mattress under the mattress was a file of documants and a book of Railway Warrants,

(Q) Was Spr. Greenhill present at this time

(A) No Sir;

(Q) ~~W~~hat action did you then take?

(A) I detailed a N.C.O. to bring Spr. Greenhill back to his quarters, He arrived a few minutes later and LT.Col. Woods ask him in my presence if he was the ~~R.C.~~ R.F.D. occupant of the bed concerned,He replied "Yes Sir" He was then asked, in my presence, why he had the book of Warrants in the bed, His reply was that he had the articles to assist him in studying for ~~an~~ a clerical course,

LT. Col. Woods then ordered Spr.Greenhill under close arrest.

signed J.Cusack R.S.M.

The accused declines to cross examine this witness

SUMMARY OF EVIDENCE

Third Witness
For Prosecution

M54414. Spr. Cunningham K.L.

On the strength of 1.C.E.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states;

I am M 54414 Spr Cunningham K.L. on 15th Sept.44 I was Hut Orderly in Room 1 Hut 6) of 1C.E.R.U. in which Spr. Greenhill, whom I now recognice as the accused, was sleeping. about 1100 hrs. on that morning LT.Col.Woods R.S.M. Nichols, R.S.M. Cusack came into the Hut and asked me what bed was Spr. Greenhill's
I walked up and showed them, They stood at the foot of the bed which was not made up and there was a great coat a small pack and a large pack on top of the bed. LT.Col.Woods pulled the great coat to the foot of the bed and then the packs. one of them flew open

He then pulled back the mattress and pulled out a Warrant book which he showed to the R.S.M.s and which I clearly saw ,He asked where Greenhill worked,I said a Records, so he sent for him. after questioning Greenhill he placed him under close arrest

Spr. Cunningham K.L.
Signed M 54414 Spr. ~~K.L.Greenhill~~

The accused declines to cross examine this witness

SUMMARY OF EVIDENCE

Fourth Witness
For Prosecution

No.D46240 Spr. Cook V.D. R.C.E. on strength of 1 C.E.R.U. a soldier of the Canadian Army Overseas)having been duly swarn states;

I am D 46240 Spr Cook V.D. and have been a runner at Command Post 1C.E.R.U. for about five months about the end of Aug. this year Iwas going to Brighton for a week end, I didn't wait for the Warrant as he had gone for dinner,

(Q) Did Spr Greenhill offer to give you a Warrant orto sell it to you?

(A) He didn't say,

(Q) Did Spr Greenhill ever give you a Warrant to which you werent entitled

(A) No Sir;

[I mentioned this to Spr. Greenhill, whom I now recognize as the accused, he said he could fix me up with a warrant.]

Signed D46240 Spr Vernal Cook

SUMMARY OF EVIDENCE

Fifth Witness for Prosecution

No M 100434 Spr Halsall S.R.C.E. on strength of 1 C.E.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states,

I am M100434 Spr Halsall S. and employed in Records office 1 C.E.R.U. on preparation of travel Warrants, on the afternoon of 15 Sept.44 I learnt that Spr Greenhill, whom I now recognice as the accused had been placed under arrest, later Capt. Agar, Officer i/c Records came to me with a book of Warrants and asked me to check and see if it was one of mine; Ichecked and found it to be one I had received on the 24th of Augest. we then checked through all the Warrant books and found all the others correct.

(Q) Could you identify the book shown you by Capt. Agar?
(A) Yes Sir, on receiving it from Command Post the first four stubs were missing from the book, I checked this and found that the C.R.U. receipt at Command Post listed it in that manner

(Q) Had this book been out of your possession?
(A) Ihad all the books in the cupboard and did not know this was out until Capt. Agar brought it in.

(Q) Who would access to the Warrant books, other then yourself?
(A) Any of the Officers employed in Records office, I have possession of the key while I am in the office, on leaving I turn the key over to an Officer,

(Q) do any of the other (C.R.s) in Records office have access to these Warrant books?
(A) Not while I Am around, what is done when I am not there I dont know

The accused A19259 Spr. Greenhill cross examines witness

(Q) During the time you worked on warrants was the key ever handed to you by a duty clerk?
(A) No.
(Q) Do you know of any occassion when another (C.R.) other than yourself, had the key to the Warrants?
(A) There are lots of times when others have the key, but I always get it from them and return it to an Officer.

Signed M 100434 S. Halsall

SUMMARY OF EVIDENCE

Sixth witness
For Prosecution

No B 98096 Spr. McAtamney J.J. RC E. of 1C.E.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states;

I am B 98096 Spr. McAtamney J.J. and am employed in Records Office 1C.E.R.U. on Pt. II Orders for the Unit, On 2nd Sept.44 I was going to Bournemouth and Spr. Greenhill gave me a Travel Warrant for the journey both ways,

(Q) Did you pay Spr. Greenhill for this Warrant ?
(A) No Sir;
(Q) Did you beleive this warrant to be legitimate?
(A) I didn't think anything of it I just took it and used it,
(Q) Who had signed this Warrant ?
(A) I dont know Sir;
(Q) Was it an Officers signature?
(A) I didn't look at the signature other then to see it was signed;
(Q) Had you received Warrants from Spr. Greenhill on other occassions?
(A) No Sir:

Signed B98096 J.J. McAtamney

The accused declines to cross examine this witness

SUMMARY OF EVIDENCE

Seventh Witness For Prosecution

No K 75443 A/Cpl. Luscombe R.C. R.C.E. of 1 C.E.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states,

I am K75443 A/Cpl. Luscombe R.C. employed as Security N.C.O. at 1C.E.R.U. on 15 th Sept 44. shortly after 1130 hrs. I was passing by Room 1 Spider 6 and I saw LT.COL. WOODS R.S.M. Nichols and R.SM. Cusack in the room, Col.Woods, ask me to come inside, as he may need me. a few minutes later Cpl. Wilson came into the room and Col Woods sent him to get Spr Greenhill. Spr Greenhill whom I now recognise as the accused arrived, Col Woods spoke to Spr. Greenhill.placed him under close arrest and detailed me to get an escort to take Spr. Greenhill to the Unit Detention,

(Q) Did you know why Spr Greenhill was placed under arrest?
(A) Yes it had something to do with a book of travel Warrants which I saw on the bed,
(Q) Do you know any thing about these Warrants?
(A) I knew that they shouldn't be where they were.

Signed Cpl. R.C. Luscombe

The accused declines to cross examine this witness

The accused was cautioned as follows:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so,but whatever you say or any evidence you give will be taken down in writing and may be given in evidence;

The accused reservis his defence

I certify that the fore going summary of evidence consisting of eleven(11) pages was taken down by me in the presence andhearing of the accused and that Rules of procedure 4(c)(D)(E)(F) (G) have been complied with.

1 C.E.R.U.
On the Field
28 Sept.44

R.F Wallance LT. R.C.E.
Officer detailed to take summary of evidence

Certified true copy of the original

LIST OF WITNESSES

List of witnesses in the case of A-19259 Spr GREENHILL, K.C., Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

FOR THE PROSECUTION

(1) Capt. J.P. AGAR ✓ - 1 Cam

~~(2) B-23274 RSM CUSACK, J.~~

(3) M-54414 Spr CUNNINGHAM, K.L. - PE HQ

(4) D-46240 Spr COOK, V.D. - PE HQ

(5) M-100434 Spr HALSALL, S. - HWC

(6) B-28096 Spr McATAMNEY, J.J. - D

(7) K-75442 A/Cpl LUSCOM BE ✓ - A

(8) A-19100 PSM Nichols H

(9) Mr. W. Oldham

FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Exhibit "A" - Book of Travel Warrants Serial No. D-540505 to D-540600

Exhibit "B" - Travel Warrant D-540505.

Exhibit "C" - Statement Audits Accounts Office, Southern Railway.

Guilford 831
Haselmere 856

Deepdene 8.00
DD Ang Tram 8.04
Guilford - 9.01
Haselmere - 926

LIST OF EXHIBITS

Exhibit "A"	-	Book of Travel Warrants Serial No. D-540505 to D-540600
Exhibit "B"	-	Travel Warrant D-540505.
Exhibit "C"	-	Statement Audits Accounts Office, Southern Railway.

APPLICATION FOR DEFENDING

APPLICATION FOR DEFENDING OFFICER

I, A-19259 Spr GREENHILL, K.C., request that an officer represent me at my forthcomming trial.

A-19259 Spr H C Greenhill

(A-19259 Spr GREENHILL, K.C.

4X-87

Spr. Greenhill KC.

RECORDED AT CMHQ IN AB 160 4X-87 866

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of APA3) 40/P & S/1698 (6144) 4/38B

Convened by Order of Col H.R. Tyner A/ Comd "B" Gp, CRU dated 7 Mar 45

RECEIVED 31 MAR 1945 MMG CONTROL

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.19259	Cpr	Kenneth Currie	GREENHILL	1 CERU

PROCEEDINGS REVIEWED J. Kuliguelow Capt 1 April 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 12 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1)~~ Do you object to PRESS SGT SINCLAIR AH as shorthand writer? Ans NO The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. Redman, VD	HQ CRU
Member	Captain	C.H. BELANGER	1 CERU
Member	Lieutenant	A.W. COWLING	1 CERU
~~Judge Advocate~~			
Prosecutor	LT	F.W. FRASER	1 CERU
Defending Offr	LT	C.J. JAMIESON	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D and B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision.* *See M [illegible]*

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO - I M (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E1 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change h is (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A 19259 Spr Kenneth Currie GREENHILL, Royal Canadian Engineers, No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army(Overseas) is charged with:-

FIRST CHARGE
AA 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field at No 1 Canadian Engineer Reinforcement Unit, absented himself without leave while in close arrest, from 1130 hrs 15 October 44 until apprehended at 1715 hrs 22 February 45 at GUILDFORD, SURREY. (Total time absent 130 days,5 hrs,45 mins.)

SECOND CHARGE
AA 40

WHILE ON ACTIVE SERVICE,CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at GUILDFORD, SURREY, on or about 1 January 45 was improperly in possession of a radio, on charge to Sgts Mess, No 6 Canadian Artizan Works Company, the property of the Canadian Auxiliary War Services.

In the field
5 Mar 45

(A.F. KERRY) Colonel RCE
Commanding Officer
No 1 Cdn Engr Rft Unit
Canadian Army (Overseas)

To be tried by Field General Court Martial.

In the field
7 Mar 45

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50. RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A.19259	Spr	Kenneth Currie	GREENHILL	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Mar 45 endorsed by me, ~~or by an offr of my staff (or me)~~. " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	1 CGRU
Lieutenant	to be detailed by CO	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 7 Mar 45

(H.R. Tyner) (Signed personally. RP 105 fn 2.)

Col (Rank.)

A/ Commanding "B" Gp, Cdn Rft Units Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

4/38A CFA 98 (In lieu of AFA 3) 40/P & S/1691 (8143)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. A19259 Spr Greenbelt KC ~~(rank)~~ ~~(Name)~~

of #1 CERU and in my opinion he is fit to undergo

trial by Court Martial.

Station Field

Date 12-3-45

Sgd [signature] RCAMC
(Medical Officer)

CASE OF

A.19259 Spr GREENHILL KC 1 CERU

TRIAL OF THE ACCUSED ON THE SECOND CHARGE

- PROSECUTION -

FIRST WITNESS

G.17175 Cpl MacCORKELL SS, 2 CITR, having been duly sworn, states:

I'm the Senior Military Helper at 2 CITR, and I produce herewith a Philco Radio, table model, which is identical to the set issued to the 6 Cdn Constr Coy in Nov 43, except that it doesn't bear the markings on the bottom at the time, but it has on it the traces of the insignia Salvation Army Aux Services. This radio was on loan to the Offrs Mess first while theirs was being repaired, and after that it was given to the Cpls and Sgts who had a combined Mess there.

PHILCO RADIO SET MARKED EXHIBIT 1 FOR IDENTIFICATION

Q. Do you know of any other sets of this make and type that are missing from the Canadian Army around this district Cpl?
A. No, Sir, there is one missing, but it is an entirely different model.

Q. Therefore as this set is identical to the one that is missing and that was issued, it thus makes you sure that this is the same set?
A. Yes.

CROSS-EXAMINED

Q. You said it was on loan to the Sgts Mess?
A. Yes, to the Cpls and Sgts Mess which were combined.

Q. What is the difference between issued and on loan?
A. There's no difference, Sir.

Q. Who owns the radio?
A. Cdn Aux War Services.

Q. You give it as a gift or is it on loan?
A. No, it is on loan.

Q. Is there a difference between on loan and being in charge?
A. One means the same as the other, Sir.

Q. Have you any proof that it was issued?
A. Yes, I produce a Receipt Book in which is recorded the articles the Aux Services give out to units. On Page 53 of this Receipt Book the record shows the delivery to be on 30 Nov 43 of a radio set to the Offrs Mess. It's signed by a Cpl Hallett of 6 COC RCE.

RECEIPT BOOK AT PAGE 53 MARKED EXHIBIT 2

Q. As I see it the record shows it as being on loan to the Offrs Mess in the Sgts Mess?
A. Yes, while theirs was in repair, and then it was given to the Cpl's and Sgts Mess.

Q. Have you any record of that?
A. No.

Q. Do you know the serial number of the particular radio?
A. No.

Q. Have radios got serial numbers?
A. Yes, I believe so, Sir.

QUESTIONS BY THE COURT:

Q. What do you know personally of the returning of the other radio at the Offrs Mess and then about this radio?
A. I was there when the other radio was taken back to the Offrs Mess, Sir; as a rule we don't loan radios to Cpls Messes, but as the Cpls and Sgts Mess had been combined we gave it to them. I talked [redacted] the Orderly Room about the request of a radio, and then I loaned it out to them.

Q. You have no documentary proof that it was transferred from the Offrs Mess to the Sgts Mess?
A. No, it was really verbal.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 98(B).

SECOND WITNESS

A.48629 C/MS HENDERSON AJ, 2 CITR, having been duly sworn, states:

I was the Orderly Sgt on the night of 15 Dec at 6 CAWC and at approx 8 o'clock that evening I went into the Mess to turn off the lights and also to switch off the radio which was running. On the morning of the 16th I went into the Mess again and found the radio missing. I immediately reported this to my CO. The radio was a small mantel PHILCO model, and there was a shield of the Aux Services on the top of it, and on the aerial lead there was a brass fitting used to attach the aerial wire. I find now on examining Exhibit 1 that there is a brass fastner on the aerial wire, the one that I've been referring to. In my opinion, Exhibit 1 is the radio I've been describing.

PHILCO RADIO SET NOW MARKED EXHIBIT 1

CROSS-EXAMINED

Q. How long have you been with 6 CAWC?
A. Since 3 Jul 44, Sir.

Q. You've been around the Sgts Mess quite a bit?
A. Yes.

Q. How far is GUILDFORD from your billets?
A. Approx 2 miles.

Q. During your stay in the Mess how many times would you have occasion to turn it on or off?
A. Practically every day, Sir.

Q. What would cause you to notice a brass fitting on the aerial?
A. While on Orderly duty we were permitted to take the set to the Orderly Room for the evening and therefore when detaching the set and bringing it over to connect it up again I would notice this brass fastener.

Q. Do you know the serial number of this radio?
A. No.

Q. Then you can't say you are definitely positive that that, Exhibit 1, is the radio?
A. Just by the brass fitting on the aerial, Sir.

Q. In other words it could be an identical radio?
A. There could be another set like it, Sir.

QUESTIONS BY THE COURT:

Q. Do you think there is another set like this?
A. I don't know, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP s3(B).

THIRD WITNESS

Mr Edgar JARVIS of Gadavari, Brood St., WORPLEDON, Surrey, having been duly sworn, states:

Early in Jan the accused, whom I now recognize, brought a small radio set to me and asked me if I cared to buy it. I kept it for about a day, tested it, and then I saw a mark on it which I identified and I refused to buy the set and gave it back to him, the accused.

Q. How early in Jan was that?
A. It was the first week in Jan I think, I didn't keep a record of it.

Q. Would you examine Exhibit 1?
A. Yes (Witness examines Exhibit 1) --- I can't swear that this is the set but it is identical to the one the accused left with me. When I looked at the top of the radio the shield had been taken out as it appears now also.

Q. What conversation did you have with the accused?
A. He said "I want £8 for it" and after I tested it I told him it wasn't worth £4. He had been working for me since sometime in Nov, sorting timber and doing odd work.

Q. Did he tell you where he got it?
A. He told me that a friend of his had been transferred and couldn't take it with him.

CROSS-EXAMINED

Q. Is your place of business in GUILDFORD?
A. The radio set was left at Gadavari, Brood St., WORPLEDON, Surrey, which is in the GUILDFORD Postal District.

QUESTIONS BY THE COURT:

Q. Was is at Gadavari, Brood St., WORPLEDON, that the accused left the radio?
A. Yes.

Q. Not in GUILDFORD?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP s3(B).

FOURTH WITNESS

Mr Ernest Harry STARTON, 87 Foxborough Ave., GUILDFORD, Surrey, having been duly sworn, states:

The accused, whom I now recognize, worked for a Mr Jarvis, and he, the accused, told me he had a radio set for sale. This was just after Christmas. He said that he had a set for sale for somebody else. I was interest-

ed and arranged to pick it up. I went to Southway Avenue where he was living at the time, one of the suburbs of Guildford, and a young lady there, whom I understood to be the wife of the accused, had conversation with me and I arranged to have the set sent up to my place at 87 Foxborough Ave., The set was brought to my house by a boy of about 15 yrs of age, I examined it, and noticed a small badge on the top of the set had been removed, and the wording Salvation Army on the bottom of the radio. There was a small label saying on the inside that it was made in Canada, and I decided I wouldn't have anything more to do with the set, and returned it to Mr Jarvis. I told the accused I didn't want the set and he said "well, that's alright, Mr Jarvis will probably have it ".

Q. Would you look at Exhibit 1?
A. Exhibit 1 in my opinion is identical to the one I examined, but the words "Salvation Army" are not now on the bottom of it. They were, the words, stencilled on it when I saw the set. I brought this to the accused's attention but he said "I don't know anything about that, I am only selling it for one of the men at Clock House.

CROSS-EXAMINED

Q. Where do you work?
A. I work for the Aldershot District Traction Company, but in my spare time I work for Mr Jarvis.

Q. Did you at any time see the accused with the radio in GUILDFORD?
A. No.

Q. After examining the radio set here today, Exhibit 1, you find no Salvation Army stencil mark on the bottom of it,?
A. That's right, Sir.

Q. Therefore you aren't sure it is the same radio?
A. It is identical is all I can say, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 93(B).

FIFTH WITNESS

PC RE NICHOLAS, of the Surrey Joint Police Force, WOKING, having been duly sworn, states:

(THE PROSECUTOR DREW ATTENTION TO THE NOTIFICATION WHICH HE GAVE TO THE ACCUSED THAT THIS WITNESS WAS BEING CALLED TO GIVE EVIDENCE AS TO THE RECOVERY OF THE WIRELESS SET, AND SHOWED THE RECEIPT OF THE ACCUSED FOR SUCH NOTICE)

DEF OFFR: I will accept the verbal evidence given by this witness.

The Prosecutor then proceeds to examine this witness:

Q. What is your story from the time you apprehended the accused?
A. At 5.10 p.m. on 22 Feb 45 I saw the accused, whom I now recognise, in the Plaza Cinema, Guildford. I asked him to accompany me outside, which he did, and I then said to him "I'm a Police Offr, what is your name", and he replied "Greenhill". I then said to him "I have reason to believe you are an absentee from the Can Army" and he said "yes, that's right". I told him I was going to take him into custody pending further inquiries and I conveyed him to the Police Station. At the Police Stn I said to him "I'm making inquiries respecting a Canadian Salvation Army radio set that was stolen from the Clock House Guildford in Dec of last year, and I have reason to believe that you can assist me in that inquiry". He said "yes, I gave it to the lady who was with me "

I then said to him "you are now to be charged with stealing a radio set" and I cautioned him with the usual caution. At 8 p.m. the same evening I went to 148 Southway Avenue, Guildford, where I recovered a Philco Radio set.

Q. Would you examine Exhibit 1?
A. Exhibit 1 is identical to the set which I recovered from 148 Southway Avenue, Guildford.

Q. Why did you go to 148 Southway Aven?
A. I had previously recd infm that the accused had been residing at that address and I went to that address to look for the accused. I arrested him at 1710 hrs and recovered the radio set the same evening at 2000 hrs. While in coversation with the occupants respecting the accused at this address, I saw radio that answered the description that had previously been stolen from the Clock House.

CROSS-EXAMINED

Q. Did you at any time see the accused going into or leaving that address, 148 Southway Ave?
A. No.

Q. When you searched that address did you find any of the accused's kit there?
A. No.

Q. At the time you picked up the accused did he have the radio?
A. No.

Q. What proof then other than hearsay have you got that he was living at 148 Southway?
A. Hearsay is correct, Sir.

Q. No other evidence?
A. Nothing that I can mention.

Q. Could Exhibit 1 be an identical set?
A. Yes. The serial number of the radio stolen from the Clock House wasn't available at the time, so there was really no way to check it.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 88(B)

THE PROSECUTION IS CLOSED

SUBMISSION BY THE DEF OFFR

Sir, I wish to plead no prima facie case on the following grounds: A whole series of disjointed facts has been brought together to proof that the accused was in improper possession of the radio. Each part of the charge should be proven to make a case as you all well know. Running briefly through the evidence of the various witnesses I find in the Cpl's evidence he produced a Record Book and on Page 53 it is stated that a radio was issued on loan to the Offrs Mess of 6 CANC. There is no serial number stated, and it might be any type of radio, and even the make is not stated on that particular page. The Prosecution has

failed to prove the point of the charge, namely, improperly in possession of a radio on charge to the Sgts Mess and so forth. The evidence produced related only to a radio, no serial number, which was issued on loan to the Offrs Mess. In addition, there has been no record of transfer to prove that this radio was ever taken from the Offrs Mess and sent to the Sgts Mess, therefore on that point I plead no case also. Secondly, in the evidence of the CQMS, his description of the radio before us is very very vague, and very indefinite is he also, the only means by which he says he can identify it is by the brass fastener on the aerial, and an obliterated imprint on the top which might be on any radio. He also states in his evidence that Exhibit 1 is ONLY identical. Thirdly now, the evidence of this Mr Jarvis--------in dealing with the charge that he was at Guildford Surrey, on or about 1 Jan 45, improperly in possession of a radio; Mr Jarvis tells us that when he saw the radio it was at Worpledon, which is apart from Guildford, therefore the charge is not properly laid. Referring to the next witness, Mr Starton, he is very

THE DVC OFFR ADDED THE FOLLOWING TO HIS SUBMISSION.

I do not see how it can be said to be conduct to the prejudice of good order and military discipline if a soldier is found to be in possession of an article which is NOT Govt property. It is well known that soldiers do buy and sell among themselves and others, articles other than Govt property and it has never been held that that is conduct to the prejudice of good order and military discipline. The accused is not charged with being in possession of a radio, knowing same to have been stolen.

since then according to the witness there have been no other radios of this make missing from the Aux Services. There has only been one radio found like Exhibit 1, some of the markings have been removed, and the marking which can't be removed has been obliterated. The CQMS identifies

THE DEF OFFR ADDED THE FOLLOWING TO HIS SUBMISSION.

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REPLY TO DEF OFFR'S SUBMISSION BY THE PROSECUTOR

This particular radio in question was loaned to the Offrs Mess and there's a record of it. As to what exact radio, it is not recorded, granted. The serial numbers of these radios are only kept in the London Office. At the present time and at the time this radio was missing, reported stolen, and since then according to the witness there have been no other radios of this make missing from the Aux Services. There has only been one radio found like Exhibit 1, some of the markings have been removed, and the marking which can't be removed has been obliterated. The CQMS identifies

the radio and that is another bit of evidence that shows that this radio is a little more than just identical. As to the point of no record of it being issued to the Sgts Mess I think that makes no difference, as records which are kept by Aux Services are a little vague at any time anyway. As to the statement of Mr Starton - no, he didn't see the accused with the radio, but he was told where the radio was, he went there to pick it up, and then when he went back to his own house a small boy delivered it to him. He examined it, saw the marking on it, drew this to the accused's attention, and told him he wasn't having anything to do with the radio and gave it back to him. The PC tells us that the accused said after he apprehended and cautioned him, "yes, I gave it to the lad who was with me". If such a statement was made the accused undoubtedly made an admission right there that he had the radio that was stolen from the Clock House. The radio was picked up later at 148 Southway Ave., it is not positively identified only in a negative sort of way, that is to say, other than the marking and the brass plug, but that is the case for the Prosecution and my reply to this submission by the Def Offr.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION BY THE DEF OFFR IS ALLOWED ON THE SECOND CHARGE.

CHARACTER WITNESS

Mr Edgar JARVIS of Cadavari, Broad St., WORPLEDON, Surrey, being still under oath, states:

Sometime in Nov the accused came to me and asked me if I couldn't give him a job as he was down and out and on a 16 day leave. After his 16 days were up he continued to come, saying he was on night duty, and was earning a sal of his 7/6 a week doing piquet duty under arrangements with the Sgt He gave me very good work, and after the first week I raised his earnings ed an hr. His average earning was £4 a week, but one week he earned £5/3. He told me he gave his girl friend about £3 a week to keep his child which was 10 mths old, who lived at 148 Southway Avenue.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 95(B).

PLEA IN MITIGATION
(BY ACCUSED)

Sir, I enlisted in the 7 FA Coy RCE in Sep '39, and kept a good crime sheet for 4 yrs as you can see. I got married in Mar in '45 and lived here with my wife 3-4 mths but we couldn't get along very well, and later I met this girl and we got along very well, and I asked my wife for a divorce, but

she wouldn't give it to me. Later this child came along, and I thought the only way I could really hold her was to go out and get a job, which I did, and I did my best to support her and the child, until I was apprehended. I know now if I could get this all straightened out I would make a lot better soldier. I have a son 2 yrs old by my wife. That is all I wish to say, Sir.

FURTHER PLEA IN MITIGATION
(BY DEF CNSR)

(NONE ATT)

E-3

PLEA FOR MITIGATION OF SENTENCE (Sgt. K.C. GREENHILL).

Mr. President and Members of the Court, the case of Sgt. Greenhill deserves the careful consideration of the Court before passing final sentence. Let us consider the history of Sgt. Greenhill since his enlistment in the Army in September 1939.

Sgt. Greenhill enlisted on the 15 Sept. 1939 and was posted for service with 7th Fd. Coy. R.C.E until 1942. During this period he had a clean record, and the first entry in his conduct sheet appears on 13 March 1943, which is 3½ years without a crime. He was married in England on 30 May 1942, and has a son of this union, now 2 years of age. Unfortunately this union did not prove to be a happy one, and after only 2 months of married life, there were quarrels and differences which have caused a rift in their marital relations.

Later while stationed with 6 Cdn. Const. Coy R.C.E. at Guildford, during the summer of 1943, he met Miss Dorothy Glew and the two soon took each other frequently and became much attached to each other. Unfortunately, due to an indiscretion on their part, the inevitable happened and a son was born to Miss Glew, on 10 March 1944 of which the accused is the father.

Miss Glew was obliged to give up her job for a time for this reason. Previous to her period of confinement, she had been practically the sole support of seven persons who were all residing at 148 Southway Ave. Guildford, under very pitiable living conditions.

Sgt. Greenhill wanted to help her out financially, but after the assigned pay to his wife had been deducted from his pay account

(2)

PLEA FOR MITIGATION OF SENTENCE (Sgn. K.C. Greenhill contd)

he could only assign a mere £7.- per month to Miss Glew. This small amount could hardly be considered sufficient to compensate for the loss of her earning capacity. This placed a mental strain upon Sgn. Greenhill which preyed upon his mind constantly, so much so, that eventually he decided to take matters into his own hands and choose a method which would temporarily relieve the financial strain on Miss Glew. He went A.W.L. in October 1944 and obtained a job with Mr. Farris, Guildford, during which time he earned £4-0-0 per week and handed over practically all of it to Miss Glew for the support of herself and the child.

Both Sgn. Greenhill and Miss Glew are much attached to each other and want to get married just as soon as possible after a divorce is obtained from his present wife.

The domestic problem of Sgn. Greenhill cannot be ignored and brushed over slightly. The whole future of his life depends upon getting this domestic tangle straightened out as soon as possible.

I would request the Court to consider this acute domestic problem and recommend that maximum leniency be shown when awarding punishment. In addition, I would request that the Court recommend the Legal Aid Dept. of C.R.U. to give Sgn. Greenhill every possible assistance in obtaining his divorce. It would then be possible for him to marry Miss Glew and place himself once more in a position where he can be a good soldier.

Defending Officer: Lt. C.J. Jamieson
No. 1 C.E.R.U.

E-3

SWORN STATEMENT. (1)

MY I, the undersigned, Miss Dorothy Joan Glew presently residing at 148 Southway Ave. Guildford, having been duly sworn state:

"I have known Sgr. K.C. Greenhill for approx. 2½ years. When I first met him I did'nt know that he ~~was~~ was married. At that time he was stationed at No 6 C.C. Coy. "Clockhouse" Guildford. We used to see each other almost every night. We became quite attached to each other, and we planned to get married. However Kenneth informed me that he was already married and that our marriage was impossible until a divorce could be obtained.

Meanwhile a son was born to Kenneth and myself, 10 March 1944, and is registered as Ronald Charles Dennis Greenhill as per the attached birth certificate.

Prior to the birth of my son, I was helping to support my mother, brother, 2 sisters and a niece who were all living at 148 Southway Ave. I was then working at Burns Laundry, Guildford and all my salary went towards the upkeep and support of the family. When I could no longer carry on with my job, I had to stop working about January 1944. This placed a greater strain on the family income.

Kenneth tried to help out financially, and finally in July 1944 was successful in assigning me $7.00 per month out of his Army Pay.

MY D. J. Glew.

W.T./EXS. [illegible] Jennison, Sc.

E-3 (2)

SWORN STATEMENT

(By Miss Dorothy Joan Glew)

I saw him in December 1944, and he told me that he was working in Guildford and wanted to help out with my support, as he figured that £7.0.0 per month was never enough to help with my support. From 1 Jan 1945 until about 15 Feb 1945 while Kenneth was working, he paid me £ 3-0-0 per week.

Kenneth has told me repeatedly that he is trying to get a divorce from his wife and that he will marry me when that is granted. I am willing to marry him just as soon as possible".

D J Glew

WITNESS.

6 March 1945.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of A 19259 Spr. Kenneth Currie GREENHILL, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
For the prosecution

Lt. T.I.Conn, RCE, No. 1 CERU having been duly sworn, states:

I produce thr following documents pursuant to Overseas RO 5352 which have been read over and shown to the accused and which are attached hereto as Exhibits A & B.

1. A record of the Declaration of a Court of Inquiry assembled at No. 1 CERU on the 10th day of November 1944 for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries or clothing of A 19259 Spr Greenhill K.C. (marked Exhibit A)

2. A certified true copy to No. 1 CERU Pt II Orders No. 48 dated 26 Feb 45, concerning A 19259 Spr Greenhill, K.C. (Marked Exhibit B)

T.I. Conn Lt RCE
(T.I. CONN) Lt RCE

The accused declined to question the witness.

SECOND WITNESS
For the prosecution

B 26266 Spr Sleep, J.W., having been duly sworn states:

On 15 Oct 44 I was in charge of a party of S.U.S. at the N.A.A.P.I. at No. 1 CERU, the accused Spr Greenhill was one of the party I was looking after. They were working inside. Spr Jones, R. M 5190 of the R.P. informed me at 1130 hrs that the accused and another Spr were missing. I searched for the two missing Sprs but no trace could be found.

J.W. Sleep
(J.W. SLEEP) Spr B26266

The accused declines to question the witness.

THIRD WITNESS
For the prosecution

M 54316 Sgt Raymond, J.H., having been duly sworn states:

At approx 1130 hrs 15 Oct 44 it was reported to me at detention barracks at No. 1 CERU that the accused Spr Greenhill has escaped from escort while on a working party at the N.AA.F.I. I immediately took steps to apprehend the accused and informed Command Post.

Raymond Sgt
(J.H.RAYMOND) Sgt, M 54316

The accused declines to question the witness.

FOURTH WITNESS
For the prosecution

G 17175 Cpl MacCorkell, S.S., Auxiliary Service att 2 CITR, having been duly sworn states:

I am senior military helper at 2 CITR Auxilliary Services. The Philco table model set (exhibit C) before me now I can identify as being identical to a radio which was issued to 6 Cdn Construction Coy on 20 Nov 43. The records of this department verify this. All radios issued by us to Army units, bear a shield on which is engraved the letters "S.A.Canada" burned into the wood on the centre of the top of the case. Invariably on these models, underneath the case there is stencilled in white paint thewords "The Salvation Army Canadian War Services". This model (exhibit C) is identical in every respect, with the exception that the stencilling has been removed from the bottom of the case and the lettering on the shield on top has been obliterated.

S.S. MacCorkell, Cpl.
(S.S. MacCORKELL) Cpl G 17175

The accused declines to question the witness.

FIFTH WITNESS
For the prosecution

Edgar Jarvis of Cadavari, Brood St., Worpledon, Surrey, having been duly sworn states:

Early in January, 1945, the accused, A 19259 Spr Greenhill, K.C., whom I now recognize, brought to me a small radio set which I recognize as exhibit C. It was an all mains set, medium oak color, about 15" long and 10" or 12" in height. A small shield had been removed from the top of the set. This could plainly be seen as the shield had been let into the wood. He informed me that a friend of his was being transferred a distance and could not take it with him where he was going. He asked me £8 for the set. I had the set about two days but as it was not satisfactory I returned it to him. I last saw him on Sunday 11 Feb 45 at about 3.20 P.M. when he left to catch a bus. I had no idea this man was a deserter

(E.Jarvis) E Jarvis

The accused declines to question the witness.

SIXTH WITNESS
For the prosecution

Ernest Harr Starton, of 87 Foxborough Avenue Guildford, having been duly sworn states:

About the 1st or 2nd of Jan 45, the accused A 19259 Spr Greenhill, K.C., whom I now recognize told me he had a wireless set for sale, it was at the house where he was staying, 148 Southway. One day later whilst cycling past his house I called in, but could not have the set as the accused, whom I knew only as "Ken" was out. Later that day, a boy of about 15 yrs called at my house with the set which I took. I examined the set and noticed that a small shield had been removed from the top. The imprint of the shield was quite visible. Upon further examination I found the words "Canadian Salvation Army" stamped on the bottom of the set and inside I found a small label stuck on the wood this was stamped "Salvation Army".

As soon as I found this, I decided not to have anymore to do with it and took it back to Spr Greenhill. I told him I didn't like the set and also told him it had "Salvation Army" on it. He then said "Well, Sir, I'm selling it for someone at the Clock House and as far as I know he's had it given to him.

Spr Greenhill then connected the set up in the workshop where it stayed a short time.

About month ago when I came to work I found the set gone. Spr Greenhill said he had taken it back to the clock house to the fellow it belonged to.

This wirelessset I now recognize as Exhibit C.

E H Starton

(E.H. STARTON)

The accused declines to question the witness.

SEVENTH WITNESS
For the prosecution

A 48629 CQMS Henderson, A.J., having been duly sworn states:

I am the CQMs to the unit of the Royal Canadian Engineers at the Clock House, Guildford. I am also a member of the Sgts Mess Committee and for the purpose of mess entertainment we are provided with a wireless set by the Salvation Army.

This set is a Philco all mains set and was installed in the Sgts Mess at the Clock House.

At about 8 PM on the 15 Dec 44, whilst I was Orderly Sgt, I saw the set in the Sgts Mess, as at that time I had occassion to switch it off.

At 7 A.M. on the 16 Dec 44, I went into the Sgts Mess and I noticed that the wireless set was missing from the place where I had seen it the night before. I then reported the matter to the Commanding Officer.

The wireless set before me now labelled Exhibit C, I recognize as the one which had been installed in our Sgts Mess and the one which I found to be missing on the morning of the 16 Dec 44.

A J Henderson

(A.J. HENDERSON) CQMS A 48629

The accused declines to question the witness.

The accused was cautioned as follows:-

"Do you wish to make any statement of to give evidence on oath? You are not obliged to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to give evidence or to make a statement.

The accused reserved his defence.

I certify that the foregoing Summary of Evidence consisting of Four pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

In the field
3 Mar 45

(P.W.FRASER) Lt RCE
Officer detailed to take the
Summary of Evidence

EXA
My

Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at No.1.C.E.R.U. on the 10th day of November 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. A.19259 Spr. GREENHILL, K.C. - 1 C.E.R.U.

DECLARATION

The Court declare that A.19259 Spr. GREENHILL, K.C. illegally absented himself without leave from No.1.C.E.R.U. at 1130 hrs on the 15th day of October 1944, that he is still so absent, and that on the 8th day of Nov 1944 he was deficient, and that he is still deficient of the following articles to the value of $10.39 (75% of vocab rate. See list on reverse of this sheet)

Signed at No.1. C E R U this 10th day of Nov 1944

J. Waterfield Lt. PRESIDENT
No.1. C E R U

C.S. Dunn Lt. MEMBER
No.1. C E R U

W. Pryde Lt. MEMBER
No.1. C E R U

ENTERED PART II ORDERS
16-11-44 273
No. 1 Cdn. Engineers Holding Unit. C.A.

Signature of Commanding Officer (G.H. WHYTE) COLONEL

Certified true copy
Signature of officer having custody of original record. A/Adjutant No. 1 CERU

SUB for MFB 375
S/165

KIT DEFICIENCIES OF A.19 59 PTE. GREENHILL E.C. 8 Nov 44

Badges Cap	1.	$0.09	$0.06
Boot Ankle prs	1.	5.46	4.10
Braces Dress prs	1.	0.28	0.21
Brushes Shaving	1.	0.37	0.29
Caps Field Service	1.	0.56	0.42
Comb Hair	1.	0.04	0.03
Discs Identity	2.	0.02	0.02
Fork Table	1.	0.07	0.04
Jacket Sweater	1.	1.79	1.34
Socks prs	1.	0.37	0.28
Towels Hand	2.	0.64	0.48
Drawers Cellu prs	2.	0.86	0.64
Vests Gym	1.	0.36	0.27
Sheets Ground	1.	2.94	2.21
		$13.85	$10.39
		100%	75%

Exhibit "B"

SHEET TWO OF 1 CERU PART II ORDER 48 d/26 Feb 45

4 COMMAND

4-A
(a) On Command to HQ First Cdn Army wef 0830 hrs 25 Feb 45(Auth: CMHQ MS 1076 d/24 Feb 45:)

LT-COLONEL HGJ WOODS ED

5 PERMANENT ESTABLISHMENT-Postings

5-A
(a) Absorbed in Basic PE "A" Wing as Paymaster (2) wef 28 Feb 45:

CAPT DE CLARK (RCAPC)

6 STRENGTH DECREASE

6-A
(a) SOS to No 1 Cdn Repat Depot wef 25 Feb 45(Auth: CMHQ (MS3C) MS 1061 d/23 Feb 45:)

CAPT HA HOSKING

(b) SOS to X-4 List RCL wef 25 Feb 45 (Auth: CRU Demds 350, 351, 352 d/15 Feb 45:)

LIEUT	GH	BEST
LIEUT	JM	CRAYSTON
LIEUT	EH	GOODWIN
LIEUT	RBW	FYKE
LIEUT	FN	ZIMMERMAN

"B"

1 STRENGTH INCREASE

1-A
(a) TOS from Y-3 List 1 Cdn Reception Depot on Disch from 3 Cdn Convel Depot wef 24 Feb 45:

K 72643	SPR	BOUDIER	GA		
D 17011	SPR	BRYNE	J	(Pioneer "C")	
D 18075	SPR	COLEMAN	WJ	(Plumber "B")	Unfit

(b) TOS from Desertion (Apprehended) wef 1715 hrs 22 Feb 45:

A 19359 SPR GRENNHILL EC

(c) TOS from No 1 Cdn Para Trg Coy wef 25 Feb 45(Auth: Unsuitable as parachutist:)

M 12372 SPR MCNILLWS RG

2 ATTACHED

2-A
(a) Attached fsp to No 1 Cdn Repat Depot wef 24 Feb 45 (Auth: 408/1 NETD/1(PTA) d/26 Jan 45:)

E 29148 SPR GOSSELIN C Unfit

(b) Attached fsp from No 1 CSRU wef 24 Feb 45(Auth: "B" Gp G-5 459 d/20 Feb 45:)

C 73685	SPR	HOBSON	WD
E 30031	SPR	HUTCHINSON	JR
B 155605	SPR	MESSIR	JR

TO SHEET THREE

CERTIFIED TRUE COPY

REV Prangley Major RCE
Administrative Officer
No 1 CERU
Canadian Army (Overseas)

NO 1 CANADIAN ENGINEER REINFORCEMENT UNIT

LAST ORDER NO 47 d/24 Feb 45 — PART II ORDERS — THIS ORDER NO 48 d/26 Feb 45

Issued By COLONEL A.J. KERRY, R.C.E., Commanding Officer

"A"

1 STRENGTH INCREASE

1-A

(a) TOS from No 1 Cdn Reception Depot wef 25 Feb 45(Auth: 44/Despatch /3/4(AG2s) d/14 Feb 45:)

CAPT	JR	CARSON	
LIEUT	CF	MLAIR	

(b) TOS from Comand Pay Det (SUP'Y) wef 28 Feb 45(Auth: CRU(Pers) A 1561 d/23 Feb 45:)

CAPT	DE	CLARK	(RCAPC)

2 ATTACHED

2-A

(a) Ceases to be attached fsp from Comand Pay Det (SUP'Y) on TOS wef 28 Feb 45:

CAPT	DE	CLARK	(RCAPC)

(b) Cease to be attached fsp from units shown wef 25 Feb 45:

LIEUT	RJW	ARMSTRONG	2 Cdn Fd Coy RCE
LIEUT	FE	BARR	2 Bn RCE
LIEUT	WF	BRUNDRIT	30 Cdn Fd Coy RCE
LIEUT	KG	EVANS	18 Cdn Fd Coy RCE
LIEUT	AG	MacAULAY	31 Cdn Fd Coy RCE
LIEUT	WH	POWELL	32 Cdn Fd Coy RCE
LIEUT	TL	REID	2 Bn RCE

3 COURSES

3-A

(a) On Staff Offrs Tactical Deception Course for the period 25 Feb to 7 Apr 45 and attached fsp to Camouflage Developments and Trg Centre wef 25 Feb 45(Auth: 402/Inf/1/6(Courses 1) d/14 Feb 45:)

CAPT(A/MAJOR) WM. COLLISON

3-B

(a) Off CMHQ Course 1204 Ser 31 (Method of Instr) and ceases to be attached fsp to CTS wef 2[illegible] Feb 45:

CAPT GC HAMILTON

3-C

(a) Having attended CMHQ Course 949 Ser 4(14)(Intelligence Offrs) have qualified as shown wef 30 Jan 45:

LIEUT	RT	COOK	"AY"
LIEUT	FW	FRASER	"BX"
LIEUT	FJ	HASTIE	"BY"

TO SHEET TWO

NO 1 CANADIAN ENGINEER REINFORCEMENT UNIT

LAST ORDER NO 47 d/24 Feb 45 | "Y" LIST PART II ORDERS | THIS ORDER NO 48 d/26 Feb 45

Issued By

COLONEL A.J. KERRY, R.C.E., Commanding Officer

"A"

N I L

"B"

1 STRENGTH INCREASE

1-A
(a) TOS Y-3 List from No 1 CERU on admission to 17 Cdn Gen Hosp wof 1 Feb 45:

B 155800 SPR BRADLEY FL

2 STRENGTH DECREASE

2-A
(a) SOS Y-3 List 1 CERU to No 1 Cdn Repat Depot on disch from Roman Way Convel Hosp wof 19 Feb 45(Auth: Pulhems Profile:)

L 105413 SPR BUFFALO P

(b) SOS Y-3 List 1 CERU to No 1 Cdn Repat Depot on disch from 19 Cdn Gen Hosp wof 19 Feb 45(Auth: Pulhems Profile:)

K 88308 SPR LASER W (Stoker "C")

(R.E.V. PRANGLEY) Major,
Adm Officer,
for Commanding Officer,
No 1 C.E.R.U. CA(OS)

/JWL

2 ATTACHED

2-D
(a) Cases to be attached fsp from 20 Cdn Fd Coy wef 25 Feb 45:

B 28570 SGT HOWELL AM

3 COURSES

3-A
(a) On Courses shown and attached fsp to 522 Ord Svy RE for the period 24 Feb 45 until 31 Mar 45(Auth: 402/Engr Trg/1(Orgl) d/s Feb 45:)

A 20173 SPR MARTIN JA Litho Dftsmn Course
B 138026 SPR PILATZKE TC Litho Mach Binders Course

(b) On PAD Light Rescue Course ser 21 for a period 25 Feb 45 to 3 Mar 45 and attached fsp to County Rescue School wef 26 Feb 45 (Auth: 402/AD CW/1/2(Courses 1) d/16 Feb 45:)

A 4831 SPR QUINN DH (PE)

4 APPOINTMENTS

4-A
(a) To be A/L/Cpls on Rft Strength wef 11 Feb 45:

K 2892	SPR	ENGLAND	CN
A 114221	SPR	GARBUTT	JA
A 37534	SPR	McCORMICK	BK
G 2655	SPR	ROY	EJ
L 107701	SPR	WANLIN	JD
L 101963	SPR	WEISBEL	FG

5 ESTABLISHMENT ESTABLISHMENT-Postings

5-A
(a) Cases to be absorbed in PE Trg Incr "A" Wing in Salvage duties vacancy wef 26 Feb 45:

B 29539 SPR DERRY G (Y-3 List) Unfit

(b) Cases to be absorbed in PE Trg Incr "A" Wing in L/Cpl Regt'l Police vacancy wef 26 Feb 45:

L 41379 SPR DYCK D (Y-3 List) Unfit

6 TRADESMEN'S RATES OF PAY

6-A
(a) Cases to draw tradesman's rate of pay in trades and groups shown on TOS wef 23 Feb 45:

K 72643	SPR	BOUDIER	GA	Wheeler "B"
M 12372	SPR	MONILLAWS	RG	Carpenter "B"

(b) Cases to draw tradesman's rate of pay as Carpenter "C" on Rft Quota wef 21 Feb 45:

B 40416 SPR GROVE WC

TO SHEET FOUR

2 ATTACHED

2-D
(a) Cosses to be attached fsp from 30 Cdn Fd Coy wef 25 Feb 45:

B 28570	SGT	HOWELL	AM

3 COURSES

3-A
(a) On Courses shown and attached fsp to 522 Ord Svy RE for the period 24 Feb 45 until 31 Mar 45(Auth: 402/Engr Trg/1(Orgl) d/8 Feb 45:)

A 20173	SPR	MARTIN	JA Litho Dftsmn Course
B 188028	SPR	PILATZKE	TC Litho Mach Windors Course

(b) On PAD Light Rescue Course ser 21 for a period 25 Feb 45 to 3 Mar 45 and attached fsp to County Rescue School wef 25 Feb 45 (Auth: 402/AD CW/1/2(Courses 1) d/16 Feb 45:)

A 4331	SPR	QUINN	DH (PE)

4 APPOINTMENTS

4-A
(a) To be A/L/Cpls on Rft Strength wef 11 Feb 45:

K 2892	SPR	ENGLAND	CN
A 114221	SPR	GARBUTT	JA
A 37534	SPR	McCORMICK	BK
G 2555	SPR	ROY	EJ
L 107701	SPR	WANLIN	[illegible]
L 101963	SPR	WESSEL	FG

5 PERMANENT ESTABLISHMENT-Postings

5-A
(a) Cosses to be absorbed in PE Trg Incr "A" Wing in Salvage duties vacancy wef 26 Feb 45:

B 29539	SPR	DERRY	G (Y-3 List)	Unfit

(b) Cosses to be absorbed in PE Trg Incr "A" Wing in L/Cpl Regt'l Police vacancy wef 26 Feb 45:

L 41379	SPR	DYCK	D (Y-3 List)	Unfit

6 TRADESMEN'S RATES OF PAY

6-A
(a) Cease to draw tradesmen's rates of pay in trades and groups shown on TOS wef 23 Feb 45:

K 72643	SPR	BOUDIER	GA	Wheeler "B"
M 12372	SPR	MONILAWS	RG	Carpenter "B"

(b) Cosses to draw tradesmen's rate of pay as Carpenter "C" on Rft Quota wef 21 Feb 45:

B 40446	SPR	GROVE	WC

TO SHEET FOUR

7 PUNISHMENTS

7-A
(a) On 19 Feb 45 awarded 7 days CB and a forf of 2 days pay FR&I 149(2) for two offences AA Sec 15(3) and AA Sec 15(1) AWL from 1600 hrs 18 Feb 45 until 0630 hrs 19 Feb 45 (Absent 14 hrs 30 mins) Forf 1 days pay FR&I 149(1)(a)Total forf 3 days pay:

L 67780 SPR CUMMINGS CC

(b) On 22 Feb 45 awarded 10 days Forf of pay FR&I 149(2) for an offence under AA Sec 15(1) AWL from 2359 hrs 16 Feb 45 until 2240 hrs 21 Feb 45(Absent 4 days 22 hrs 41 mins)Forf 5 days pay FR&I 149(1)(a) Total forf 15 days pay:

L 10510 SPR HOLBROOK NW

(c) On 21 Feb 45 awarded 6 days CB for an offence under AA Sec 15(1) AWL from 0600 hrs 19 Feb 45 until 1600 hrs 19 Feb 45 (Absent 8 hrs) Forf 1 days pay FR&I 149(1)(a):

B 25647 SPR LINCOLN A

(d) On 21 Feb 45 Tried by FGCM

OFFENCES	AA Sec 15(1) AWL from 2359 hrs 10 Dec 44 until 2315 hrs 14 Feb 45(Absent 65 days 23 hrs 16 mins)
FINDINGS	Guilty
SENTENCE	To undergo detn for a period of 120 days
CONFIRMATION	Findings and sentence of Court Confirmed by Brig AB CONNELLY Comd "B" Group on 23 Feb 45
CLOSE ARREST	Held in close arrest from 2315 hrs 14 Feb 45 until 2400 hrs 20 Feb 45(C.A. 6 days 45 mins)
PROMULGATION	Promulgated on 24 Feb 45
FORFEITURES	Forf 66 days pay FR&I 149(1)(a) Forf 120 days pay FR&I 149(1)(b) Forf 7 days pay FR&I 149(1)(c)(i) Total Forf 193 days pay:

H 36556 SPR TAYLOR B

8 STRENGTH DECREASE

8-A
(a) SOS to X-4 List RCE wef 25 Feb 45 (Auth: CRU Demds 350, 351, 352 d/15 Feb 45:)

G 51290	SPR	AMERN	SK	
D 114758	SPR	ARCOULTIS	MG	(Concretor "B")
H 36464	SPR	BADGER	LM	(Clerk "C")
M 67134	SPR	BARR	AC	(Blacksmith "C")
B 66011	SPR	BARRETT	WR	(Eng Hand "C")
C 2783	SPR	BIENLER	W	(Pioneer "C")
K 52532	SPR	BILLANGER	RH	(Storeman T&D "C")
H 60071	SPR	BERTRAND	A	(Mason "C")
H 62220	SPR	BOOTH	FW	
A 4116	SPR	BUTTERFIELD	A	(Bricklayer "B")
B 22989	SPR	CASHBACK	J	

TO SHEET FIVE

8 STRENGTH DECREASE

8-A
(b) SOS to X-4 List RCE wef 25 Feb 45 (Auth: CRU Demds 350, 351, 352 d/15 Feb 45:)

M 16359	SPR	DAVIS	RG	(Stoker "C")
D 130002	SPR	DELANEY	JO	(Rigger "B")
A 106183	SPR	DOLSON	JM	(Weldor G&E "C")
H 18715	SPR	DOUCET	CJ	(Concretor "B")
B 40188	SPR	DOUGLAS	WA S	(Tinsmith "B")
M 54491	SPR	DREWNIAK	L	
L 101739	SPR	DUNCANO	R	(Dvr Mech MV "C")
L 154	SPR	DUPUIS	V	(Carpenter "B")
C 2553	SPR	GAUTHIER	JM	(Bricklayer "B")
M 66438	SPR	GIGER	H	(Concretor "B")
A 4103	SPR	GILLIS	LG	
K 69756	SPR	GRAHAM	WC	(Pioneer "C")
B 40446	SPR	GROVE	HF	(Operator SEE "C")AG5465
H 103782	SPR	GUNDRILL	CE	(Fitter SEE "C")
B 135135	SPR	HAACKE	EC	(Painter "B")
F 91762	SPR	HEINDEMARY	R	(Clerk "C")
B 27410	CPL	HOSSACK	WJ	(Operator SEE "A")AG5465
B 54807	SPR	JACK	GWS	(Pioneer "C")
L 56843	SPR	JEBSON	H	
F 31465	SPR	JORGENSEN	HT	(Operator SEE "B")AG5465
K 48835	SPR	KING	CH	(Operator SEE "A")AG5465
L 54686	SPR	KREUGER	NJ	(Weldor "B")
A 102328	SPR	LAFRAMBOISE	GJ	(Painter "B")
B 64540	SPR	LAVERY	JL	(Concretor "B")
G 18213	SPR	LEGASSIE	JG	(Operator SEE "B")AG5465
G 52556	SPR	LEGER	JE	(Pioneer "C")
K 4618	SPR	LITTLE	AG	(Clerk "C")
B 117896	SPR	LOUCKS	W	(Quarryman "C")
K 50344	SPR	MALOOF	JR	(Clerk "C")
B 1096	SPR	MANKO	CD	
B 134434	SPR	MARKHAM	AA	
H 103210	SPR	MARTIN	RR	(Rivetor "C")
G 5581	SPR	MERRITHEW	SCR	(Pioneer "C")
B 155562	SPR	MORTIMER	J	
B 117451	SPR	MOSKALYK	AT	(Eng Hand "C")
M 41724	CPL	MOULD	HJ	(Tinsmith "C")
L 103067	SPR	MULLIGAN	HR	(Clerk "C")
G 2204	SPR	McADAM	DG	(Sheet Met Wkr "C")
B 129658	SPR	McKENZIE	WWP	(Clerk "C")
B 130085	SPR	McKLOWN	ZE	(Clerk "C")
A 103660	SPR	MacCALLUM	DA	(Pioneer "C")
F 57684	SPR	MacKINNON	JV	(Blacksmith "C")
F 57749	SPR	MacNEIL	AJ	
C 122726	SPR	NADEAU	GN	(Pioneer "C")
H 101050	SPR	NORLEN	FI	(Blacksmith "C")
M 35731	SPR	NORTON	AV	(Dftsmn Arch "A")
G 44736	SPR	OLSEN	J	
M 56942	SPR	ONDRIK	JL	(Bricklayer "C")
A 19546	SPR	PATTON	RV	(Painter "B")
B 27285	SPR	PETERS	CC	(Tinsmith "C")
G 53041	SPR	PETLEY	RH	(Pioneer "C")
L 10433	SPR	PETTY	WH	(Mech Motel "B")
D 142840	SPR	PRITTY	RR	(Sheet Motel Wkr "B")
A 107174	SPR	PRINCE	AP	(Pioneer "C")
H 82016	CPL	RICHARDT	WE	(Pioneer "C")
A 48625	SPR	RIDDELL	FS	(Sheet Met Wkr "C")
B 29322	SPR	ROBERTS	GHB	(Dftsmn Arch "B")
B 130320	SPR	ROLFS	ME	(Fitter SEE "C")
H 8581	SPR	ROMAN		

TO SHEET SIX

8 STRENGTH DECREASE

8-A
(c) SOS to X-4 List RCE wef 25 Feb 45(Auth: CRU Demds 350,351,352 d/15 Feb 45:)

M 50608	SPR	SAIK	MG	(Pioneer "C")
B 29329	SPR	SMITH	AH	(Pioneer "C")
H 82087	SPR	SPENCE	G	
K 53977	CFL	SULLIVAN	TW	
M 5352	SPR	TANNER	A	(Carpenter "B")
A 48676	SPR	THOMAS	GP	(Carpenter "B")
A 18170	M/S/SGT	TRIBE	KH	(Machinist "A")
H 14488	SPR	TURGEON	LJ	
B 57290	SPR	WALL	LJ	(Storeman T&D "C")
A 110332	SPR	WARDEN	EW	(Painter "C")
M 59189	SPR	WARE	TW	(Bricklayer "B")
K 45701	SPR	WEICKER	RA	(Pioneer "C")
K 530	SPR	WILLIAMSON	RH	(Clerk "C")
D 83165	SPR	ZACKON	E	(Topo Svyr "A")
L 155538	SPR	ZAKRISON	N	(Pioneer "C")

(d) SOS to Chief Treasury Office wef 24 Feb 45 (Auth: AT 526(AG2C) d/22 Feb 45:)

B 124526	SPR	CROUCHER	TS	(Fitter "C")	Unfit

(H.E.V. PRANGLEY)Major,
Adm Officer,
for Commanding Officer,
No 1 C.E.R.U. CA(OS)

/JWL

SUB FOR ARMY FORM B.196 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Regiment (or as the case may be)
A 19259	Spr	GREENHILL, K.C.	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominance being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entry for drunkenness or absence, as the case may be, should be stated seperately. Any recognised special acts of gallentry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For A A 15 (1) ..1.. times.

For A A 40 ..1.. times.

For ~~.....~~ ..... times.

For ~~.....~~ ..... times.

Date of first entry in Field Conduct Sheet 13 Apr 43

Date of last entry in Field Conduct Sheet 4 Oct 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for 6 Mos Detention

beginning on the 4 day of Oct 44

4. The accused has been awaiting trial on the present charges for one

~~.....~~ days in civil custody; and for 8 days in military custody, i.e., ~~.....~~ days in open arrest, ~~.....~~ days in close arrest; of which N.I. days were spent in hospital.

5. The present age of the accused is 26 4/12 yrs.

6. The date of his attestation is 15 Sep 39

~~[illegible]~~

7. The service which the accused is allowed to reckon is 4 11/12 yrs.

8. The accused is in possession of CVSM & Clasp

9. ~~(If the accused is a warrant officer or N.C.O.).~~ The accused has served continuously, without reduction, to the present date — Date of Promotion.

~~In the substantive rank of .....~~

~~In the war substantive rank of .....~~

~~In the acting rank of .....~~

State the military decorations (if any) held by accused.

INSTRUCTION.— If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
F.G.C.M.	Field 4 Oct 44	~~A.A. 18 (4)~~ A.A. 40 A.A. 40	6 mos Detention.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of Mar 45

R.E. Frangley

(R.E.V. FRANGLEY) Major, RCE
Administrative Officer
1 C.E.R.U.
Canadian Army (Overseas)

No 4-19259 Name GREENHILL, KC Sqn, Battery, or Company | Corps RCE | Date of enlistment 15-9-39 GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/126 (3430)

Date of last entry in Company Conduct Sheet 25-7-40 No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
OLD SHEET	DESTROYED		15-12-42	ON COMPLETION OF 2 YEARS SERVICE WITHOUT AN ENTRY Sgd H.D. Bell Lieut.					
Field	13-4 43	Spr		A.A.Sec 40 C ot P Damage ro WD £13-0-0	Documentary	Damages £13-0-0	10-4-43	Maj.H. Duff	
Field	9 Oct 43	Spr		A.A.15(1)AWL from 0745 hrs 9 Oct 43 to 1830 hrs 17 Oct 43	Doc	27 Dys FP F'Fts 27 Dys Pay FR&I 149(2)	30 Nov43	Lt.Col.AS Rutherford	F'Fts 49 Dys pay FR&I 149 (1)(a)F'fts 12 Dys Pay FR&I 149(1)c

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Spr		~~A.A.18(4)~~ &c A.A.40 A.A.40		6 Mos Detn	4 Oct 44	F.G.C.M.	Forf 182 Dys Pay FR&I 149(b) 20 Dys Pay FR&I 149(1)(c)(i) Tot Forf 202 Dys Pay

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT

Officer Having custody of Regt'l Books

12 MAR 45

I acknowledge receipt from the Court, Exhibit 2, the Receipt Book. also the Radio Ex 1 which is the property of the Canadian Auxiliary War Services.

J.W. Fraser Lt.

Prosecutor.

Notification has been issued to the accused A 19259 Spr GREENHILL K C that R.E. Nicholas, BC 210 of the Surrey Joint Police Force, WOKING is being called to give evidence as to the recovery of the wireless set

Officer detailed to take Summary of Evidence

Acknowledged

LIST OF WITNESSES

List of Witnesses in the case of A 19259 Spr GREENHILL, K.C. R.C.E., No. 1 C.E.R.U., a soldier of the Canadian Army (Overseas)

For the prosecution

Lt. T.I. Conn,	RCE		No. 1 CERU
B 26266	Spr	Sleep, J.W.	No. 6 CAWC
M 54316	Sgt	Raymond, J.P.	No. 1 CERU
G 17175	Cpl	MacCorkell, S.S.	No. 2 CITR
Mr. E. Jarvis			Brood St, Worpledon, Surrey.
Mr. E.H. Starton			87 Foxborough Ave, Guildford Surrey
A 48629	CQMS	Henderson, K.J.	No. 6 CAWC
Mr. R. E. Nicholas	PC 210		Surrey Joint Police Force Woking.

For the defence

NIL

LIST OF EXHIBITS

For the prosecution

(1)	Declaration of Court of Inquiry	Exhibit "A"
(2)	Certified true copy of No. 1 CERU Pt II Order 484/26 Feb 45	Exhibit "B"
(3)	Philco mantlepiece radio	Exhibit "C"
(4)	Statement by R.E. Nicholas PC 210	Exhibit "D"

For the defence

NIL

RECEIPT FOR DOCUMENTS

I, A 19259 Spr GREENHILL, K.C. hereby acknowledge receipt of one copy of each of the charge sheet, and Summary of Evidence in my care

H B Greenhill
(K.C. GREENHILL) Spr A 19259

APPLICATION FOR DEFENDING OFFICER

I desire to have Lt C Jamieson to represent me in the event of a Court Martial

H B Greenhill
(K.C. GREENHILL) Spr A 19259

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO - 2nd (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(no)~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the~~ charge(s), ~~and~~ allowed on the 2nd charge(s), and that, accordingly, the ~~trial will proceed on the former, but the~~ accused is (~~are~~) found Not Guilty on the ~~latter~~ charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: ~~You will now proceed with your defence.(1) You may, if you wish, give evidence~~ yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

~~D9.~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)
CANCELLED

D9. The ~~accused having been found Guilty on one or more of the charges, the~~ proceedings are concluded by using Record Form E below. B above.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. I am unrepresented and I call Chas wit. NOTE-ATT
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 8. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 398. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 7 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes I will (NOTE-ATT)(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2303, RP 48. As to sentences for offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.19259 Spr Kenneth Currie GREENHILL - 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15(1)	GUILTY	GUILTY	
2nd A.A. 40	NOT GUILTY	NOT GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 6 MOS ACT'N beginning on (date) 4 Oct/44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of twenty (20) months

(Sgd) ..... Judge-Advocate, if any. 12 Mar/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that~~ the accused be not committed to prison or detention barracks until further orders.(1) [initials]
(1. AA 57A. Delete if not used.)

(Sgd) [signature] Brig

Date 16 Mar 45 Commanding B Gp CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

A. 19259 Spr Greenhill R.C. 19 March 45 [signature] Capt.

ENTERED PART II ORDERS
DATE 20 March 45 ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.
No. 1 Cdn. Engineers' Holding Unit. C.A.

22-64

GNR GREENSHIELDS E.F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Gunner Edward Frederick Greenshields

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	not guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N a beginning on (date) N a. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Not guilty

(Sgd) ..... Judge-Advocate, if any. 26th Nov 43 Date awarded. (Sgd) Edwards President. (RP 43, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

22-64

CFA96 (In lieu of AF22) 40-P & S. 1608 (3864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig R. J. Leach Comd 1 Army Gp RCA dated 23 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D9110	Gunner	Edward Frederick	Greenshields	5 Canadian Medium Regiment.

PROCEEDINGS REVIEWED

Stewart Capt.

22 Jan 44

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) [redacted] C.M.F on (date(s)) 26 to 30 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see fmn for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 90 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.I. as interpreter? Ans N.A.

~~The Interpreter is sworn.(1)~~ Do you object to D9072 Sgt Forrest as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major E. B. Cawsey	2 Cdn Medium Regt., R.C.A.
Member	Capt C. D. L Dyke	5 Cdn Medium Regt., R.C.A.
Member	Lieut. F. U. Brown	11 Cdn Army Fd Regt., R.C.A.
Judge-Advocate		
Prosecutor	Lieut. P. L. Ainley	5 Cdn Medium Regt., R.C.A.
Defending Offr	Lieut. H. A. Hope	5 Cdn Medium Regt., R.C.A.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 26 (B) and fn 2 were not followed. See D(p 3.)

A8. The accused D9110 Gnr. Greenshields, E.F. before arraignment makes(s) (no) ~~not guilty~~ plea (1)

~~Not Guilty~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (E) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 88, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p. 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(2) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(3) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 530, 560-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2)(b), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 60(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 562. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No D9110 GUNNER EDWARD FREDERICK GREENSHIELDS, 7th Medium Battery, 5th Canadian Medium Regiment, Royal Canadian Artillery, a soldier of the Canadian Army Overseas, placed on active service is charged with:

FIRST CHARGE: NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

Sec 40 Army Act

on board ship, on the 6th November 1943 did so negligently handle rifle No 43C3907 as to cause it to be discharged and thereby injure No C30222 Lance Corporal N J Lavigne, Royal Canadian Army Service Corps.

In the Field

20 Oct 43

(E.P. Suttie) Lt Col R.C.A.
Commanding 5 Canadian Medium Regiment R.C.A.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(R. J. Leach) Brigadier
Cond. 1 Army Group, RCA

IN THE FIELD
23 November 43

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/F&S/1697 (3668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, on immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with one application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-9110	Gunner		Edward, Frederick,	Greenshields	5 Canadian Medium Regiment

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~s~~ set forth in the Charge Sheet(s) attached and on (date) 23 Nov 43 endorsed by me, (~~or by an offr of my staff/or me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial ; ~~I am also of opinion that it is not practicable for the Court to be convened by superior competent authy.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have marked here:~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate (here state the Offr mentioned hereunder).~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	E.B. Cawsey		2 Cdn Med Regt

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	C.T.D.L. Dyke		5 Cdn Med Regt
Lieut	~~R.C.O.C.~~ To be detailed by		11 Cdn A Fd Regt

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	~~[redacted]~~ To be detailed by		5 Cdn Med Regt

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
	K.A.		

On Active Service in the Fd

in SICILY (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 23 November 43 Commanding 1 Army Group, RCA Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CERTIFICATE OF MEDICAL FITNESS

1. This is to certify that I have this date 26 Nov 43 examined D9110 Gnr. Greenshields E.R. and have found him to be fit to undergo trial by Court Martial.

(J. Kussner) Capt. R.C.A.M.C.
Att. 5 Cdn. Med. Regt. R.C.A.

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E6

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD IN THE FIELD ON THE TWENTY/SIXTH OF NOVEMBER, 1943, IN THE CASE OF D9110 GNR GREENSHIELDS EDWARD FREDERICK.

FIRST WITNESS FOR THE PROSECUTION — K70030 Gnr. McKinnon, H.J., 5 Cdn Medium Regt., R.C.A., having been duly sworn states.

"I am K70030 Gnr McKinnon, H.J., 5 Cdn Medium Regt., R.C.A., Gnr Cooney and I were leaning up against the winch cover of the port winch aft where we were watching a Gunner about 15 feet from us who appeared to me as unloading his rifle"

Prosecutor — At what time did this occur.

Witness — Around nine o'clock at night.

Prosecutor — What were the light conditions.

Witness — Not very good the moon was clouded - it was a little better than dusk - I did not know who the Gunner was.

Prosecutor — Did you or did you not hear the accused unload his rifle?

Witness — We definitely heard him release his spring.

prosecutor — How many times?

Witness — Iddid not count the times.

Prosecutor — Could you make an estimate.

Witness — 5 or 6 times.

Prosecutor — How many rounds does a magazine hold.

Witness — 10 rounds.

Prosecutor — Did you notice at what angle he was holding the rifle when the shot was fired?

Witness — About 25 degrees depression.

Prosecutor — Where there many people about?

Witness — Yes there was a fair amount of people around.

Defence — Did you see the wounded man leaning up against the rail.

Witness — Yes, before and after he was shot.

Defence — You could see him quite plainly from where you stood.

Witness — Yes.

Defence — You state the rifle was held at about an angle of 25 degress depression?

Witness — Yes.

Defence — You could say the barrel was pointed down.

Witness — Yes

(Continued on Page 2)

Lieut. Brown Member of Court — You say the rifle was lowered at an angle of 25 degress depression?

Witness — Yes, it was lowered in this manner (witness demonstrated).

President — Was the rifle fired?

Witness — The rifle the man was holding was fired.

SECOND WITNESS FOR THE PROSECUTION — B114654 Gnr Cooney, E. J., 5 Cdn Medium Regt., R.C.A., having been duly sworn states.

"I am B114654 Gnr, Cooney, E.J., 5 Cdn Mediumr Regt., R.C.A., At approximately 2100 hrs. I was standing with Gnr McKinnon at the winch drum on the aft side where we were employed as A.A. defence on board the ship and I was a No. 2 on a Bren Gun. We were watching a Gunner who appeared to me to be unloading his rifle - he took the magazine off and emptied it. After emptying what he could he put it on and worked the bolt three or four t imes and closed it and pulled the trigger and it went off and I saw the chap at the rail grasp his lower leg and stagger away. I ran up to the bridge where I was taken to the S.O. and also got a M.O. I went back with the M.O. and by that time they were carrying the injured man down to the sick bay".

Prosecutor — Can you recognize the man who fired the rifle?

Witness — I recognized the man when he picked up his rifle - it was Gnr. Greenshields.

Prosecutor — You say it was approximately 2100 hrs - what were the light conditions?

Witness — Rather poor - moonlight but not bright - cloudy.

Prosecutor — Were there many people around?

Witness — Yes, about 6 or 8 people on the port aft side.

Prosecutor — Did you see how the accused was holding the rifle?

Witness — Yes it was at approximately 25 degrees angle of depression.

Prosecutor — Did you notice whether or not he aimed the rifle?

Witness — It was just pointed in a general direction - downwards.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

President — Could you say whether the r ound hit the deck?

witness — It was looked for after but there were no marks on the deck.

(Continued on Page 3)

FIRST WITNESS FOR THE DEFENCE — Lieut. L. Withers, 5 Cdn Medium Regt., R.C.A., having been duly sworn states:

Defence — Are you the tp comd of the tp in which Gnr. Greenshields is a Gunner.

Witness — Yes.

Defence — Will you give the court your reasons for choosing Gnr Greenshields as a member of the A.A. station on board ship.

Witness — I have known Gnr Greenshields for approximately four years both in the 1st and 5th Medium Regts as a capable, good soldier and a reasonably good rifle shot to the best of my knowledge.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS.

President — Can you tell me if Gnr Greenshields is a good man with small arms?

Witness — He had a Sgts Course in the infantry - he was competent with small arms.

SECOND WITNESS FOR THE DEFENCE — I am Capt S. B. Shepe, 5 Cdn Medium Regt., R.C.A. and I hereby make a solemn declaration.

Defence — Where you the comd of the A.A. station on which Gnr Greenshields was a member?

Witness — Yes.

Defence — What orders were given to the men with regard to clearing of rifles?

Witness — There were no specific orders given to the station on the night the accident occurred regarding the clearing of rifles.

Defence — The men after firing their rifles were given ~~xxx~~ no orders to empty their guns - it was left to their own initiative?

Witness — When the all clear came down I gave the gunners orders to stand easy to the A.A. detachment - my recollection is that I instructed the Bren gunners to remove the magazines from the gun but not the riflemen.

Defence — What orders were given to the riflemen regarding removing the magazine.

Witness — None by me.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS.

President — Do you know if there were any definite instructions given before the accident as to how the rifles would be unloaded?

Witness — No definite instructions were given, but that the normal procedure would be followed followed by rifle men.

President — Were you on duty at this time or just prior to 2100 hrs?

(Continued on Page 4)

Witness — No sir, I had been on duty from until the time of the alarm until after the all clear come down which was sometime before 2000 hrs.

President — During that time had Gnr Greenshields any cause to fire his rifle?

Witness — During the attack Gnr Greenshields has occasion to fire his rifle in the A.A. concentration in order to thicken it.

President — He did that under orders?

Witness — Yes.

THIRD WITNESS FOR THE DEFENCE — B56650 Pte Cole, R.A., 5 Cdn Medium Regt., R.C.A. having been duly sworn states.

"I am B56650 Pte Cole, R.A., 5 Cdn Medium Regt., R.C.A., employed as Armourer RCOC".

Defence — Will you tell the court in your own words the results of your examination of No. 4, Mk I, rifle No. 43C3907 belonging to Gnr Greenshields?

Witness — I examined this rifle and found ~~XXXX~~ that it was in fairly good condition, but the magazine feed was faulty and inclined to jam.

Defence — You would say that it was quite possible for a round to remain in the magazine and at the last closing of the bolt to go up into the breech.

Witness — Yes sir.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS

President — Is this a general complaint against the No. 4, Mk I rifles?

Witness — Yes - they are new rifles and they require to be broken in.

President — Have you found other rifles with a similar defect?

Witness — Yes sir.

President — Did you know that rifle No. 43C3907 belonged to Gnr Greenshields?

Witness — No Sir.

FOURTH WITNESS FOR THE DEFENCE — Capt. A. S. Dewar, Bty Capt., 7th Medium Bty, 5 Cdn Medium Regt., R.C.A. having been sworn states:

Defence — You are Capt A. S. Dewar, 7th Medium Bty., 5 Cdn Medium Regt., R.C.A.

Witness — I am.

Defence — Can you identify rifle No. 43C3907?

(Continued on Page No. 5)

Witness — Rifle No. 43C3907 was issued to Gnr Greenshields by me.

Defence — Prior to the accident was there ever any firing or examination of these new rifles ?

Witness — Not to my knowledge.

Defence — Do you know of any trouble regarding the magazines.

Witness — No trouble to my knowledge.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS

President — When was the rifle issued to Gnr Greenshields?

Witness — On or about the 22 of October 1943 sir.

President — Was he in possession of that particular rifle on the 6 Nov 43.

Witness — To my knowledge he was - that was the rifle that was issued to him - he signed for it and as far as I know it was the rifle in his possession.

The Accused takes his stand at the place at which other witnesses give their evidence.

EVIDENCE OF THE ACCUSED — D9110 Gnr Greenshields, Edward Frederick, 5 Cdn Medium Regt., R.C.A., having been duly sworn states:

Defence — Did you know that the magazine of your rifle was faulty and could leave rounds in the magazine.

Witness — No sir.

Defence — How far from the rail where you standing when you were clearing your rifle.

Witness — 5 or 6 feet.

Defence — Did you see anyone in front of you?

Witness — Yes sir - there were some people in front of me - but there was a large gap between the two groups standing at the rail and I aimed the rifle between them

Defence — Did you feel an emotional strain after the air attack on our convoy?

Witness — I suppose I was excited, but I am not normally excitable.

Defence — Was there ever any orders given you as regards the clearing of your rifle?

Witness — No sir.

Defence — What would you say the visibility was like at the time of the accident?

Witness — The visibility was klear that night - it was quite light to me.

Defence — Will you tell the court in your own words what

occurred.

Witness — I bent down to clear my rifle because I knew there were other people around the deck and I worked the breech and I heard bullets dropping out - I counted six - after that I worked the breech five or six times more then I closed it and pulled the trigger and it went off.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THIS WITNESS

President — How many times do I understand you to say that you cleared the rifle?

Witness — 11 times at least.

THE COURT IS CLOSED TO CONSIDER THE FINDING

THE COURT FINDS THE ACCUSED D9110 GNR GREENSHIELDS, EDWARD FREDERICK, 5 CDN MEDIUM REGT., R.C.A., IS NOT GUILTY OF THE CHARGE.

The court being reopened the Accused is again brought before it and the Findings is read in Open Court and accused is released. R.P. 45 (A) and R.P. 117 (B) are complied with.

Singed at FIELD this 25th day of November 1943.

(E. B. Cawsey) Major

President, F.G.C.M.

Third Witness - D96136, Pte.LAROUCHE,A., 32 Cdn.C.T. Coy.R.C.A.S.C.

In accordance with Rule of Procedure 76, this witness not being presently available, notice was given to the accused, that D96136, Pte.LAROUCHE,A., R.C.A.S.C. is intended to be called as a Witness for the Prosecution and will give evidence to the effect that on 6 Nov.43, at approx. 2110 hrs. he was standing on the port side aft deck about 5 ft. from the man clearing his rifle and about 5 ft. from the man hit; that he saw the man clearing his rifle move the bolt back and forth 2 or 3 times; that the bullet hit the lower metal plate of the rail, ricochetted and a small piece burnt the side of his left leg, that he saw L/Cpl.LAVIGNE walk about 3 feet and fall down.

Fourth Witness - Capt.A.S.DEWAR, 5 Cdn.Med.Regt.R.C.A. having been duly sworn states as follows :-

I am the Battery Captain of the 7th Bty, 5 Cdn.Med.Regt.R.C.A. On the 22nd Oct.43, Gnr.GREENSHIELDS,E.F. was issued with No.4 Mk.1* rifle No. 4SC3907.

Prior to issue, to my knowledge, this rifle was not examined by an Armourer. Subsequent to issue there was no opportunity for such an examination to be made before the unit embarked. This rifle when issued to Gnr.GREENSHIELDS was new, and had not been issued to any person previously. It was received from the Ordnance immediately prior to issue.

To my knowledge there has been no Circular letters or Directives indicating a tendency to weak magazine springs in No.4 Mk.1* of U.S. manufacture.

A.S.Dewar Capt RCA

The accused declines to cross examine this witness.

Fifth Witness - 886880, Pte.COLE,R.A. R.C.O.C. 5th Cdn.Med.Regt.R.C.A. having been duly sworn states as follows :-

I am the armourer attached to the 5 Cdn.Med.Regt.R.C.A. I am a qualified armourer, Group "B", Gr.II and as such I am acquainted with the mechanicsm and proper operation of the No.4 MK.1* rifle.

Now shown to me is a No.4 Mk.1* rifle, No. 4SC3907, which I examined on the 16th Nov.43. The rifle appears to be in good condition. In my examination of the action of this rifle in clearing the magazine, I found the cartridges were inclined to jam in the breech. This is caused by a weak spring in the magazine, which fails to raise the cartridges far enough to come in contact with the face of the bolt as the bolt is being pushed forward. In a case like this, it is possible to work the bolt and have it cease to eject further rounds of cartridges, and still leave some in the magazine.

I have noticed the fault in a number of the new No.4 Mk.1* rifles of U.S. manufacture. These rifles should all be checked by an armourer before use by troops. In my experience there is no circular or directive or letter of instruction which indicates this fault. It is something that I have learnt of my own experience since my arrival in England about the first week in September, 1943.

The accused declines to cross examine this witness.

Question to the Accused :- "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

The accused reserves his statement.

R A Cole

Certified that Rules of Procedure 4 C.D.E. & F. have been complied with.

Taken before me in the presence and hearing of the accused, on the Field, these 18th and 18th days of November, 1943.

Summary of Evidence in the case of D9110, Gnr.GREENSHIELDS,E.F. 5 Cdn.Med.Regt. R.C.A. On direction of the Commanding Officer this Summary is taken under oath.

1st Witness - K70030 Gnr.McAINNON,H.J. 7 Bty, 5 Cdn.Med.Regt.R.C.A. having been duly sworn states as follows :-

On the 6th Nov.43 I was a member of the port side aft A.A. defence team. I was one of the Bren gunners and Gnr.COONEY, was my No.2.

Shortly after 2100 hrs. Gnr.COONEY and I were leaning up against the Port winch drum at the back of the after deck. We were standing talking, and I noticed a gunner about 15 ft. in front of us and about 8 ft. from the port rail. He appeared to me to be cleaning his rifle. His back was to me, but I could see his arms moving. He was holding a rifle and I could hear the clicking of a rifle bolt, "easing springs". I heard the bolt clicking several times, certainly more than once or twice, and more likely four or five times.

I then saw the gunner point out to the port side, straight out, with his rifle point down at an angle of from 20° to 25° from the horizontal. I cant say whether he was kneeling. He was crouched down and was certainly not standing. At this point the rifle went off. I saw a soldier stagger away from the rail, grabbing hold of his knees and then fall down.

I had noticed the soldier leaning up against the rail. From where I was standing it is hard to say whether he was directly in front of the gunner with the rifle.

At that time I did not know who it was with the rifle. It was too dark to recognize him.

Gnr. H.J. McKinnon

Question by the Accused. - Is it not possible that you heard the rifle bolt click about 5 or 6 times?

Answer - It is quite possible. Under the circumstances I was'nt counting them, but there were definitely a number more than just one or two clicks.

H.J. McKinnon

2nd Witness - B114654, Gnr.COONEY,J.F. 7 Bty, 5 Cdn.Med.Regt.R.C.A. having been duly sworn states as follows :-

On the 6 Nov.43 I was the No.2 on a Bren gun team with Gnr.McAINNON, as part of the ship's A.A. defences on the Port Side aft.

At approx. 2100 hrs. I was standing with my back to the aft deck port winch, about 15 ft. from a soldier whom I later recognized to be the accused, Gnr.GREENSHIELDS. To my knowledge he stopped down, and eased the bolt back on his rifle. Then, since his back was partially towards me I could not quite determine whether he took the magazine off or not. But from the sounds, it sounded as though he had taken the magazine off, and then I heard sounds of clearing a magazine. To me it sounded as though he was clearing it with a spare round. After which he replaced the magazine and eased springs, to my knowledge about three times., and then I heard the bolt click home and then the rifle fired.

The rifle, I would say, was pointing down at about 25° from the horizontal, so that at about 8 ft. it would come to the bottom plate of the rails, the scuppers. The rifle was pointed straight out to the port side.

After the rifle went off I saw a man stagger from the rail, grasping his lower leg, and I immediately ran up to the boat deck to get the M.O. I then went back with the M.O. to the deck. At that time they were carrying the injured man away.

From where I was standing it looked as though the man who had been injured was in front of the rifle. Whether he was directly in front I cannot say.

The after deck of the ship was covered, where this took place, with a wood planking. I would say of Douglas fir about 3" thick.

The accused declines to cross examine this witness.

J.F. Cooney

GG 141

PTE GREENSLADE RP

GG-141

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 17th day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Division Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~[I am unable to appoint :—~~

~~(1) Three Officers to form the Court.)~~

~~(2) A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Maj	J W Russell	Div Tps Coy RCASC

Members.

Rank.	Name.	Regiment.
Capt to be detailed by C E 2 Cdn Div		RCE
~~Capt to be detailed by OC 2 Cdn Div Sp Bn~~ Waiting Member		~~Tor Scot R~~
Capt to be detailed by OC 8 Cdn Recce Regt (14H)		~~8 Cdn Recce Regt~~ (14H)

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

*Signed E L M Burns Maj-Gen
Commanding 2 Cdn Div
Convening Officer

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-98636 Tpr Robert Patrick GREENSLADE 8 Cdn Recce Regt (14H)	FIRST CHARGE Sec 15(1) Army Act (see charge sheet attached)	Guilty	Guilty 60 (Sixty) days detention and stoppage of pay in the sum of 7/8 (Seven shilling and eight pence) 19 June 43 [signature] Major President.	Confirmed E. L. Burns Maj-Gen. Comd. - 2 Cdn. Div.

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) E L M Burns (Signed) [signature]
(E L M Burns) Maj-Gen
Commanding 2 Cdn Div
Convening Officer (e)
[signature] Maj. R.C.A.S.C.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Nineteenth day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this Nineteenth day of June 1943.

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

* See footnote (b) on page 762 H.M.L. 1929.

~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ E L B

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 21st day of June 1943.

E L M Burns
Confirming Officer.
Maj-Gen.
Comd. - 2 Cdn. Div.

Promulgated and extracts taken in the case of D98636 Tpr GREENSLADE R.P.

(a) (Dated) 22 Jun 43 (Signed) B M Alway Maj. Jr. (F.A. Vokes) Lt-col., Com 8 Cdn Recce

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

D-98636 Tpr. Robert Patrick, Greenslade, 8 Canadian Reconnaissance Regiment (14CH) a soldier of the Canadian Army (A.F.) is charged with:

1ST CHARGE:
A.A. Sec. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE:

In that he was absent without leave from 2359 hrs 2 May 43 till apprehended by the C.M.P. at 1025 hrs 5 Jun 43.

Cost of return to Unit
£0-7-8

(F.A. Vokes) Lt.-Col.
Comd 8 Cdn Recce Regt (14CH)

Signed the 8th day
of Jun 43.
In the Field

TO BE TRIED BY FGCM

In the field
17 Jun 43

(E L M Burns) Maj-Gen
Comd 2 Cdn Div

B2
Judge Advocate
President

COURT MARTIAL MEDICAL DEPT. FINANCE

I certify that I have on this date examined. D98636

TPR GREENSLADE R.P.

and he is fit/~~unfit~~ to undergo trial by Court Martial.

Date JUN 1 9 1947

W. L. Meeker Capt.
R.C.A.M.C.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 19th day of June 1943 by order of

Major General E. L. M. Burns

Commanding 2 Cdn Division

dated the 17th day of June 1943

President.

Major. J. W. A. Russell 2 Cdn Div Tps Coy R.C.A.S.C.

Members

Capt. H. L. Watts 1st Cdn Od Pk Coy R.C.E.

Actg/Capt. W. Wallace 2 Cdn Div Sp Bn (Cdn Sect R)

Judge Advocate.

Trial of* D-98636 Tpr Robert Patrick Greenslade
8 Cdn Recce Regt. (14 CH)

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. D. G. Bell. 8. Cdn. Recce Regt (14 CH)

~~Counsel~~‡, or defending officer† Lieut. F. G. Baxter 8 Cdn Recce Regt (14 CH)

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] Major.

B

The President, members ~~and judge-advocate~~ are duly sworn. ✓

The following officers under instruction are duly sworn. ✓

Capt. J. C. Blyth. 8 Cdn Recce Regt (14 CH)
Lieut. T. Lowe. 8 Cdn Recce Regt (14 CH)

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 ✓ and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned ✓ charge-sheet.

Are you guilty or not guilty of the ~~first~~ charge against you which ✓ you have heard read? *Question to the accused.*

Guilty. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to The charge, the provisions of Rule of Procedure 35 (B) are here complied with. ✓

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

[signature] Major

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused is found guilty of Absence without leave. (A.A. Sec 15.(1))

†The summary ~~(or abstract)~~ of evidence is read, marked Appendix "A" signed by the President, and attached to the proceedings. ✓

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—He does not intend to commit any more crimes in the Army.

~~[or hands in a written statement, which is read, marked _____, signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Maj.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused

Answer

Evidence as to character

E

~~Finding.~~

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it~~

is duly sworn.

Lieut D.G. Bell, Prosecutor, is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes sir.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with), is read, marked "B3" signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes sir.

Cross-examined by the accused.

[Instructions.—If by reason of the nature of the service of the accused as a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No sir.

The Court is closed for the consideration of the sentence.

(S) D Russell Major.

F

Sentence.

The Court sentence the accused

Sentence.

Sixty days Detention, and stoppage of pay in the sum of 7/8d (Seven Shillings and eight pence

Major

CERTIFIED TRUE COPY Exhibit "A" Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled ~~at~~ In The Field on the 24th day of May 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D98636 Tpr GREENSLADE R.P., 8 Cdn Recce Regt (14CH)

DECLARATION.

The Court declare, that D98636 Tpr GREENSLADE R.P. illegally absented himself without leave at 2359 hrs 2 May 43 and was still absent at 2359 hrs 23 May 43and dificient the following kit:

		£	S	d	£	S	d
Badges Cap	1						
B/D Blouse	1	1	7	8	1	-	9
B/D Trousers	1	1	7	11	1	0	11½
Boots Ankle	2	2	3	0	1	12	3
Braces	1		1	3½		1	0
Brasses Button	1			2			2
Discs Identity	2			1			1
Dressing F.F.	1		1	1		1	1
Socks	1		3	8½		2	10
Towels hand	1			11½			10
Ointment A/G	2		2	4		2	4
Vests P.T.	1		1	6		1	1½
Drawers cotton	1		2	½		1	7
Brush boot polishing	1			9			6½
" " blacking	1			8			6
Blouse denim	1		12	9		9	6½
Total		6	5	11	4	15	7

Names of President and Members
President:-Capt. H.A. Cowans
Members:- Lieut. R.G.B. Waylett
Lieut. G.E. Good

Sgd. F.A. Vokes Lt-col.,
Signature of Commanding Officer Comd 8 Cdn Recce Regt (14CH)

CERTIFIED TRUE COPY.

D C Bell Lieut
Signature of Officer having custody of the Original Record.

(12391) W.L.34/M/8/4622 75,000 10/39 A.& E.W.Ltd. Gp.A/98
(15442) W.L.42/T/35/760 200,000 1/40 " " Forms/B115/56

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. D98636. Rank . Tpr. . Name . . GREENSLADE, R. P.

Unit . 8th Can. Reece Regt. . was arrested at . . London . . (Place)

at . 1025. . (hour) on 5 June. 43. (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

[signature] major

W. A. Jefferies Cpl. for . . . . . Capt.
(W. Fern) D. A. P. M.,
London Area

Exhibit "B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 098636 Rank Tpr. Name Greenslade, R.P. Unit 8 Recce Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars ½ Portion	Amount		
6 June 43	Escorts return fare from LONDON To Pulborough		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Pulborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8.

Exhibit "C"

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Major

[signature] CAPT.
(W. FERN) D.A.P.M.
LONDON AREA.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:05
40/P & S/483

SUMMARY OF EVIDENCE:

Summary of Evidence in the case of D-98636 Tpr. Robert Patrick Greenslade, 8 Canadian Reconnaissance Regiment (14CH) prepared at the direction of Lt.-col. F.A. Vokes Commanding 8 Cdn Recce Regt (14CH) by Lieut. C.D. Williams 8 Cdn Recce Regt (14CH)

The accused is informed of his rights.

The C.O. does not direct and the accused does not demand that the evidence be taken on oath.

1ST WITNESS: H-19719 Sjt. G.E. Green

I am H-19719 Sjt. G.E. Green, Orderly Room Sjt, and present the documentary evidence as follows:-

Exhibit "A" → 1. Certified copy of a page in AB68 being the declaration of Court of Inquiry stating that the accused absented himself from his Unit without leave at 2359 hrs 2 May 43.

Exhibit "B" → 2. Certificate of apprehension purporting to be signed by the A.P.M. London Area stating that the accused was taken into custody at 1025 hrs 5 Jun 43 at Blackfriars.

Exhibit "C" → 3. Statement of expense showing that the costs incurred in returning the accused to his unit on 6 Jun 43 amounted to £0-7-8
Viz: Escorts return fare London to Pulborough £0-3-10
Prisoners single fare London to Pulborough 3-10 £0-7-8

(H/19719 Sjt. G.E. Green)
8 Cdn Recce Regt (14CH)

The accused declined to cross-examine this witness;

The accused having been warned in accordance with R.P. 4(e) declined to make a statement.

Taken down by me, In the Field, This 13th day of Jun 43, certified that R.P. 4 has been complied with.

(C.D. Williams) Lieut.
8 Cdn Recce Regt (14CH)

The accused, when asked if he wished to have an officer represent him at his trial, requested Lieut. F.G. Baxter 8 Cdn Recce Regt (14CH).

Appendix "A"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Horsham	19Feb 42	Pte		AWL from 2300 hrs 19Feb42 to 2300 hrs 19Feb43 (Absent 45min) AA15(1)	RSM ROWE HM	2 days C.B.	20Feb42	Major P.J. LAFLASTE	
Horsham	25Mar 42	Pte		AWL from 2300hrs 25Mar42 to 1430 hrs 3Apr42 (Absent 6 days 15 hrs 30 mins) AA15(1)	RSM ROWE HM	10 days pay	4Apr42	Col. C.E. Cross	Forf. 10 days pay
Marston Green	3Apr 42	Pte		Absent from place of work appointed by his C.O. AA15(2)	Dec'y Sgt McMath	2 days C.B.	4Apr41	Capt H.R. Robertson	
Marston	7Apr 42	Pte		Conduct etc. changed duty without permission AA40 (2)Failed to report for duty as ward orderly AA15(2) (3)Neglect to the prej. oct. - Drank excess alcohol and was unfit for duty AA40 (4)AWL from 1900hrs 7Apr41 to 2350hrs 7Apr41 (Absent 4hrs 50min) AA15(1)	Sgt McMath L/Sgt Le Gevre L/Sgt O'Connor L/Sgt LeFebvre	27 days deth	8Apr41	Col A.E. London	Forf. 28 days pay

"B 3" Page One

(See Sheet onr cont'd)

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2627)

No. D90636 Name GREENSLADE RP Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 13May40 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pinewood Hospital	1Jul41	Pte		AWL from 2359 hrs 1Jul41 to 1100 hrs 2Jul41 (Absent 11 hrs 1 Min) AA15(1)			2Jul41	Capt. HC HAIR	Forf 1 days pay
Marston Green	7Aug41	Pte		Failed to appear on parade AA15(2)	S/Sgt ATTON J.K.	7 days C.R.	7Aug41	Major HS Mitchell	
Marston Green	18Aug 41	Pte		Failed to appear on parade AA15(2)	Sgt McMAHON A.W.	7 days C.R.	18Aug41	Lt-col JK Gordon	
Marston Green	2Nov41	Pte		Failed to report to the Guard Rm on leaving Brks AA11 (2)AWL from 1900 hrs 2Nov41 to 1140 hrs 3Nov 41. (Absent 16 hrs 40 min) AA15(1)	Doc'y	14 days C.R. 21 days pay	4Nov41	Col C.E. Cross	Forf 22 days pay
Horsham	28Dec 41	Pte		AWL from 2300hrs 28Dec41 to 0120 hrs 29Dec42 (Absent 2hrs 20min) AA15(1)	Doc'y	5 days C.R.	30Dec41	Col C.E. Cross	

(P.T.O.)

M.F.M. 5
(A.F.B. 122)
175M—7-41 (2270-20)
H.Q. 1772-35-1933

No. D98636 Name GREENSLADE RP Sqn., Battery, or Company Corps C.A.C. Date of enlistment 13May40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 (cont'd) Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	~~XXXX~~ 6Oct 42	Tpr		AWL 6 days 18 hrs 30 mins. AA15(1) AWL from 1330hrs 6 Oct 42 to 0800 hrs 13 Oct 42.	Doc'y	14 days F.P. Stoppages for apprch.	19Nov42	Lt-col F.A. Vokes	Forf. 21 days pay plus 5 days pay Close arrest Stoppages of £1-5-5

Certified true copy: as taken from MFM 14

"B3"

Page Two

Last page

CAPT. & ADJT.
8 CDN. RECCE. DIV. (M.CH.)

P.T.O.

(substitute for [illegible]
(295 or [illegible])

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No D-[illegible]636 NAME Greenslade R.P. Tpr. UNIT 8 Cdn RecceRegt (14 CH)

AGE 24 MARRIED or SINGLE Single No Of DEPENDENTS Nil

DATE OF ATTESTATION _____

NO OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL — MILITARY 15 HOSPITAL — TOTAL 15

DATES OF PROMOTION, APPOINTMENTS AND CONFIRMATIONS OF RANK IN ANY

Tpr — No promotion [illegible]

A CERTIFIED TRUE COPY OF [illegible] MUST ACCOMPANY THIS FORM.

G M Wood
CAPT
(Officer I/c Records)
8 CDN RECCE Gn. (14 CH)

_____ UNIT

Dated at
This 19 day of June 1943
(to be dated, and signe as of date of trial) "B3"

[illegible] Capt.

5 V-105
Jpr Greenslade, R.P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D98636 Tpr GREENSLADE, R.P. - 3 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p. 752, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention per a period of Months (90) Ninety Days

14 NOV 45 (Sgd) [signature] President. (RP 45, 50.)

(Sgd) ..... Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) N/C

(1. AA 57A. Delete if not used.)

Date 16 Nov 45 (Sgd) [signature] Brig Commanding [signature] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

D98636 Tpr Greenslade R.P. [signature]

Published by Part II Order No 88 d/20 Nov 45 Returned by A/OC 1 Base Records 1145 hrs 20 Nov 1945

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 168 5 V-705

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P & D/1698 (6/44) 4/38B

Convened by Order of Brig A.B. Connolly, CBE Comd "B" Gp, CRU dated 9 Nov 45

26 Nov 45

PROCEEDINGS REVIEWED 26 Nov 45 [signature] Capt. RMP REVIEWING OFFICER, JAG BRANCH, CMHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D98636	Tpr	Robert Patrick	GREENSLADE	3 Cdn Repat Dep

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 14 NOV 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record witnesses, evidence, etc., which instrs are hereinafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10 00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.~~) Do you object to [illegible] as shorthand writer ? Ans NO.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col	D.L. Redman, VD	HQ CRU
Member	Captain	C.J. GOODMAN	2 Cdn Repat Dep
Member	Lieutenant	A BEAULIEU	2 Cdn Repat Dep
~~Judge Advocate~~			
Prosecutor	CAPTAIN	T.R. KEANE	3 CDN REPAT DEP
Defending Offr	LIEUT	G LAPALME	3 CDN REPAT DEP

Questions by President : Is the Prosecutor a lawyer ? Ans NO. Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 86 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~all~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GE), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~they~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO, SIR (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. (2)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Do you intend to call witnesses on your behalf ? Ans. Are they witnesses as to character only ? Ans.
(1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. ~~Arguments~~ NOTE A II (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything bare or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, D 98636 Trooper Robert, Patrick, GREENSLADE, Royal Canadian Armoured Corps, on strength of #1 Wing, 3 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE:
A.A. SEC 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE
in that he
in the field, in England, absented himself without leave from C.D. 359, that at No. 3 Canadian Repatriation Depot, from 2230 hours 12 September, 1945 until he surrendered himself at the Guard Room of #1 Canadian Transit Camp (N.E.T.D.) N.W.E., at approx 2230 hours 22 October, 1945.

Total Time absent - 40 days.

(K.G. McCullagh) Lt-Col.,
Commanding Officer,
No. 3 Canadian Repatriation Depot.

COVE, HANTS
8 November, 1945.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(A.B. Connelly) Brig
Comd "B" Gp
Can Repat Units

IN THE FIELD
9 NOV 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D98636	Tpr		Robert Patrick	GREENSLADE	3 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 NOV 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	2 Cdn Repat Dep
Lieutenant	to be detailed by CO	2 Cdn Repat Dep

~~WAITING MEMBER~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Dat 9 NOV 45

Commanding "B" Gp, Cdn Repat Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/F ac 8/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have examined No. 298636 Pvt. Greenslade R.R.
(Rank) (Name)

1 Wing Of #3 Cdn Repat and in my opinion he

is Fit/~~Unfit~~ to undergo trial by Court Martial.

Station R.C.D.
Date 14 Nov. 45

Signed R C Newby Capt
Medical Officer

My

Mr President member of the court:

When ~~Tpr~~ D98636 Tpr Greenslade R. P. was with his unit he was granted a 72 hrs leave in Antwerp where he met a girl and grew quite found of her.

Comming back to his unit they told him that he was ~~on a draft~~ for Canada He tried to get a leave but the answer was that he could leave one from Nijmegen where he was going for his first stage.

at Nijmegen he asked another time to have a leave to go & see his girl friend, but again they told him that he could nt but when he will be in England he could have the permission to go & see her.

Here in No. 3 Cdn Repat he asked again and they told him this time that he could nt have leave on the continent. He spoke to his serial commander who persuaded him to go home and forget her, but souvenirs were not forgotten.

On his first leave from the continent he went to spend it in London where he met a friend and ~~spo~~ talk things

over. His friends entice him by offering him a pass ~~from~~ because he had two on him.

After a few drinks he figured he had the time to go and come back in time. He went and a few days before his pass expired he tried to come back but he needed a certain paper to cross the Channel. After trying many ports and even went to his unit but without success and he surrendered himself to No1 NETD at Belfast N. W. E.

You will going to ask why he did not sign for C.A.O.F.? But he had already sign for the Far East and by the surrender of Japan he was no more required and fell in the repat group.

Wanting to marry ~~her~~ that girl he is willing to go with the occupation forces so he will be able to see her again and marry her. And I sincerly hope that the court will take these facts in consideration. If at all possible the accused would appreciate very much if the court could recommend his finding with occupation forces.

E 3
MW

Joint ops. May 13. 1940.
Land in England. ~~Aug~~ Jul. 1940
In action. 6 Jul. 1944 up to the end.

SUMMARY OF EVIDENCE in the case of D 98636 Tpr. Robert, Patrick GREENSLADE, on strength of #1 Wing, No. 3 Canadian Repatriation Depot, a soldier of the Canadian Army overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS: Captain M.S. Fergusson, Adjutant of 1 Wing, No. 3 Canadian Repatriation Depot, Canadian Army Overseas, having been duly sworn states:

"I am Captain M.S. Fergusson of No. 3 Canadian Repatriation Depot, Adjutant of No.1 Wing, and as such, I produce the following documents which have been shown to the Accused.

The document which is marked 'Exhibit "A"', is a certified true copy of the Declaration of the Court of Inquiry, assembled at No. 3 Canadian Repatriation Depot on the 25th day of October, 1945, for the purpose of inquiring into and reporting upon the illegal absence of and deficiencies if any, in the arms, ammunition, equipment, instruments, regimental necessities and clothing of D 98636 Tpr. Robert, Patrick GREENSLADE.

The document which is marked 'Exhibit "B"', is a certificate of surrender, certifying that D 98636 Tpr. Robert, Patrick GREENSLADE, surrendered himself at No.1 Canadian Transit Camp (NETD) N.W.E. at approx. 2230 hours 22 October 1945."

M S Fergusson
(M.S. Fergusson) Capt. R.C.S.I.M.S.
No. 3 Canadian Repatriation Depot.

The Accused declines to cross-examine the witness.

R Greenslade
(D 98636 Tpr. GREENSLADE, R.P.)
No. 3 Canadian Repatriation Depot.

The Accused was cautioned as follows: "Do you wish to make a statement or give evidence on oath?" You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say, or whatever evidence you give will be taken down in writing and may be given in evidence."

The Accused declines to make a statement and reserves his defence.

R Greenslade
(D 98636 Tpr. GREENSLADE, R.P.)
No.3 Canadian Repatriation Depot.

I certify that the Summary of Evidence consisting of two (2) Pages and two (2) documents (exhibits) was taken down by me in the presence and hearing of the Accused and that the rules of proceedure 4 (c)(d)(e)(f) have been complied with.

J.M. Sabey Lieut.

(J.M. Sabey) Lieut. - R.C.A.
Officer detailed to take
Summary of Evidence.

Cove, Hants,
1 November, 1945.

EXA
MR

Army Form B 115. "A"

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Record of the Declaration of a Court of Inquiry assembled at No 1 Wing No 3 Cdn Repat Dep Norval Bks, Cove, Hants, on the 25th day of October 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-98636 Tpr. Greenslade, R. Misc Surplus 1 Wing, No 3 Cdn Repat Depot.

DECLARATION

The Court declare, that D-98636 Tpr. Greenslade, R., Misc Surplus No 1 Wing, No 3 Cdn Repat Depot, illegally absented himself without leave from Norval Barracks, Cove, Hants, at 2230 hrs 12 Sep 45 and is still so absent at 0830 hrs 25 Oct 45, he was deficient, and that he is still deficient of the following articles:

ARTICLES	AMT	FULL PRICE	$ PRICE
Anklets web pr	1	.99	.74
Battledress Blouses	1	6.00	4.00
Battledress Trousers	1	8.56	6.01
Berets Khaki	1	1.20	.90
Drawers Cellular short	2	1.78	1.34
Drawers woollenn	2	2.40	1.80
Greatcoat	1	11.31	9.49
Gloves woollen	1	.47	.35
Shirts woollen	2	2.40	1.80
Socks Worsted	3	1.36	1.04
Ties Black	1	.19	.15
Badges Cap	1	.09	.06
Brushes Shaving	1	.37	.25
Brushes Tooth	1	.11	.09
Combs Hair	1	.04	.03
Holdalls	1	.19	.14
Razors Safety	1	.09	.06
Spoons	1	.09	.06
Towels Hand	1	.34	.25
Packs	1	1.94	1.38
Tins Mess	1	.32	.24
Capes A/G	1	2.76	2.07
		Totals $ 41.50	$ 30.04

Capt. F.R.J. Dill - CIC — No 3 Cdn Repat Depot

Capt. R.R. Turner - RCOC — No 3 Cdn Repat Depot

Lieut. W.D. Callaghan - RCA — No 3 Cdn Repat Depot

Names of President and Members

Signature of Commanding Officer H.G.J. Woods Lt-Col.

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record.

Administrative Officer
3 Cdn Repat Depot

EXHIBIT "B"

IN LIEU OF

CERTIFICATE OF SURRENDER

On 22 Oct 45 at approx 2230 hrs., No. D 98636 Tpr. Greenslade, R.P. surrendered himself to me at the Guard Room of #1 Cdn Transit Camp (NETD). He stated that he was A.W.L. from his Canada Draft (CD 359) which was at No. 3 Cdn Repat. Depot in England. He was sober and dressed in the uniform of a soldier of the Canadian Army.

Signed...G.F. Grose.....
C 122549 L/Cpl Grose, G.F.

CERTIFIED TRUE COPY:

(M.S. Fergusson) Captain,
Adjutant, #1 Wing,
No. 3 Canadian Repatriation Depot.

FOR THE PROSECUTION

DOCUMENTARY EVIDENCE

FOR THE DEFENCE

NIL

EXHIBITS FOR THE PROSECUTION

"A" Certified True copy of Declaration of Court of Inquiry assembled at No. 3 Canadian Repatriation Depot on 25th October, 1945, for the purpose of inquiring into and reporting upon the illegal absence and deficiencies, if any, in the arms, ammunition, equipment, instruments, regimental necessities and clothing of D 98636 Tpr. Robert, Patrick GREENSLADE.

"B" A Certificate of Surrender, certifying that D 98636 Tpr. Robert, Patrick GREENSLADE surrendered himself at No.1 Canadian Transit Camp, (NETD) at approx 2230 hours, 22 October, 1945.

STATEMENT BY THE ACCUSED IN ACCORDANCE WITH R.P. 14(h)

This is to certify that I have received one copy of the Summary of Evidence and one copy of the Charge Sheet in my forthcoming Field General Court Martial.

R. Greenslade

(D 98636 Tpr. GREENSLADE, R.P.)

STATEMENT BY THE ACCUSED IN ACCORDANCE WITH R.P. 14 (b)

I (do)(~~not~~) desire to have an Officer assigned to represent me at my trial by Field General Court Martial. I request the services of an English Speaking Officer is he is available.

R. Greenslade

(D98636 Tpr. GREENSLADE, R.P.)

Cove, Hants,
1 November, 1945.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D 98636	Tpr.	GREENSLADE, R.P.	1 Wing-3 Cdn Repat Depot.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of **Entries** in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15(1)	7 times.
For	A.A. Sec 15(2)	4 times.
For	A.A. Sec 11	1 times.
For	A.A. Sec 40	3 times.

Date of first entry in Field Conduct Sheet 23 March 1941

Date of last entry in Field Conduct Sheet 19 June 1944

2. ~~Previous convictions (if any) by a court-martial or a civil court (since last entry in the Field Conduct Sheet)—~~

*3. ~~The accused was the present period in confinement or under [illegible] beginning on the [illegible] day of [illegible]~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 23 days in military custody, *i.e.*, NIL days in open arrest, 23 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 27 years months days.

6. The date of his attestation is 13 May 1940

7. The service which the accused is allowed to reckon is 5 yrs mos days.

8. The accused is in possession of† C.V.S.M.&Clasp.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

EX 15

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(20904) W1.42120/1500 42,000 11/44 A.& E.W.Ltd. Gp.699 Forms B.296(War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M	2 May 43 [illegible]	WOA5 AWL 33 days, 10 hrs 26 mins AA Sec 15 (1)	60 days Detn.	

Cancelled

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 3rd 14th day of November, 1945.

(W.S. Fergusson) Captain, RC Sigs
for Adjutant, #1 Wing, 3 Cdn Repat Depot.

No. D-98636 Name GREENSLADE | Sqn, Battery, or Company: No 1 Cdn Gen Hosp | Corps: RCAMC | Date of enlistment: 13 May 40 | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (7806)

Date of last entry in Company Conduct Sheet: 22/2/41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature OC Company, etc | Badges | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal with trial	By whom awarded	Remarks
	1941								
arston Grn	23,3	Pte		Sec 15 (2) AA Failing to remain at a place of work appointed by his CO in that he after being duly warned was absent from 0715 hrs to 0810 hrs and 0900 hrs to 1015 hrs	Sgt McGrath Documentary	2 Days C B	4.4.41	Capt H R Robertson	

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Marston Grn	1941 7 Apr	Pte		Sec 40 aa Conduct to the Prejudice etc in that he changed his duties without obtaining permission from Ward Master	Sgt MC Math C	27 Days Detention	8 Apr 41	Col A E Lundon	
				Sec 15(2)AA Failing to appear at place of parade appointed by his CO in that he after being duly warned failed to report for duty as Ward Ord at 1900 hrs 7 Apr 41	L/Sgt Lefebvre M	Released from DETENTION BARRACKS HULL 3 MAY 41 Sentence having expired Remission earned under "Rules for Detention Barracks and Military Prisons One Days.. (Commandant's initials ..GO..			
				Sec 40 AA Neglect to the Prej etc., in that he drank excess alcohol beverages and was in consequence unfitx for duty as Ward Orderly	L/Sgt Lefebvre M L/Sgt O'Connor C			Colonel A E Lundon	Forfeits 1 dys pay FMSI .150 (b)
				Sec 15(1) AA AWL from 1900 hrs until 2359 hrs Absent 5 hours					

NB98636 Name GREENSLADE R P Sqn, Battery, or Company NO 1 CGH Corps RCAMC

Date of enlistment 13 MAY 40 GC Badges

Service or Proficiency Pay

3/17 MFM 6 (AFB 122) 40/PAS/136 (7808)

Date of last entry in Company Conduct Sheet 7 Apr 41 No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 4

Signature OC Company, etc ???????

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pinewood Hospital	1941 1 Jul	Pte		Sec 15(1) AA, WOAS AWL 2359 hrs 1 Jul 41 till 1100 hrs 2 Jul 41 (Absent 11 hrs 1 Min)			2 Jul41	Capt H C Hair	Forfeits 1 days pay FR&I,149(1)(a)
Marston Green	7 Aug	Pte		Sec15(2)AA, WOAS fa ling to appear S/Sgt at place of parade appointed by his CO in that he after being duly warned, failed to answer his name at the 0650 hours roll call	Ayton J K	7 days CB	7 Aug41	Major H S Mitchell	
Marston Grn	18 Aug	Pte		Sec 15(2) AA WOAS failing to appear Sgt at a place of parade appointed by his CO in that he, after been duly warned, failed to appear for parade at 0650 hrs	Mc Math AM	7 days CB	18AUG41	Lt Col JK Gordon	

(PTO)

Place	Date of offence 1941	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Marston Grn	2 Nov	Pte		(1) Sec 11 AA WOAS neglecting to obey orders in that he failed to report to the Guard Room on leaving barracks (2) Sec 15(1)AA, WOAS AWL from 1900 hrs 2 Nov 41 until 1140 hrs 3 Nov 41 absent 16 hrs 40 mins	Documentary S/Sgt McMath A W	Forfeitures 21 days pay FR&I,149(1)(e) 14 days CB	4NOV41	Col C E Cross	Forfs 1 days pay FR&I,149(1)(a)
Horsham	1942 19Feb			Sec 15(1)AA WOAS AWL from 2300 hrs 19 FEB 42 until his return at 2345 hrs 19 Feb 42 (Absent 45 mins)	RSM ROWE	2 Days CB	20 FEB 42	Major JP LaPlante	
Horsham	25Mar 42	Pte		Sec 15(1)AA WOAS Absent without leave from 2300 hrs 25 Mar 42 until his return at 1430 hrs 3 Apr 42 (Absnet 8 days 15 hrs 30 mins)	RSM ROWE	Forfs 10 days pay FR&I,149(2)	4 Apr42	Col CE Cross	Forfeits 9 days pay FR&I,149(1)(a)

ND-98636 Name GREENSLADE R P Sqn, Battery, or Company 8 Cdn Recce Regt Cdn Armd Corps Corps

Date of enlistment 13 MAY 40 GC Badges

Service or Proficiency Pay

3/17 MFM 6 (AFB 122) 40-FWS/136 (7808)

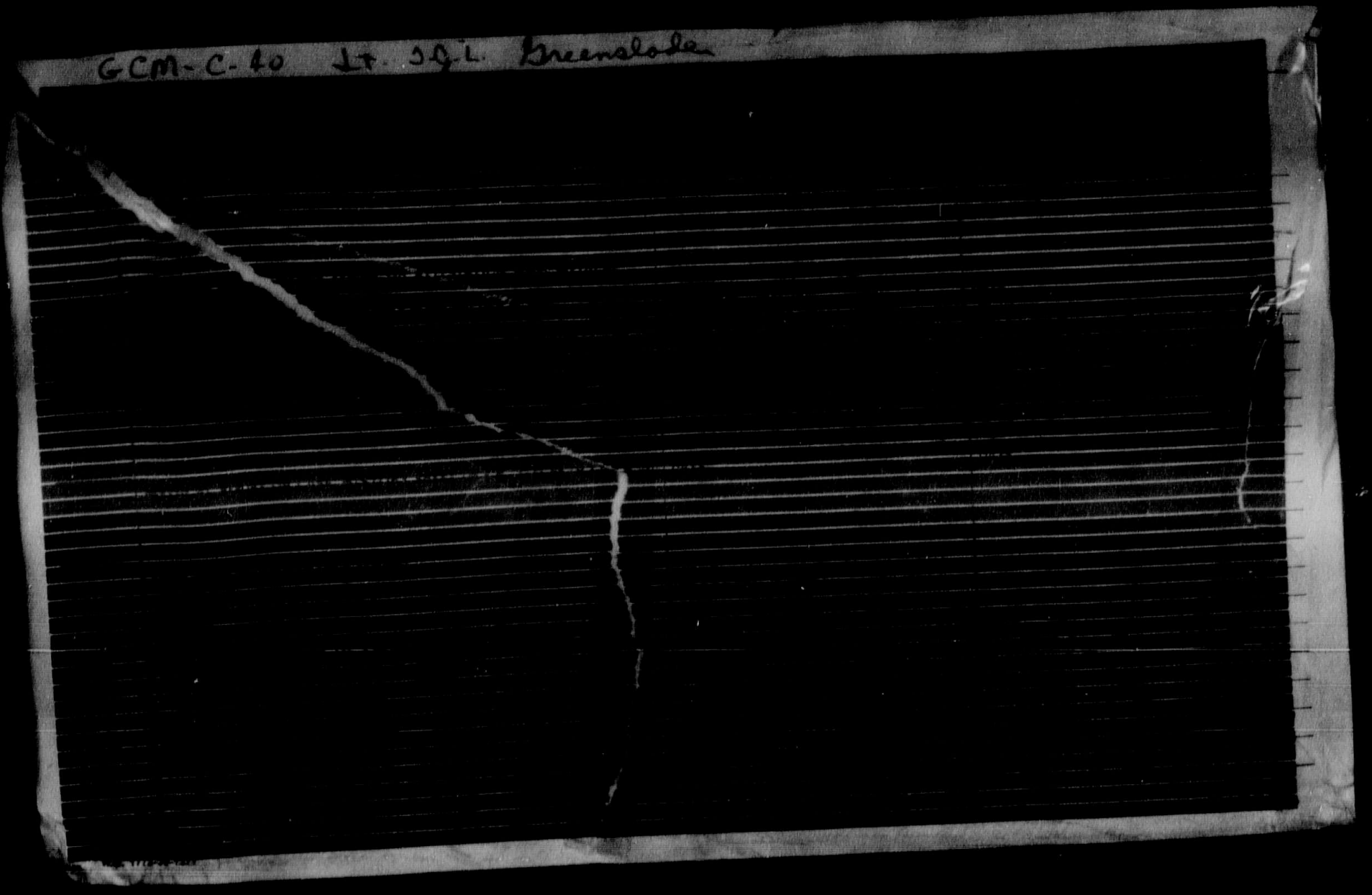
Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc Capt J N Bate | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 May 43	Tpr		WOAS AWL 33 days 10 hrs 26 mins AA Sec 15(1)	Doc'y	60 days Detn	19JUN43	FOCM	Total 108 days pay
Field	20 Dec 43	Tpr		WOAS Conduct to the Prej etc., failed to get up at reveille AA Sec 40	Sgt Cushman	7 days CB	20 DEC43	Capt J Bate	Stoppages to Cover cost of appn. 0-7-8
Field	18 Jun 44			WOAS AWL 2245 hrs 18 Jun 44 to 0600 hrs 19 jun 44 Absent 7 hrs 45 mins AA Sec 15	Sgt Watts	7 daysCB	19 JUN 44	Forf 1 days Pay	Confirmed GOC 2 Cdn Div 21-6-43

CERTIFIED TRUE COPY.....Capt
(M S Fergusson) Adjt
for No 1 Wing, No 3 Cdn Repatriation DepCt

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date punishment or order dispensing with trial	By whom awarded	Remarks
Field	12 Sep 45	Tpr		FIRST CHARGE: AA Sec 15(1) WOAS A.W.L. from 2230 hrs 12 Sep 45 to 2230 hrs 22 Oct 45 (TTA 40 dys)	Documentary	90 days detention	14 Nov 45	FGCM	Forf 90 days Pay FR&I 149(2)


GCM-C-40 Lt. SQ.L. Greenslade

First Copy, less Exhibit [illegible]

Findings P [illegible]
P 119
Sentence P 122

PROCEEDINGS OF A GENERAL COURT-MARTIAL

Held on 27 March 1946

Lt. T.J.L. GREENSLADE

A

Army Form A 9

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a General Court-Martial held at Amsterdam, Holland on the 27th day of March AD 1946 by order of

Brigadier T.J. Rutherford CBE

~~Commanding~~ Deputy Commander, Cdn Forces in the Netherland

dated the 25th day of March 1946

President.

Lt.Col William Wallace LOCKHART
Royal Canadian Corps of Signals

Members.

Lt.Col Richard Gilbert Lewes PARKER	CIC
Lt.Col Adam Porter DODDS	RCA
Lt.Col Edwin Leonard de PENCIER	RCA
Captain Harvey N. McLEOD MC	CIC

Major A.M. Ecclestone,
DJA 3 Cdn Transit Camp CFN

Judge Advocate.

Trial of* Lt. Theodore Lewis James GREENSLADE
RCAC, on strength 3 Cdn Transit Camp CFN

Medical Certificate is produced.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~is serving owing to~~ ~~waiting member takes his place as a member of the Court~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,‡ Lt.Col C.S. Campbell, Barrister, 1 Cdn WCIU

~~Counsel or~~ defending officer† Major J.E. Clements, Barrister, HQ CFN

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No, sir

Q.1 *Question by the President to the accused.*

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

RECORDED AT CMHQ IN AB 150 A GCM-C-40
Certified true copy of original proceedings herein.
C.H. [illegible] Major
J.A.G. Rev.

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inq. respecting the matters forming the subject of the charges before this Court-Martial.

WW Lockhart
(WW Lockhart) Lt.Col
President - GCM

B

The President, members and judge-advocate are duly sworn

Q.2 Do you object to Mr Jacob G.P.N. LOS, Johverhvlststr. 157, Amsterdam, Holland, acting as interpreter? A. No, sir

~~The following officers under instruction are duly sworn.~~

Q.3 Do you object to G-7394 S/Sgt Tingley E.W., HQ 3 Cdn Inf Div CAOF, acting as shorthand writer?

A. No, sir

Mr. Jacob G.P.N. Los & G-7394 S/Sgt Tingley E.W. are duly sworn.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 40 (B) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read ?

Question to the accused.

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

"WW Lockhart" Lt.Col" B2
Pres[illegible]ent

3

CHARGE SHEET

The accused, Lieut Theodore Lewis James Greenslade, RCAC, on strength 3 Canadian Transit Camp, CFN an officer of the Canadian Army Overseas, is charged with:

First Charge
Section 41
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE THAT IS TO SAY LARCENY CONTRARY TO SECTION 2 OF THE LARCENY ACT 1916

in that he

In the Field, in Holland on or about 6 July 1945 stole a 1937 Ford V8 Sedan Motor No. 74-88847 the property of a person.unknown.

Second Charge
Section 40
Army Act
Alternative

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER ANDMILITARY DISCIPLINE

in that he

In the Field, in Holland on or about 6 July 1945 improperly disposed of a 1937 Ford V8 Sedan, Motor No. 74-88847 to F.J. Hillenaar, a Dutch civilian.

Third Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICEOF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in Holland, betweem 1 April 1945 and 20 Nov 1945 was improperly concerned im the trafficking in liqour with Dutch Civilians to the extent of approximately 280 bottles.

Fourth Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER ANDMILITARY DISCIPLINE

in that he

In the Field, in Holland on or about 20 July 1945 improperly used Canadian Military transport for private purposes namely to deliver liquor to Dutch civilians in The Hague, Holland.

Fifth Charge
Section 18(4)
Army Act

WHEN ON ACTIVE SERVICE STEALING PBLIC PROPERTY

IN THAT HE

In the Field, in Holland in the month of July or August 1945 stole two hundred bed-sheets, public property.

Sixth Charge
Section 40
Army Act
(Alternative)

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER ANDMILITARY DISCIPLINE

in that he

In the Field, in Holland, in the month of July or August 1945, improperly dealt im merchandise in that he sold two hundred bed-sheets to Dutch civilians.

"WW Lochhart" Lt.Col
President GCM

SEVENTH CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in Holland, in the month of July or August 1945 improperly dealt in merchandise in that he sold five hundred bed sheets, other than those mentioned in Charges Five and Six, to Dutch civilians.

In the Field

25 March 1946

"MA Frank"
(M A Frank) Major
Officer Commanding
3 Cdn Transit Camp CFN

TO BE TRIED BY GENERAL COURT-MARTIAL

In the Field

25 March 1946.

"T.J. Rutherford" Brig
(T J Rutherford) C.B.E.
Brigadier
Deputy Commander,
Headquarters
C. F.N.

Approved on behalf of the Cdn JAG Overseas in accordance with K.R. (Can) 540.

In the Field

25 March 1946

"AM Ecclestone "
(A M Ecclestone) Major
D J A
3 Cdn Transit Camp CFN

W W Lockhart A Col President

MEDICAL OFFICER'S CERTIFICATE KR(Can) Para 557
CMHQ CL 173

I certify that Lieut T J L Greenslade Regt 3 Cdn 5.
Transit Camp is Fit to undergo trial by Court-Martial.

Station Field.

Date 27 March 46

GSP Gordon Capt Capt
Signature of Medical officer
for Army Staff Constitution

W W Lockhart Lt Col Pres SCM

MEDICAL OFFICERS CERTIFICATE KR(Can) Para 557
CMHQ CL 173

I certify that Lieut T J L Greenslade Regt 3 Cdn

Transit Campis Fit to undergo trial by Court-Martial

6.

Station Field.

Date. 28 March 46

A S P Gordon Capt Capt
Signature of Medical Officer
Cdn Army Staff Amsterdam

W W Lockhart Lt Col A/Assistant AG

MEDICAL OFFICERS CERTIFICATE KR(Can) Para 557
CMHQ CL 173

I certify that Lieut T J L Greenslade Regt 3 Cdn

Transit Campis Fit to undergo trial by Court-Martial

7.

Station Field.

Date. 19 March 46

GSP Gordon Capt Capt
Signature of Medical Officer
Can Army Staff Amsterdam

W Workhart Lt Col President 5 Bn

MEDICAL OFFICER'S CERTIFICATE

KR(Can) Para 557
CMHQ CL 173

I certify that Lieut T J L Greenslade Regt 3 Cdn 8.
Transit Camp is Fit to undergo trial by Court-Martial.

Station Field.
Date. 30 March 45

G W Gordon Capt
Capt.
Signature of Medical Officer
Cdn Army Staff Amsterdam

W W Lockhart Lt Col
President G Cn

MEDICAL OFFICER'S CERTIFICATE KR(Can) Para 557
CMHQ CL 173

9.

I certify that Lieut T J L Greenslade Regt 3 Cdn

Transit Camp is Fit to undergo trial by Court-Martial.

Station Field.

Date. 1 Apr 46

"C Bromyard" Capt Capt.
Signature of Medical Officer

W W Lockhart Lt Col
Russell St Mn

MEDICAL OFFICER'S CERTIFICATE KR(Can) Para 557
CMHQ CL 173 10.

I certify that Lieut. T J L Greenslade Regt 3
Con Transit Camp is Fit to undergo trial by Court-
Martial.

Station Field.
Date. 3 April 46

R. F. Williams Capt.
Capt
Sig ature of Medical Officer

W W Lockhart Lt Col
President GCM

MEDICAL OFFICER'S CERTIFICATE KR(Can) Para 557
CMHQ CL 173

I certify that Lieut T J L Greenslade Regt 3 Cdn 11.

Transit Camp is Fit to undergo trial by Court-Martial.

Station Field.

Date. 4 April 46

R G Williams Capt
Capt.
Signature of Medical Officer

Defending Officer:

I want to ask the court if it is possible to have the First and Second charges tried and disposed of before the other charges are tried. I think unless that is done, there will be a tendency to prejudice the defence, and that is why I prefer to have it done the way I have suggested. Perhaps at this time only the first and second charges should be read, and the accused asked to plead to those two at this time.

Prosecutor:

In the short time that I have had to think of this, about a minute, I cannot conceive any prejudice which would arise from the trial on all the charges together. There are witnesses who have been brought here from some distance who will give evidence on both sets of charges; all the witnesses except one come from outside the city. If some indication could be given, possibly I can give some assurance that the evidence that the evidence to be given in one case will not prejudice the accused in respect to other charges, or possibly it might be an obvious case where prejudice would arise.

Defending Officer:

My feeling is that these two charges deal with a motor car and are surrounded by an entirely different set of circumstances than the other charges which deal with goods; larceny is charged in both series of charges, but they are entirely two different things, and I really feel that the evidence given on the first series may prejudice the defence on the second. For that reason I would like the defence to have that permission granted, and for the simple reason also that it will enable both the defence and the prosecutor to concentrate on one item at a time. There is no connection whatsoever between the first and second series of charges.

Prosecutor:

I do not think I could have expressed it better. I think I will leave it at that. However, as I understand the statement of the defence counsel, no possibly of prejudice has been expressed, or disclosed, as far as I understand his statement.

Judge Advocate:

At this stage and before arraignment the counsel for defence has requested that the first and second charges be tried first as if contained on Charge Sheet No. 1 and the balance of the charges as if contained on Charge Sheet No. 2. Under RP 62(E) it is laid down that where a charge sheet contains more than one charge the accused may before pleading, claim to be tried separately in respect of any charge or charges in that charge-sheet, on the ground that he will be embarrassed in his defence if he is not so tried separately; and in such a case the court, unless they think his claim unreasonable, shall arraign and try the accused in like manner as if the convening officer had inserted the said charge or charges in different charge-sheets. It is for the court to consider whether or not on the arguement of the Defending Officer and the Prosecutor whether they consider it is unreasonable to grant the request of the defence. If such request is not unreasonable they should grant the request and the accused tried on the first and second charges alone.

Prosecutor:

The arrangements for this trial were made in conjunction with my learned friend in setting the time, and it was perfectly obvious from the outset that these witnesses had to be brought from great distances. They are not compellable witnesses, and they are now here. It will be a great inconvenience to themselves as far as they are concerned if we are to have one trial and they are sent away, and brought back for another.

Defending Officer:

The prosecuting officer has stated the witnesses were brought from some distance, which makes things inconvenient for them. The inconvenience on the witnesses is very small as compared to the inconvenience on my client. That is not a point of importance at all.

Judge Advocate:

The court has heard the arguement. No further direction is required from me.

President:

The court will close to consider the request of the Defending Officer.

The court closes 10.30 hours. The court re-opens 10.35 hours.

President:

The submission of the defence is allowed. The accused will be arraigned on the 1st and 2nd charges as if contained in Charge Sheet No. 1

The accused is arraigned upon the First and Second charges in the Charge Sheet.

Q.4 Are you guilty or not guilty of the first charge against you, which you have heard read?
A. Not guilty, sir

Q.5 Are you guilty or not guilty of the second charge against you, which you have heard read?
A. Not guilty, sir.

Q.6 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A. No, sir

The Prosecutor makes an opening address.

May it please the court. The charges upon which the accused has just been arraigned come under two sections of the army Act; the first being a civil offence, that is to say, larceny, under Section 41 of the Army Act; and the second being conduct to the prejudice of good order and military discipline under Section 40.

It is not my intention to discuss the law with respect to these two particular charges except as far as may be necessary to do so in describing the evidence which I propose to adduce and its relation to the particular points of law involved.

With respect to charge No. 1, it is a charge of larceny under the Larceny Act 1916. Section 1 of that act provides the following definition " A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof; Provided that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, if, being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any person other than the owner."

In respect to Sec 40, the 2nd Charge, I will not make any further observations at this time. The first charge alleges that the property stolen is the property of a person unknown. That does not mean that the property does not have an owner. It simply means that the title of the property is not capable of clear definition at the moment. It will be sufficient and I am sure the JA will advise you, it will be sufficient to establish that the property is not the property of the accused. That is sufficient, hence the definition " The property of a person unknown".

In the course of this trial you may have reason to suspect there may have been, there may be proof, of the commission of other offences by the accused, either in consort with other persons or independently. They may be civilian or military, junior in rank or superior in rank. That is of no consequence whatsoever to you in respect of the charges on which the accused has been arraigned.

Evidence will be adduced by Major Kilgour who is in charge of vehicles at HQ First Cdn Army with respect to the treatment, collection, use and disposition of war booty, vehicles constitute part of war booty, both before and after the introduction of operation "Eclipse". That will be the first evidence which will be adduced. Evidence will also be produced that the accused drove a certain motor car , the subject of the charge, to the Hague, and there made arrangements with two persons, Ruifrok and Haffert, to arrange for a purchaser of that car. Pursuant to that arrangement, the car was sold by the joint efforts of Haffert and Ruifrok to a man by the name of Hillenaar, and for which Hillensar paid the sum of 5000 guilders, and of which purchase price they paid 4000 guilders to the accused, retaining the balance as their commission. Whether that was retained with the consent of the accused or otherwise is of no particular consequence.

Likewise a police witness will be called who has examined the car and you will have an opportunity to see it and to hear his description of the car, to give you a clear indication that the car was in fact enemy property and as such, enemy booty, so the accused had no title, and the act of the selling of the vehicle constituted theft. Apart from that, in view of the regulation dealing with the disposition of vehs, at that time restricting the use of vehs by civs, will be my submission that to dispose of such a vehicle to the civilian was conduct to the prejudice of good order and military discipline. What constitutes conduct to the prejudice of good order and military discipline is a matter of which the court itself is quite competent to decide with the assistance of some regulations and likewise as provided in RP 74 that in determining these matters the court may take judicial notice of all matters of notoriety, including all matters within their general military knowledge.

In connection with both of these charges you will be asked to exercise your general military knowledge on the question as to whether or not the vehicle was war booty. There is no positive identification that the veh was ever under military control, but that is of no consequence either.

The Prosecutor proceeds to call witnesses.

First Witness for the Prosecution Major Arthur Rutherford KILGOUR, RCOC, having been duly sworn, is examined by the Prosecutor:

Q. 7 What is your full name?
A. Major Arthur Rutherford KILGOUR.

Q.8 And your corps and unit?
A. 1 Cdn Veh Coy, RCOC.

Q.9 How long have you been in the army?
A. Since July 1941.

Q.10 During that time have you been in the Ordnance Corps?
A. Yes sir

Q.11 What was your employment in the army during the first half of 1945?
A. I was in charge of the vehicles in the DDOS Branch, HQ First Cdn Army.

Q.12 In that capacity were you acquainted with the drill with respect to captured enemy equipment?
A. Yes sir.

Q.13 What was the drill with respect to the handling of captured enemy equipment prior to operation "Eclipse"?
A. Prior to operation "Eclipse" captured enemy equipment was taken into salvage channels and could only be released for use by a unit on authority of the Q Branch at Army HQ.

Q.14 Do I understand that the orders were that captured enemy vehicles were to be turned into salvage of the formation to which the unit belonged?
A. Yes sir, that is right.

Q.15 Will you tell the court what the situation was on the introduction of what is known as operation "Eclipse"?

A. In view of the fact that very large quantities of vehicles and other equipment would be taken from the enemy as they were surrendering, a special operation known as "Eclipse" was organized which set up special parks to take care of vehs which were taken over from the enemy. There was also at formation HQ an "Eclipse" increment who were responsible for the organization and carrying out of the operation.

Q.16 Can you say whether there were orders that all captured enemy vehicles were to be turned into these enemy veh parks?

A. In the case of captured enemy vehs, they were to be reported to Ordnance and arrangements were to be made for them to be collected in enemy veh parks which were organized and guarded by army people. No issues or releases of any kind were permitted from these parks without the authority of the Q Branch, HQ 1 Cdn Army.

Q.17 You have said that no releases could be made from these enemy vehicle parks. It was a fact I believe that some of these vehicles never actually reached the veh parks. The physical effort of concentrating them was never completed and some were taken away from the place where they were first reported and never reached an EVP?

A. It is possible that many vehs taken over by units or individuals were not subsequently turned over to Ordnance but were used by the people who originally obtained them.

Q.18 That would be an unauthorized use in accordance with those orders?

A. Yes

Q.19 Is there any way that you know of that a private individual in or out of the army could acquire title to one of these enemy vehicles?

A. All equipment taken from the enemy in the Netherlands belonged to the army i.e. the Crown. Therefore, if any individual in a unit obtained such equipment he was required to turn it in to proper authority. It was not his to use or dispose of.

Q.20 Operation "Eclipse", did it have any territorial limitation?

A. It covered Germany and the Netherlands, and any other places where the army was operating.

Q.21 You have told the court that releases from these enemy vehicle parks required Q authority. What other procedure was necessary in order to retain such a vehicle?

A. If a captured enemy veh was going to be used, a WD number had to be obtained for that veh, which was obtained on application to HQ First Cdn Army.

Q.22 Any further requirements?

A. If the use of the veh was authorized, a retention certificate was issued quoting the WD number and describing the vehicle. Copies of the certificate were distributed, one copy on the vehicle, one copy to HQ 21 A Gp, and one copy remained at Army HQ.

Q.23 What was the final disposition of these vehs which were collected up in operation "Eclipse" into EVPs, or were registered in by the "Eclipse" increment?

A. The final disposal was authorized by the Q Branch, Army HQ, which directed that all vehs in the EVPs should be turned over to the Dutch Government.

The Defending Officer declines to cross-examine.

By Judge Advocate

Q.24 Were any of these vehs before operation "EClipse" turned over to the Dutch?

A. Not to my knowledge, sir.

Q.25 What was the date operation "Eclipse" came into effect?

A. I cannot say exactly on what specific date instructions were issued, but it was prior to VE day.

Q.26 Were these instructions promulgated in Routine Orders?

A. Instructions on vehs were purely passed down through the staff from Army to Corps to Division. I do not think there was ever a routine order. I cannot say if there was a routine order covering the general policy on captured equipment or not.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(b)

The witness withdraws.

Second Witness for the Prosecution: 163103 Cpl Haffert, H., CGR, Royal Netherlands Army, having been duly sworn, is examined through the Interpreter; by the Prosecutor:

Q.27 Will you tell the court your number, rank and name?

A. 163103 Cpl Henry Haffert.

Q.28 Are you a soldier in the Dutch Army?

A. Yes sir.

Q.29 Where do you live?

A. Amunithaven 90, den Haag.

Q.30 During the last few months of the occupation of Holland by the Germans, where were you?

A. In Germany and Holland.

Q.31 When did you return after the liberation to the Hague?

A. June 1945..

Q.32 Where did you live then?

A. Amunithaven 90, den Haag.

Q.33 Were you employed immediately after the liberation?

A. No sir

Q.34 How did you live?

A. I got a temporary pay of 28 guilders a week.

Q.35 Was that sufficient to support you and your family?

A. No sir.

Q.36 How did you supplement that income?

A. Nothing else.

Q.37 What other monies did you receive from any source whatsoever?
A. By acting as intermediary in exchange transactions for people in search of souvenirs, etc.

Q.38 Do you know Capt Greenslade?
A. Yes sir (indicating accused)

Q.39 When did you meet him?
A. About the first week of June.

Q.40 Did you have some business deals with him?
A. Yes sir.

Q.41 What was the first big deal you had with him?
A. The car.

Q.42 Will you tell the court about the car in detail?
A. About the beginning of July Greenslade came to my house and asked me if I knew a person who wanted to buy a car. I went with him to the Marie Bar.

Q.43 Where is the Marie Bar?
A. At the corner of Hoffyksekstraat at Ryswyksehjkbleia. It is rather a difficult situation there, but I guess that is the right place.

Q.44 You say you went to the Marie Bar in company with Greenslade, or was it by yourself?
A. I went in company with Capt Greenslade.

Q.45 What happened then?
A. I went out in search of a buyer for the car. I met a boy in the garage who knew a buyer. I arranged through him that the prospective buyer would go to the Marie Bar at 10.30 in the evening.

Q.46 I want to go back for a minute to the first interview you had with Greenslade about the sale of the car. Did he say what kind of car, or did he have the car there with him?
A. He was speaking about a Ford.

Q.47 What kind of a Ford?
A. I do not know.

Q.48 Did he say where it came from?
A. No sir.

Q.49 Did he tell you how he got it?
A. No sir. I took it that it came from Germany.

Q.50 Why?
A. In the beginning I had heard from him that he came from Germany.

Q.51 Was anything said about the vehicle coming from Germany?
A. No.

Q.52 When you discussed the buyer of the car, what was the price?
A. 5000 guilders.

Q.53 That was the price which was fixed by Capt Greenslade?
A. Yes sir

Q.54 You said you went to the Marie Bar, what happened there?
A. From there I went to look for a prospective buyer.

Q.55 Did you see the car?
A. Yes sir.

Q.56 Did you drive in it?
A. I rode in it, but I did not drive it.

Q.57 Who drove it?
A. Frans Ruifrok.

Q.58 How did he come to be there?
A. Frans was in the Marie Bar.

Q.59 Does he work there?
A. At first I thought he was the proprietor but later I heard he was the manager.

Q.60 What interest did he have in this deal?
A. We were to sell the car between us.

Q.61 You drove around the Hague together trying to find a purchaser?
A. Yes sir.

Q.62 Was there an arrangement made between you about dividing the commission of the sale?
A. Yes, fifty-fifty.

Q.63 Did you see the car at the Marie Bar, or where did you first see the car?
A. At the Marie Bar.

Q.64 What colour was it then?
A. Green.

Q.65 What kind of green?
A. I do not know. I did not pay particular attention, but it was pretty much as the Dutch camoflage colour of the military cars. It was about that colour.

Q.66 Did it have any signs or numbers of any kind on it?
A. I believe that there was a sign on the front. I cannot recall whether on the left or right side, but it was on the mud-guard.

Q.61 What kind of a sign was it?
A. I know it was not a Dutch sign. I took it to be a Canadian sign.

Q.62 Was it a civilian or military sign?
A. It was not a Dutch civilian sign. Of course, I do not know the signs of other countires, whether civil or military.

Q.63 It was not a Dutch sign?
A. No.

Q.64 You said you made an appointment to meet a prospective buyer at the Marie Bar at 10.30?
A. Yes, at 10.30.

Q.65 Did you meet your prospective buyer there?
A. Yes.

Q.66 Who was it?
A. Mr. Hillenaar. I did not know him then. The man was a stranger to me, but later I heard his name was Hillenaar. Now in connection with this trial I have got to know him, but before that time I did not know his name was Hillenaar. When the transaction was concluded, I did not even know who he was.

Q.67 What happened at the Marie Bar?
A. We were sitting there around the table, Frans, the buyer and I. I want to put forward that I cannot exactly recall all the details of the sale, or what happened later. In rough lines, I remember.

Q.68 What deal, if any, was made with this prospective buyer?
A. He bought the car. We then talked about it. After a quarter of an hour's negotiation, the deal went through. I was under the impression that the price was 4000 guilders. The transaction was concluded at 4000 guilders. Later on I heard from others that the price must have been 5000 guilders.

Q.69 Did Hillenaar inspect the car at the time?
A. When the transaction was concluded he went out. When he came, he first went to inspect the car. Then we went in and the transaction was concluded.

Q.70 Was the purchase price money paid over?
A. Yes sir.

Q.71 What was done with the purchase money?
A. Frans Ruifrok collected it. We got up and the buyer went to the car. I cannot exactly recollect what I did then. I believe I went to have a look at my bike outside. I went inside again, asked for my commission from Frans, he gave me 375 guilders. I asked why I did not receive 500, and he told me -----

Q.72 Did you pay the money, or turn the money over, to Mr. Greenslade?
A. I cannot recollect whether that has happened. In my opinion Frans Ruifrok accepted the money. He gave me my share and immediately after I went home because it was late.

Q.73 Was Mr. Greenslade in the bar when this transaction went on?
A. He was in the bar. He was sitting near the street window. During the transaction I was sitting with my back to the window and do not know whether he remained in the bar at the time, all the time the transaction took place.

Q.74 Did you hear any more about this transaction within a day or two after that?
A. No.

Q.75 Did you see Greenslade after that?
A. 10 or 12 or 15 days after, yes.

Q.76 Did you have any further discussion with him about the car?
A. No sir.

Cross Examined by Defending Officer.

Q.77 You have stated that you and Frans were to sell this car and split the commission?
A. Yes sir.

Q.78 You were asked to sell the car by Capt Greenslade and the arrangement for a commission was made with him two?
A. Yes sir, to sell the car, no arrangement for a commission.

Q.79 No arrangement? Did Mr. Greenslade say that if you sold the car you and Frans could have some of the money for commission?
A. No sir.

Q.80 What were you promised for your part in selling the car?
A. I cannot recollect whether he made any promises to me. I took it that I was to get something when the car was sold.

Q.81 Frans paid you a commission though?
A. Yes sir.

Q.82 You stated you supposed this car came from Germany. As a matter of actual fact, you have no idea as to where it came from, have you?
A. No sir, I have not.

Q.83 No idea at all?
A. No idea of where it came from.

Q.84 Were you in the Dutch army before the occupation?
A. Yes sir, before the war.

Q.85 How long were you in Germany?
A. 2½ years.

Q.86 What was your treatment in Germany?
A. Extraordinarily bad.

Q.87 When you came back from Germany your health was in poor shape?
A. Yes sir. Mental, not so much physical, from the bombardments and the treatment.

Q.88 It was Greenslade who asked you to find a buyer for this car?
A. He expressed himself in that spirit.

Q.89 You went to the Marie Bar with Mr. Greenslade to see if you could sell the car?
A. Yes sir.

Q.90 Was the price paid for the car the normal price for cars in Holland at that time?
A. No sir.

Q.91 What was the normal price?
A. I heard at that time the value of the car was about 25000 to 30000 guilders.

The prosecutor declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(b)

The witness withdraws.

Third Witness for the Prosecution — Frans Frederick RUIFROK, 32 Ryswijkscheblein, the Hague, Holland, having been duly sworn, is examined by the Prosecutor through the interpreter:

Q.92 What is your full name?
A. Frans Frederick Ruifrok.

Q.93 Where do you live?
A. 32 Ryswijkscheblein, den Haag.

Q.94 Do you consider that the oath which you have just taken is binding on your conscience?
A. Yes sir.

Q.95 During the summer of 1945 how were you employed?
A. I was employed in the business of my wife. She has a hotel called the Huize Marie.

Q.96 What was your part of the job?
A. I gave the people the rooms and noted them down and helped in the bar.

Q.97 What is the bar called?
A. Also the Huize Marie. It is all the same thing.

Q.98 Do you know the accused Capt. Greenslade?
A. Yes sir. (The witness indicates the accused)

Q.99 When did you first meet him?
A. About seven or eight months ago, I cannot say for sure.

Q.100 How did you come to know him?
A. He came to our business with another gentleman and asked ~~them~~ for rooms.

Q.101 Did you have any other business transaction with Mr. Greenslade other than the letting of rooms?
A. No sir.

Q.102 Do you know a man by the name of Haffert?
A. I got to know him through Mr. Greenslade.

Q.103 In what connection?
A. Mr . Greenslade slept with us some seven or eight times and then one time a certain Harry who knew a little bit of English came with him.

Q.104 What was your business with Harry?
A. I never did any business with Harry but once Harry said to me -----

Q.105 What did you do as a result of the conversation you had with Harry?
A. The captain had a car for sale and it was his property and he had also a jeep for himself.

Q.106 Did you have any discussion with the captain about it yourself?
A. No, with Harry.

Q.107 Was Mr. Greenslade present with you at this discussion with Harry?
A. Yes sir.

Q.108 What was the discussion about?
A. Harry had told -----

Q.109 Did the discussion take place in English or Dutch?
A. In Dutch. Harry said -----

Q.110 You must not say what he told you if it was in Dutch? What did you do as a result of the conversation you had?
A. I said to Harry "I shall try to find some people to buy it".

Q.111 What did you do?
A. I went to a few people but the people did not want to buy the car.

Q.112 Did you see the car yourself?
A. Yes sir.

Q.113 Did you drive it?
A. Yes sir.

Q.114 What was the colour of the car?
A. Green.

Q.115 Can you describe it a little better, what kind of green?
A. I cannot say for sure. I knew it was green.

Q.116 What kind of car was it?
A. A car for four persons.

Q.117 What make of car?
A. I do not know.

Q.118 You drove it yourself?
A. Yes sir.

Q.119 Did it have any numbers on it?
A. I have not paid attention to that.

Q.120 Did it have any signs on it?
A. I have not noticed that either.

Q.121 At first your efforts to sell were not successful?
A. That is right.

Q.122 What happened after that?
A. Then Harry said he had found somebody to buy it.

Q.123 What happened when you were not able to sell it?
A. I spoke to Harry and he said ----

Q.124 Did you finally sell the car between you?
A. No sir.

Q.125 Was the car not sold?
A. The car was not sold. It was sold later, in the evening at 10.30.

Q.126 Tell us about that?
A. Mr. Hillenaar came at 10.30 and spoke to Harry and he would buy the car for 5000 guilders. Harry sold the car for 5000 guilders to Hillenaar.

Q.127 Were you present when the sale was made?
A. I was in the business.

Q.128 Did Hillenaar pay the 5000 guilders?
A. Yes sir. At least I saw him counting out money to Harry.

Q.129 What was done with the money?
A. Harry went upstairs to Room No. 1. I went with him and he went into Room 1. There Harry counted out the money to Mr. Greenslade.

Q.130 That is the accused?
A. Yes.

Q.131 How much did he pay?
A. Harry counted out the money. The captain was to get 4000. Harry kept 1000 guilders himself.

Q.132 What did you get out of it?
A. I went with Harry downstairs to the kitchen and there I got 500 guilders and I had to share that sum with two others.

Q.133 Did you see the 4000 guilders paid to Capt Greenslade?
A. Harry counted out the money and the captain accepted the money but I do not know whether it was 4000 guilders, but 1000 were left.

Q.134 What became of the car?
A. I went away and Harry went outside and then Mr. Hillenaar was waiting near the car. Hillenaar asked me if I would take the car to the garage.

Q.135 Did you take it?
A. I took the car to the garage.

Q.136 Have you seen the car since?
A. No.

Cross-examined by Defending Officer.

Q.137 You and Harry were working together on the sale of this car?
A. I had tried first. I had asked a few people if they wanted to buy it.

Q.138 Both you and Harry got some money for the sale of the car?
A. Yes sir. I got 200 guilders and a hotel guest got 100, and my partner got 200 guilders.

Q.139 Did you get any more money from Capt Greenslade?
A. No sir, only for the room.

Q.140 On this night that the car was sold, was Mr. Greenslade in your kitchen with you at any time?
A. No sir.

The Prosecutor declines to re-examine.

The Judge Advocate:

Q.141 Do you remember on what date the sale of this car took place?
A. I repeat it is some seven or eight months ago, but I do not remember the exact day.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(b)

The witness withdraws.

Fourth Witness for the Prosecution — F.J. Hillenaar, Haagweg 84, the Hague, having been duly sworn, is examined by the Prosecutor through the interpreter:

Q.142 What is your name?
A. F.J. Hillenaar.

Q.143 Where do you live?
A. Haagweg 84, den Haag.

Q.144 Do you consider the oath which you have just taken as binding on your conscience?
A. Yes sir.

Q.145 What is your occupation?
A. Auto-car dealer.

Q.146 How were you employed during the summer of 1945?
A. Car dealer.

Q.147 Do you operate a garage of some kind or other?
A. Yes sir.

Q.148 Do you know a Dutch soldier by the name of Harry Haffert?
A. Only the name Harry.

Q.149 Did you have some business dealings with him?
A. Not military dealings, but I had dealings with him as a civilian.

Q.150 At the time of the deal I take it he was not in the Dutch army?
A. No, a civilian.

Q.151 Was there anyone else that you had or did business with at that time?
A. No sir.

Q.152 Do you know someone by the name of Frans Ruifrok?
A. Yes sir.

Q.153 Was he present when the deal was made with Harry?
A. Yes sir.

Q.154 What was the nature of this deal with Harry which took place?
A. The buying of a motor car.

Q.155 By whom?
A. I did.

Q.156 What kind of motor car was it?
A. A ford V8, 1937.

Q.157 How much did you pay for it?
A. 5000 guilders.

Q.158 Where did the deal take place?
A. At the Marie Bar.

Q.159 Did you inspect the car before you bought it?
A. I drove it for a while.

Q.160 What colour was it at that time?
A. Green.

Q.161 What particular type of green?
A. A military green colour.

Q.162 Did you have any contact at all with any Cdn Army person in connection with the deal?
A. No sir.

Q.163 How long did you have the car after you bought it?
A. Down to September.

Q.164 What was the date of the deal?
A. In the month of June. I do not know the exact date.

Q.165 How did you get the car back to your place?
A. Ruifrok took the car to my place.

Q.166 You say you kept the car from June to September. Do you know what the serial number of the car was?
A. 74-88847.

Q.167 At the time that you got it, do you know if there were any numbers or signs on it?
A. Not as far as I can remember.

Q.168 Did you change the colour of the car later?
A. Yes, it was re-painted red.

Q.169 Do you know what the original colour of the car was?
A. It had three colours, blue, grey, green and now red.

Q.170 Are you able to identify that car now?
A. Yes sir.

Q.171 Have you seen it today?
A. Yes sir. (Car outside court-room window pointed out to the court by the prosecutor. The witness identifies it as the car he purchased from Harry in June 1945. Exhibit "G" for identification)

Q.172 Have you examined it carefully to make sure it is the car?
A. Yes sir.

Q.173 Will you tell the court the points of identification you were able to make?
A. The top, the motor and the colour.

Q.174 After you got it, did you put any repairs on it or change any of the equipment on it?
A. Not changed, only repaired.

Q.175 What about the bonnet or hood on it?
A. I put on another bonnet.

Q.176 What became of the original bonnet?
A. I kept it at home until last week and then it was taken away by a sergeant of the Cdn Army in civilian clothes, but I saw him before as a military man.

Q.177 Did you change the battery during the time you had it?
A. No sir.

Q.178 Was there anything special about the steering wheel on the car?
A. There was a broken off contact key and the steering wheel was from a 1939 Ford.

Q.179 Any other points?
A. In the trunk there was towing equipment.

The defending officer declines to cross-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(b)

The witness withdraws.

At 1215 hours 27 Mar 46 the court adjourns, to re-assemble at 1000 hours 28 Mar 46. At 1000 hours 28 Mar 46 the court re-assembled pursuant to adjournment. Present the same members and Judge Advocate.

Fifth Witness for the Prosecution: M2219 Sgt Raymond Cooper MORRIS, No. 1 Cdn S.I.S., Cdn Provost Corps, having been duly sworn, is examined by the Prosecutor:

Q.180 Will you tell the court your number, rank and name?
A. Raymond Cooper Morris, M2219, sergeant.

Q.181 What unit?
A. No. 1 Cdn SIS, Cdn Provost Corps.

Q.182 In the course of your duties, did you have occasion to examine a Ford V' sedan?
A. I did sir. On the 20th March the following investigation was made. I examined Ford V8, engine Number 74-88847. I found it to be 37 to 38 model of Netherlands manufacture, and on further examination of the car I found in it was a battery bearing Canadian Army WD property mark, a C with a broad arrow in it, stamped on a post. I examined the paint on this car and by rubbing it down with emery paper I found the original colour had been blue, blue laquer similar to that used on civilian cars ----

Defending Officer:

I am wondering if the prosecutor contends this is an expert witness.

Prosecutor:

That only goes to the weight of his evidence, not whether or not he is capable of giving it.

Defending Officer:

If he is to be an expert witness I want his competency proved.

Prosecutor:

He is not an expert witness at all. He is just telling us of the investigation he conducted. It will be demonstrated to the court in a few minutes.

Judge Advocate:

I advise the court that the witness not being qualified as an expert, and if the court finds his opinion one upon which they can, on the subject of it, form their own opinion, the evidence on the opinion of the witness should be rejected.

Prosecutor continues examination of the witness:

Q.183 Will you tell the court further what you did?
A. I found on top of the blue paint which was next to the metal, a coat of a yellow rough grade of paint, also on top of it a green coat, also a rough grade of paint, described as coarse. On top of the green is the colour of the car now, a modern fine grade of paint.

Q.184 With respect to the yellow paint, can you be more specific?
A. It is a sort of cream colour. It is similar to that used by the Germans, the German Army, for camoflage purposes, commonly known as Afrika Corps grey.

Q.185 Describe the green paint on top of the cream?
A. The green paint on top of the cream is commonly seen on vehicles of the Netherlands Army, being coarse paint, differing from that used on our own vehicles.

Q.186 Did you make a special examination of the bonnet of that car?
A. The bonnet which is at present attached to the car was examined and it was found that it did not have ~~said~~ similar kinds of paint.

Q.187 What did it have?
A. Under the ~~modern~~ coat of paint I found little except filler. maroon

Q.188 Did you conduct any further inquiries about that?
A. On the same date I seized in the Hague from one Mr. Hillemar a bonnet of a Ford V8 and on examination of this bonnet, I found that it bore paints corresponding with that of the Ford V8 afore-described.

Q.189 What do you mean by similar paint?
A. Similar kinds of paint, blue on the metal, cream on the blue, green on the cream, with a surface colour of maroon laquer.

Q.190 Did you make any further examination of that hood?
A. Upon the surface of the hood which I seized and in the centre of the hood can be discerned a depression aparemtly caused by the original coats having been chipped off before the maroon was applied. This is in circular from.

Q.191 Whereabouts in the hood?
A. In the centre top of the hood.

Q.192 What is the size of the chipped or depressed area?
A. 2½ feet in diameter.

Q.193 About 2½ feet?
A. Yes sir.

Prosecutor:

I suggest at this stage Mr. President, that we take a view of the car, and the witness indicate the tests he conducted which he has already described.

Judge Advocate:

The court will take the view in the presence of the accused, the Defending Officer and the Prosecutor. The short-hand writer will be there, and all members of the court. Any spectators will say nothing there. Even though they do, Mr. Greenslade, you will not be called upon to make any statement or give evidence at this time.

(The persons mentioned above by the Judge Advocate leave the court-room to view the car, Exhibit "G")

Q.194 Describe to the court the matters which you have just given in evidence in the court-room?
A. This is the car which I have mentioned, and with reference to the battery - (witness raised motor hood and indicates a post of the battery) - there is the "C" with the broad arrow. Here are the places (indicating) where I carried out the paint inspection on the hood. Under the paint on the hood there is nothing to be seen other than foundation paint. The car being of Netherlands manufacture may be seen on the plate on the front left of the engine cowling, and the fact that the speedometer and other instruments are in kilometres, differing from those manufactured in America. It has a small horse-power motor. The original colour may be seen inside the engine compartment, which is blue. The cream colour may be seen where it overlaps, where it overlaps the blue, and this can also be seen on the rear of the car where I have removed several coats. (Demonstrates), this being the metal, then the blue, the cream colour, the green and last the red. (Witness uses knife to scrape paint)

(Witness takes motor hood from inside the car)

Q.195 Will you indicate your test conducted on the original hood?
A. This is the hood which I seized from Hillemaar, and it bears paint corresponding to the rest of the car. In the centre of this hood, there is a depression which I mentioned before. (Witness scrapes paint from a spot on the hood) In scraping this down in the depression, it would appear that under the surface colour there is only blue.

Q.196 Is there anything further you want to say about it while you are here?
A. I don't think so, sir.

(President, members, judge advocate, Defending Officer, Prosecutor, witness, return to court-room)

Cross-examined by Defending Officer.

Q.197 Sgt Morris, what education have you had?
A. I had high school education sir, and an anatomy course.

Q.198 You made a statement that on top of the blue you found a yellow and you described it as very similar to German paint, using a technical name. That is your own idea, is it?
A. That is my observation, sir.

Q.199 It looks like it to you?
A. Yes sir .

Q.200 You would be prepared to contradict it to a person who produced an analysis?
A. No sir, I would accept an analysis.

Q.201 All the evidence you have given as to colour is purely your own opinion, formed from patches you scraped on that car?
A. Yes sir, that is correct.

Q.202 In fact, your statement that the original colour was blue, that is only your own opinion. It may have been scraped down 20, 30, 50 times. Thatis just your own opinion?
A. I would not be prepared to say this car has been scraped down.

Q.203 It is purely your own idea that blue might have been the original colour?
A. Yes sir.

Q.204 You got this hood from Mr. Hillenaar, you told us?
A. Thatis correct.

Q.205 Whether or not that hood belongs to that particular body, you do not know, do you?
A. I am satisfied that it does.

Q.206 You are not prepared to swear on that? That it belongs to that body. You think it does, that is only opinion again?
A. I think it does.

Q.207 I believe you told the court you got that hood from Hillenaar?
A. That is correct.

Q.208 That has not been in your possession ever since?
A. It has been left with the vehicle.

Q.209 The answer to my question is "No"?
A. Yes sir.

The prosecutor declines to re-examine.

In the opinion of the court and the Judge Advocate it is not necessary to comply with RP 83(b)

The witness withdraws.

Prosecutor:

"That is the case for the prosecution."

The prosecution is closed.

Submission by the Defending Officer:

May it please the court. This submission that I have sir, first on Charge 1. For the benefit of the court you will find quoted in Archbold 378 a rule of law that states this: " Never to convict a man for stealing the goods of a person unknown, merely because he will give no account how he came by them, unless an actual felony be proved of such goods." My submission on this charge is this; that it is not proven. The gist of larceny as quoted by the Prosecutor is the taking away, and there is no evidence this car was taken away from any owner at all. No explanation has been asked from the defendant and I submit he comes clearly within that rule and up to this point that charge should be considered not proven. I think the prosecution has not discharged the onus on them of proving the charge beyond a reasonable doubt.

Coming to Charge 2. The 2nd, 3rd and 4th witnesses; Haffert, Ruifrok and Hillemaar. My submission on this is that the three of them acted in concert. Two of them got a commission and the third got the car. I respectfully submit they should be regarded as accomplices of the defendant, for a commission was paid. I quote an established rule of British law, that a defendant should never be convicted on the uncorroborated evidence of one accomplice. Again reference Archbold, 438; an established rule in English law is that the evidence of one accomplice cannot be corroborated by another accomplice. And if my submission is correct, nothing in the evidence of Haffert, Ruifrok and Hillemaar should be regarded as corroboration. The evidence of Sgt Morris was clearly shown to be purely opinion. I think the court is in just as good a position to exercise their judgment as he. The essence of a charge under Section 40 is, I submit, a breach of a military order, and in the foot-note to that section it clearly states that the order must be proved and the proper posting of the order must be proved, and there is absolutely no evidence before this court of any Cdn army order prohibiting the sale of any article whatsoever to anybody. That being the case, I submit there cannot possibly be a case of conduct to the prejudice of good order and military discipline. How can the sale be said to be improper if it is not to the prejudice, or rather a breach of some order. If my submission of not proven on Charge 2 is correct, then it removes the last shred of doubt on Charge 1.

My submission to the court is respectfully that the prosecution has not discharged the onus upon them of proving beyond a reasonable doubt that this defendant either stole the car or improperly disposed of it.

The Prosecutor replies to the submission of the Defending Officer:

The first point I would like to make clear is that at this stage the question of reasonable doubt is not to be considered at all. Reasonable doubt is a matter upon which you come to a conclusion on the final disposal of the case. At this point it is more than sufficient to establish a prima facie case which the accused is bound to meet. The charge is that of larceny under the Larceny Act. Section 1 of that act provides the following definition "A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof". Taking and carrying away deals with physical movement of the goods. There is no doubt in this case that the accused took goods, the car, to the Hague.

As to the question of whether Ruifrok, Haffert and Hillenaar are accomplices, the rule is that a person should not be convicted on the uncorroborated evidence of an accomplice. I agree with that. Apart from the question of whether they are accomplices, there is very ample corroboration, the physical vehicle itself. Nothing could be better, the vehicle itself, the subject of the theft. Likewise I am sure the JA will direct you that what has been said of accomplices does not apply to Hillenaar. He is at best the receiver. A receiver is not an accomplice.

Defending Officer:

I wish only to repeat what I said, that there is no evidence whatsoever of illegal taking of the vehicle at all and there is no order prohibiting the sale of any article, so there is no breach of an order, and therefore no conduct to the prejudice of good order and military discipline.

At 1200 hours 28 Mar 46 the court adjourned, to re-assemble at 1400 hours 28 Mar 46. The court re-assembled 1400 hours 28 Mar 46, present same members and Judge Advocate, pursuant to adjournment.

Judge Advocate:

At the conclusion of the case for the Prosecution on the 1st and 2nd charges the Defence has submitted that the Prosecution has failed to establish a Prima Facie case on both charges.

Larceny is defined as follows: "A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof; provided that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, if being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any person other than the owner."

Therefore the elements of Larceny are as follows: There must be an intent permanently to deprive the owner thereof. There must be the taking of the goods and in this connection, even the slightest moving is sufficient. The goods must be taken without the consent of the owner but the expression owner is not limited to the person who is legal owner of the property stolen, he may be part owner or person having control of or special property in anything capable of being stolen. In this connection there is evidence upon which the court could find that the vehicle, by virtue of operation "Eclipse" could be public property. The defence has raised the question that the witnesses for the prosecution, being accomplices, require corroboration, but at this stage of the proceedings it is not necessary for the court to consider credibility of witnesses. In addition the receiver of stolen goods is not an accomplice of the theft. The defending officer has raised the point that before a charge of conduct to the prejudice of good order and military discipline can be proved , that a breach of military orders must be proved. This is not the correct case. The court may from the evidence that they have heard if it supports the charge determine whether it amounts to conduct to the prejudice of both good order and military discipline.

In considering the evidence at this time the court need not consider whether the prosecution has or has not proven the case beyond a reasonable doubt nor as I said before need the court consider the credibility of witnesses. The court need only consider whether or not the prosecution has adduced sufficient evidence upon which they could if un-contradicted, find the accused guilty.

If there is in thatamount of evidence the submission of the defending officer should be disallowed, if there is not that amount of evidence, the submission of the defending officer should be allowed.

The court closes to consider the submission of the Defending Officer.

The court is re-opened.

President:

"The submission of the defence is disallowed"

Judge Advocate to accused:

At this stage you are going into the defence. I shall read this rule of procedure to you, and make sure that you understand it, and following that, you willbe asked certain questions by the President of the Court.

(RP 40(A) is complied with)

President to Accused:

Q.210 Do you apply to give evidence yourself as a witness?
A. I wish to make a statement not on oath sir.

Q.211 Do you intend to call any other witness in your defence?
A. Yes sir.

Q.212 Is he a witness as to character only?
A. No sir.

Q.213 Do you wish to make your statement now?
A. Yes sir.

The accused makes the following statement not on oath:

Members of the court and sir. I bought the car in good faith from a Dutch officer. Later I was told that I could not have permission to run the car from Col Hooper at Army HQ Adm, and he told me I could sell it, and it was mine. I believe Major Babe also told me it would be in order to sell it, I believe he was the DAAG at that time. That is all, sir.

First Witness for the Defence — Mrs. Gerda Anna Jacoba Pont, Jonker Loenenscheweg 2, Beekvergen, Holland, having been duly sworn, is examined by the Defending Officer:

Q.214 Mrs. Pont, do you know Capt Greenslade?
A. Yes sir.

Q.215 You see him in this room, do you?
A. Yes sir, that is Mr. Greenslade (The witness indicates the accused)

Q.216 Do you know whether Mr. Greenslade at any time had a Ford Motor car?

A.216 Yes, I know he did.

Q.217 Will you please tell the court all you know about that car?

A. I came one time to the 100 Club to the dining room of Mr. Greenslade, and there he had a conversation with a gentleman who handed him at the moment when I came in a piece of paper declaring that in some days time he would hand Mr. Greenslade the final papers.

Prosecutor:

Before evidence is given as to the contents of this paper, can we be assured that it will be produced?

Defending Officer:

It cannot be produced.

Prosecutor:

Then it will have to be accounted for.

Defending Officer continues examination of witness:

Q.218 Will you continue?

A. Mr. Greenslade asked me to give the gentleman, a Dutch Officer, a ride in my car, taking him to the Arnhemweg where possible he could find another lift. In the car the gentleman declared .....

Q.219 Do not tell us what this cahp said in the car to you, because Mr. Greenslade was not present. You can tell us only about conversations made in front of Mr. Greenslade. Was the gentleman you saw in the dining room a civilian, an army officer, or what?

A. A Dutch Army Officer.

Q.220 Was there any conversation in the dining room that would lead you to believe that you might know what this paper was about?

A. Yes, I understood that the officer would leave his car at the club.

Q.221 Was there a car at the club at this time?

A. Yes.

Q.222 What kind of a car?

A. I think it was a Ford.

Cross-examined by Prosecutor.

Q.223 Mrs. Pont, do you know what car it was they were talking about on that occasion, Capt Greenslade and the Dutch Officer?

A. Yes.

Q.224 What car was it?

A. A Ford.

Q.225 Did you see the car?

A. Yes, it stood in front of the building.

Q.226 What colour was it?

A. Gray.

Q.227 What do you mean by gray?

A.227 Not field gray.

Q.228 Are you acquainted with German military vehicles?
A. Yes.

Q.229 Was it painted that colour?
A. No.

Q.230 A different colour entirely?
A. Yes.

Q.231 How do you know that that car which stood out in front was the subject of discussion between them?
A. Because the gentleman told me he left it there because it was broken.

Q.232 You are quite sure it was a Dutch Army officer?
A. Yes sir.

The Defending Officer declines to re-examine.

Prosecutor:

Might I suggest that the court direct the witnesses attention to the vehicle we have been discussing, and see if it is the one?

Defending Officer:

I had thought of that but in view of changes .....

Prosecutor:

Do not make any suggestions to the witness just yet please.

Court:

Q.233 There is a vehicle out on the road in front. Have you ever seen that before?
A. Not in that colour.

Q.234 Was it the same type of car?
A. I think so. I am not sure.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(3)

The witness witness withdraws.

Defending Officer: That is the case for the defence. We have no further witnesses.

The Defending Officer makes a closing address:

May it please the court. In my submissions at the close of the prosecutions case I mentioned two or three points and I again stress those. The defendant himself has made a statement explaining his having the car, and it has been corroborated I submit by the last witness. My submission is that the statement, plus the corroboration, definitely have answered the prosecutions prima facie case under Charge 1, and in view of that I further submit that the defendant had that right of ownership which permitted him to dispose of the car after he ascertained the fact that the Cdn Army would not give his authority to drive it for his own or military purposes.

On the evidence before the court he purchased it in good faith from a Dutch army officer and later sold it. One of the prosecution witnesses stated that the normal price of that car at that time would be 25000 to 30000 guilders, and of which it is common knowledge, is a black-market price. This was sold at what is a more normal price for that type of car. I suggest that corroborates the fact that there was no intention of illegal dealing, and I again stress the fact there are no orders published forbidding the sale of any articles to anybody and because of that I submit that there was no breach of Section 40 in disposing of an article for which the defendant had the title. Therefore the 2nd charge falls to the ground. I ask the court for an acquittal on both charges. I might say that I have not quoted the law to the court which I quoted on my submission. It is in the record and all those points still stand if necessary to refer to them.

The Prosecutor makes a closing address.

May it please the court. The accused in respect of the present trial stands charged first with larceny, and in the alternative he is charged with conduct to the prejudice of good order and military discipline in that he disposed of a certain car to a Dutch civilian. Only in the event of your finding him not guilty on the first charge need you give any consideration whatsoever to either the law or the facts with respect to Charge 2. The larceny act says "A person steals who without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof". Let us analyze that definition and apply the evidence with respect to it. "With intent at the time of such taking permanently to deprive the owner thereof". There can be no doubt whatsoever that there was an intention to dispose of that vehicle and permanently deprive the owner thereof by the sale. There can be no question about that at all. Likewise the subject of the theft is material which is capable of being stolen; clearly a car of this character is capable of being stolen. "Takes and carries away". There can be no doubt whatever that taking the car to the Hague and selling it there constitutes all the taking and carrying away necessary to substantiate this charge. "Without consent of the owner, fraudulently and without claim of right". The accused saw fit to make a statement on the matter and says he saw fit to acquire it from a Dutch officer in good faith. In determining whether or not the accused acquired the car in good faith, you are entitled to exercise your military knowledge on matters of mororiety referred to in RP 74. I do not think there can be the slightest doubt in anyone's mind after the demonstration of Sgt Morris and the physical vehicle shows clearly that that vehicle was originally a car of Dutch make, subsequently painted in standard German camoflage colours, thereafter painted in the allied camoflage and later at the instance of the civilian, painted a red colour. Likewise you are not to be unmindful of the evidence of Haffert who says that when he first saw it it had a military sign on it. He was not sure what kind of a sign but you will have seen, as was demonstrated this morning that a mark had been on it, had been chipped off and painted over and subsequently another bonnet was substituted for it.

There is another factor to be born in mind. You can exercise your military knowledge in this matter. Is it likely that a Canadian officer in some standing would purchase from military personnel of another army, property which on the face of it appeared to be war booty, if not actually property of the government for which he was employed. I ask you to consider those factors in determining whether the sale was subsequent to a claim of right made in good faith. I do not think any officer would purchase a vehicle bearing those markings, and suggest it was a transaction conducted in good faith. That the transaction did take place and the money was paid to the accused, at a price which may I suggest is not a matter without significance, it is equally open to the court to infer that the abnormal price, bearing in mind the market, an indication clearly that it was not a vehicle to be retained, it was one likely to lead to a considerable amount of difficulty.

As to the reference to Col Hooper and Major Babe, there is no evidence as to what their authority was. I have personal knowledge they were at the HQ at that time, but if I volunteered to someone that he is entitled to sell something I do not know about, surely that is not a claim of right made in good faith, nor is it a matter of condonation either because the persons alleged to have given this approval could never have addressed their minds to whether it was an offence or not, and therefore, regardless of their relation to the accused, could not have condoned the offence if committed. The explanation of having the car is just as consistent with guilt as innocence. The fact that it was acquired does not change the situation in the slightest. If he paid for it, that is only evidence of his good faith, or it might have no significance at all. My submission is that the car was war booty. There is no method by which it could be disposed of by army officers, and certainly not to an army officer. That is a matter of common military knowledge.

In view of the arguement which I have addressed to you now in view of Charge 1, it is my submission nothing need be said to you with respect to Charge 2.

It is part of my duty as Judge Advocate to sum the evidence and advise the court on the law. The court is however, the sole judge of the facts and anything I have said or may now say with regard to the facts should be completely disregarded. The court and the court alone is the sole judge of the facts.

I do not consider it necessary to sum up on the evidence and with your permission I will not do so. I wish to point out that at the beginning of the deliberations the Court must consider the accused to be innocent. The onus is on the prosecution to prove that the accused is guilty, not for the accused to prove himself innocent. Therefore, the prosecution must satisfy the court that the elements constituting the charge are proved.

The accused is charged with a charge under Army Act Sec 41, When on Active Service committing a civil offence, that is to say, Larceny contrary to Section 2 of the Larceny Act 1916 in that he, in the Field, in Holland, on or about 6 Jul 45 stole a 1937 Ford V8 Sedan Motor No; 74-88847 the property of a person unknown. With regard to larceny a person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof, provided that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, if, being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any person other than the owner. Therefore, in a charge of larceny, the article alleged stolen must be shown to have been taken without the consent of the owner. By owner, I repeat, means any part owner or person having possession or control of, or special property in anything capable of being stolen. There must be an intent to permanently deprive the owner thereof.

With regard to the evidence; the defence has raised the point that some of the witnesses for the prosecution may be accomplices. An accomplice is a person who willingly takes part in a crime and the crime charged in this first charge is theft. Therefore, if the court find that any of the witnesses come within that definition, then the court should treat that evidence as the evidence of accomplices. I read from MML, page 83, Sec 45 "Apart from any such statutory requirement the evidence even of an accomplice is in strict law sufficient, if the jury consider him credible; but it is now held to be the duty of the judge to warn the jury of the danger of convicting a prisoner on the uncorroborated evidence of an accomplice and, in his discretion advise them not to do so, though at the same time pointing out that it is within their legal province to convict upon it if they choose. In a trial by court-martial where the court performs the functions of both judge and jury, they should very carefully consider the danger before convicting on the unscrroborated testimony of an accomplice; and, if there is a judge-advocate, it is essential that he should direct their attention to the point. Except where a statute makes provision as to the nature of the evidence necessary, the corroboration required is independent testimony which confirms in some material particular not only the evidence that the crime has been committed, but also that the accused committed it".

It has been laid down in law that the receiver of stolen property is not an accomplice of the thief, and therefore, if the court finds the witness Hillemaar merely received stolen property, he is not an accomplice. With regard to the witnesses even though the court finds they are accomplices, if the court finds they are engaged in something illegal according to the law in their own country, the court may consider that as it affects their credibility in the case.

If the court finds as a matter of fact upon the evidence that the vehicle alleged stolen is a captured enemy vehicle then that vehicle is the property of one of the allied governments and is therefore public property, and if that vehicle is public property, and is dealt with in the manner as alleged in the charge by the accused, then it may constitute theft, but if the court is not able to find as a matter of fact that the vehicle is public property, that is, a captured enemy vehicle, then the prosecution has not satisfied the onus upon it and shown that the vehicle was taken without the owners consent, and the accused would not be guilty of theft even though he acted as alleged. With regard to the first proposition that the court finds as a matter of fact that the vehicle is a captured enemy vehicle, and therefore public property, that it was dealt with in the way alleged, that it was sold, then as I said, it may be theft provided that the accused acted as he is alleged to have acted and as the court may find he did act, fraudulently and without claim of right made in good faith. I read from Archbold, page 491, on intent. "In all cases of larceny, the question whether the prisoner took all the goods knowlingly or by mistake - whether he took them bona fide under a claim of right, or otherwise-- and whether he took them with an intent to return them to the owner, or fraudulently with an intent to deprive the owner of them, altogether, and to appropriate or convert them to his own use-- are questions entirely for the consideration of the jury, to be determined by them upon a view of the particular facts of the case. A person has a claim of right where he honestly asserts what he believes to be a lawful claim, even thought it may be unfounded in law or fact."

In addition to the evidence heard in the court, the court may consider evidence of notoriety, and I read MP 74 "The court may take judicial notice of all matters of notoriety including all matters within their general military knowledge." By Rule 74 "The court are expressly authorized to take judicial notice of all matters of notoriety, including all matters within their general military knowledge. Thus, evidence need not be given as to the relative rank of officer, as to the general duties, authorities, and obligations of different members of the service, or generally as to any matters which an officer, as such, may reasonable be expected to know".

If the court find the accused not guilty of the first charge, then the court may consider the second charge, under Sec 40 of the Army Act, when on active service, conduct to the prejudice of good order and military discipline in that he , in the Field, in Holland on or about 6 Jul 1945

improperly disposed of a 1937 Ford V8 Sedan, Motor No. 74[illegible] 8884[illegible] to F J Hillenaar, a Dutch civilian. To be guilty of this charge, the prosecution must satisfy the court that the particulars of the charge are materially proven, and if proven, that it constitutes conduct to the prejudice, of both good order and military discipline. It is not necessary for a charge under Sec 40 to be proven to show that it is contrary to a routine order. The facts in the charge themselves may show that it is conduct to the prejudice, and that is for the court to decide. The advice I have given to the court with regard to the evidence on the first charge is also applicable to the second, the alternative charge.

It is also my duty to point out to the court that the accused is entitled to the benefit of any reasonable doubt. I say a reasonable doubt, that is some doubt which is based on the facts before the Court and not some doubt which is purely imaginary. If the Court has a reasonable doubt after hearing and weighing the evidence then the accused is entitled to the benefit of that doubt.

That is all I wish to say sir, unless the court or the Defending Officer or the Prosecuting Officer require further direction on some point I may have over-looked.

Prosecutor

There are two points on which I respectfully submit, further direction might be given.

The first is that the statment made in the course of the JAs address "If you are unable to find that the car which is the subject matter of the charge, is war booty, then the prosecution has failed". My submission is that that is not a proper statement of law. There can be no doubt whatever if it is as held, or you come to the conclusion that it is war booty, then there can be no doubt whatever about the result. It is only necessary to prove it is the property of someone other than the accused. I respectfully submit that is the direction which the JA might make at this time. If there is any further doubt about that, I will address myself to it. He may even refer to the facet of some of the evidence on the case.

The other thing is that I feel something should be said about the relative weight given to the evidence of various people and your right to take at whole or in part such portion as you may choose to bellieve. It is not necessary that you discount a witness entirely, you may accept some, and disregard other.

The Judge Advocate

With regard to the evidence of witnesses, I advise the court the weight of credibility they place on witnesses is a matter for the court. It is true that the court may believe part of a witness's statement, none of it, or the whole of it, and the weight they give to any statment they do believe is entirely a matter within the jurisdiction of the court.

With regard to the first request of the Prosecuting Officer. If the prosecuting officer has satisfied the court that even if the vehicle in question is found as a matter of fact not to be public property, that the accused still dealt with it as alleged without the consent of the owner, then he is quite right in saying that would constitute theft. I merely pointed out to the court that if the court find it is not public property, then there is no evidence before the court to show that the vehicle was dealt with by the accused without the onwer's consent and there would not be evidence to support a charge of theft.

The Court requires no further direction.

The Defending Officer requires no further direction.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE FINDING.

The court find that the accused, Lt. Theodore Lewis James GREENSLADE, RCAC, on strength 3 Cdn Transit Camp, CFN, is guilty of the First Charge, and is not Guilty of the Second Charge.

The Court is re-opened.

The President announces the finding of Not Guilty and states to the accused that the finding of the Court on the First Charge, being subject to confirmation, will be promulgated later.

The accused is arraigned upon the Third, Fourth, Fifth, Sixth and Seventh Charges in the Charge Sheet.

Q.235 Are you guilty or not guilty of the third charge against you, which you have heard read?
A. Not guilty, sir.

Q.236 Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A. Not guilty, sir.

Q.237 Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A. Not guilty, sir.

Q.238 Are you guilty or not guilty of the sixth charge against you, which you have heard read?
A. Not guilty sir.

Q.239 Are you guilty or not guilty of the seventh charge against you, which you have heard read?
A. Not guilty, sir.

RP39(A) complied with.

At 1610 hours on the 28th day of March 1946 the court adjourned, to re-assemble at 1000 hours on the 29th day of March 1946. At 1000 hours on the 29th day of March 1946 the Court re-assembled pursuant to adjournment.

Medical Certificate is produced.

Present the same members and judge-advocate.

The Prosecutor makes an opening address:

The accused stands charged with five charges, one of which is framed in the alternative, and the first of these charges, the third charge, deals with the trafficking in liquor with Dutch civilians, and secondly, the 4th charge, with using military transport for the delivery of that liquor to the Dutch civilians. The 5th charge is laid under Section 18(4) of the Army Act and I will deal with that when reviewing the evidence which I propose to adduce in support of the charge. The 6th charge is framed in the alternative and alleges conduct to the prejudice of good order and military discipline, in that the accused, in the Field, in Holland, in the month of July or August 1945, improperly dealt in merchandise in that he sold two hundred bed-sheets to Dutch civilians. The seventh charge is precisely to the same effect and deals with a different transaction.

With respect to Charge 3, evidence will be adduced that the accused on one occasion took a quantity of goods including liquor to the Hague and disposed of it there to Dutch civilians, and subsequently on the same occasion from the proceeds a diamond ring was purchased. Likewise the accused will be shown as the manager of the 100 Club, which was an amenity of the Cdn Army, operating at Enschede and Apeldoorn at the time dealt with in the charges. A Sgt Derby was in charge of the liquor stocks and on the orders of the accused, delivered to the accused certain liquor which was in turn taken to the Hague by the accused and peddled there in an army vehicle. Likewise in another transaction the accused exchanged a substantial quantity of liquor for certain jewellery to a man by the name of Vulker, and those are the items dealt with in charge 3.

The proof of use of WD transport will be adduced in the evidence to support Charge 3.

With respect to Charge 5, evidence will be laid that the accused in company with one Schonk went to the home of Cpl Haffert, then a civilian, in the month of July 1945 late one evening and delivered 200 bed-sheets with instructions to Haffert that they were to be sold for 30 guilders each. A few days later the accused in company with Schonk returned and there was paid to the accused 6000 guilders, out of which he paid some commission I believe to Haffert. Part of those sheets which were sold will be produced in evidence and positive identification of them as army property is not possible in the sense that they bore no marks, but they are the same type as were issued to the 100 Club by the ADOS dump for the use of the civilian staff and likewise for other army units.

The alternative to that is that they were improperly dealt in with civilians and it will be my submission that to do so is contrary to good order and military discipline, if not actually in violation to the routine order covering the matter of trading with civilians.

The transaction referred to in the 7th charge relates to an action also in Holland, in July or August, when upon orders of the accused, 500 sheets were loaded in a MUP in charge of a military driver, in which an employee of the club, Leo Barnhoorn, went to Tilberg along with the secretary of the accused, Fine Martens.

There will be some doubt as to just exactly where all the sheets were delivered, but the purchaser of 100 of them will be here. The sheets were loaded on the HUP on the orders of the accused. I should, just for the sake of the record, add that the submission will be made that this transaction constitutes conduct to the prejudice of good order and military discipline. I am not quite sure whether I am entitled to make any reference to the original address I made but in case I am not, may I say again that it will not a matter of any concern to the court that other persons, either civilian or military, may, in the course of evidence, be proved to be accomplices of the accused in any offences. That is not of any consequence. The only concern of the court will be the participation of the accused himself. In coming to your conclusion, you will be advised by the JA you can take into account matters of notoriety, the authority being RP 74, and your military experience as officers.

The Prosecutor proceeds to call witnesses:

Prosecutor:

First I would like to read an appropriate portion of Cdn Routine Orders (21 A Gp) issued 3 Nov 1944, para. 4, of which I will supply a copy which may be entered as an Exhibit. (Routine Order No. is 519)

(The Prosecutor reads Cdn Army Routine Orders (21 A Gp) issued 3 Nov 1944, paras 4 & 5), No. 519.

The Defending Officer does not object.

CERTIFIED TRUE EXTRACT FROM CANADIAN ROUTINE ORDERS (21 A Gp) 519 issued 3 Nov 1944, paras 4 & 5 ENTERED AS EXHIBIT "H", SIGNED BY THE PRESIDENT, ATTACHED TO THE PROCEEDINGS

Prosecutor:

I also read from Cdn Routine Orders 21 A Gp 1508 issued 22 Jun 1945, para 4, of which I will supply a copy which may be entered as an Exhibit.

(The Prosecutor reads Cdn Army Routine Orders (21 A Gp) issued 22 Jun 1945, para 4, No. 1508)

The Defending Officer does not object.

CERTIFIED TRUE EXTRACT FROM CANADIAN ROUTINE ORDERS (21 A Gp) 1508 issued 22 Jun 1945, para 4 ENTERED AS EXHIBIT "I", SIGNED BY THE PRESIDENT, ATTACHED TO THE PROCEEDINGS.

First Witness for the Prosecution — 163103 Cpl Henry HAFFERT, 90 Asmunthaven, den Haag, presently in the Royal Netherlands Army, having been duly sworn, is examined by the Prosecutor through the Interpreter:

Q.240 Will you tell the court your full name and rank?
A. 163103 Cpl Henry Haffert.

Q.241 Where do you live?
A. 90 Asmunthaven, the Hague.

Q.242 Do you consider the oath which you have just taken to be binding on your conscience?
A. Yes sir.

Q.243 Do you know the accused, Mr. Greenslade?
A. Yes sir (The witness indicates the accused)

Q.244 When did you first meet him?
A. The first week of June 1945.

Q.245 How did you come to meet him?
A. I met him in the street.

Q.246 Did you have any business transactions of any kind with Mr. Greenslade?
A. Yes sir.

Q.247 What was the first major transaction which you had?
A. The car.

Q.248 What was the deal about the car?
A. It was in the month of June, perhaps the last week of June, I cannot recollect exactly.

Q.249 What was the next large transaction you had with Mr. Greenslade?
A. It was ladies fabrics.

Q.250 When was it?
A. A few weeks after the first transaction with the car.

Q.251 When was the next transaction after that?
A. About the middle of July.

Q.252 Will you tell us how that transaction came about?
A. One afternoon about the time I just mentioned Capt Greenslade came in a car with a sergeant accompanying him.

Q.253 What kind of sergeant, do you know?
A. I cannot remember.

Q.254 What army did he belong to?
A. The canadian Army. He asked me whether I could sell liquor for him.

Q.255 What happened then?
A. I then went in the car with him.

Q.256 What kind of car was it?
A. A HUP.

Q.257 Who was in the car?
A. Greenslade and the sergeant.

Q.258 Where were they riding?
A. Greenslade was driving and the sergeant beside him.

Q.259 Where were you?
A. In the back of the car.

Q.260 What was in the back of the car with you?
A. Some cases of gin.

Q.261 Anything else?
A. No sir, nothing else. I cannot recollect whether there was anything else, but I do not think so.

Q.262 Will you tell the court what these cases were that were in the back?
A. Five or six wooden cases of Steinhager gin.

Q.263 What kind of containers?
A. The bottles were partly covered in straw.

Q.264 What kind of bottles were they?
A. Normal long bottles, contents about 7/10 of a litre.

Q.265 What were the bottles made of?
A. Glass.

Q.266 How many cases of Steinhager gin were there?
A. One.

Q.267 What were the other kinds of gin?
A. There was what you call Avocaat, and the others were gin.

Q.268 What kind of gin?
A. Old Mab.

Q.269 How much Avocaat?
A. One case.

Q.270 How many cases of old Mab were there?
A. At most three. If there were five cases, the last must have been three. If there were 6, then four of the last.

Q.271 How many bottles in each case?
A. In the closed cases 12, and in the open cases I take it to have been 12 too, but it may have been 10, I did not count them.

Q.272 You state you agreed to assist Greenslade to dispose of the gin. What were to be the terms of sale?
A. 200 guilders a litre.

Q.273 That is for the gin. What was the price to be for the Avocaat?
A. Later on I changed that price myself. I put it at 150 guilders per litre because I could not sell it.

Q.274 In making your calculations for the sale, at what did you rate the contents of a bottle for gin?
A. 3/4 of a litre.

Q.275 What time did you start out on this venture?
A. About three o'clock. I do not know what day. It was in the afternoon.

Q.276 Where did you go?
A. All through the town around the cafes.

Q.277 What was the procedure when you got to each cafe?
A. I left the car somewhere, took two bottles in my pocket with me and went to the various cafes trying to sell them.

Q.278 Did you sell some?
A. Yes sir.

Q.279 And when you sold them and got the money, what did you do with it?
A. I gave it to the sergeant.

Q.280 Who told you to give it to the sergeant?
A. Mr. Greenslade.

Q.281 How long did you work at this?
A. About 5 hours at a stretch.

Q.282 Did you sell all the liquor you had in the HUP?
A. No sir, not all.

Q.283 How much was left?
A. About six bottles.

Q.284 How many cafes and restaurants do you think you visited altogether?
A. 30 to 35.

Q.285 Did you make any large sales any place?
A. In two cafes.

Q.286 Do you know the names of them?
A. The Kila Cafe at Aldemostraat and also the La Reserve cafe. I got that name from checking up later.

Q.287 Any other cafe?
A. I cannot recollect exactly. There is one other in my mind, the Konijnenburg.

Q.288 Was Mr. Greenslade present during all this time?
A. He was in the car.

Q.289 When the transaction was finished, what happened?
A. We went in the direction of my house. I said I wanted to go home. Then I received 600 guilders from the sergeant.

Q.290 On whose instructions?
A. I do not know for sure. I could not follow the conversation. I heard talk of 600 guilders and I received them.

Q.291 What was the next transaction you had?
A. The bed-sheets.

Q.292 When did that take place?
A. At the end of July or the beginning of August. At 10 o'clock in the evening there was a ring at the house. When I opened the door Tony Schoak was there.

Q.293 What happened then?
A. Tony and I then took the bed-sheets upstairs.

Q.294 How many were there?
A. There were about 200, I did not count them.

Q.295 Why were they taken up to your house?
A. I am not allowed to say what others say.

Q.296 What did you do as a result of instructions?
A. I sold the sheets.

Q.297 What was the price to be?
A. 30 guilders a sheet.

Q.298 Did you sell the sheets?
A. Yes sir.

Q.299 Who to?
A. Various persons.

Q.300 Do you remember any of them?
A. One.

Q.301 Who was that?
A. The partner in the Marie Bar.

Q.302 Do you know his name?
A. I did not at the time I sold them to him.

Q.303 Do you know now?
A. I heard his name was Krul.

Q.304 How many did you sell to him?
A. 40

Q.305 For what price?
A. 1500 guilders.

Q.306 Did you see Mr. Greenslade at the time the sheets were delivered to your house?
A. No sir.

Q.307 Did you see him subsequently in connection with this transaction?
A. Yes, some days later.

Q.308 What happened on that occasion?
A. This Tony and Greenslade came and as far as I remember one more person, it may have been the other soldier who was with him in the beginning. It may also have been somebody else.

Q.309 What happened on that occasion?
A. The proceeds of the 200 bed-sheets were paid.

Q.310 To whom?
A. I settled with Tony.

Q.311 Was Mr. Greenslade present?
A. Yes sir.

Q.312 What happened then?
A. Then we settled the business there.

Q.313 Did Tony put the money in his pocket or what did he do with it?
A. I believe he gave it to Greenslade.

Q.314 What happened after that?
A. They went away.

Q.315 Did you receive any money?
A. 400 guilders.

Q.316 Who from?
A. I cannot recollect exactly. It may have been that Tony gave it, or it may have been that Greenslade did.

Q.317 Did you make any further arrangements for business of this character?
A. No sir.

Q.318 Was there any discussion between you and Greenslade of any character?
A. There was some discussion about further sheets to be sold, but whether to me or through me was not probable.

Q.319 How many sheets were to be sold?
A. I heard the number of 500 mentioned but nothing further was said about them. They had to wait and see.

Q.320 Did you have some discussion about it several days later?
A. Yes sir.

Q.321 What was said at that time?
A. Then I asked whether there were any more sheets. Tony said -----

Q.322 Was Mr. Greenslade present?
A. It is possible.

Q.323 If you are not sure if he was present, do not tell us anything about it.
A. I am not sure if he was present.

Q.324 Were you present with Sgt Morris when he went to Krul's?
A. Yes sir.

Q.325 And what happened there?
A. There a number of sheets were seized.

Q.326 Were you present at the time?
A. Yes sir.

Q.327 I want you to take a look at this pile of sheets?
A. (Witness examines a pile of sheets)

Q.328 Do you recognize those sheets?
A. Yes sir.

Q.329 Those are the sheets that were seized on that occasion?
A. Yes sir. I am not sure if they are the identical sheets, but they are the same kind.

(25 sheets entered as Exhibit "J" for identification. The Defending Officer does not object)

Cross-Examined by Defending Officer.

Q.330 Cpl Haffert, you saw a pile of sheets in the next room and you said they looked like the ones that were seized, but you are not absolutely sure they are the ones, are you?
A. They are the same sort of sheets, but as there are no special marks on the sheets, I cannot say they are the identical ones but they are the same sort.

The prosecutor declines to re-examine.

The Judge Advocate:

Q.331 In your conversations with Mr. Greenslade, what language did you speak?
A. When I was alone with Greenslade I spoke English as well as I could.

Q.332 Do you understand English?
A. A bit.

Q.333 Did you understand what he was saying to you?
A. Mostly, not quite.

The Court:

Q.334 What languages could Tony speak?
A. As far as I know, only English and Dutch.

Q.335 Did he act as interpreter?
A. When he was present, he did.

Q.336 Did the sergeant who accompanied Haffert, or rather Schonk and Greenslade when they were peddling the liquor around the Hague speak any Dutch?
A. Only English.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(3)

The witness withdraws.

Second Witness for the Prosecution — B27265 Sgt Milton Whitney DERBY, RCE, Cdn Army, having been duly sworn, is examined by the Prosecutor:

Q.337 Will you tell the court your number, rank and name?
A. I am B27265 Sgt Milton Whitney Derby, RCE.

Q.338 What did you do, how were you employed in the army during the most of 1945?
A. I was employed from the 14 Feb until the last week in November at the 100 Club.

Q.339 What was it?
A. A junior officer's club.

Q.340 Run by whom?
A. Mr. Greenslade.

Q.341 Is Mr. Greenslade here?
A. Yes sir. (The witness indicates the accused)

Q.342 Was this an official army organization?
A. Yes sir.

Q.343 What were your duties?
A. My duties were to look after and keep an account of the liquor stock, sir.

Q.344 In the time you were employed in the 100 Club, what places did it operate in?
A. Hilburg first, for about two months. Then it moved to Enschede for the same length of time, and then to Apeldoorn.

Q.345 Was that the last you had to do with the club?
A. Yes sir.

Q.346 In the time that you were employed at the 100 Club, what transport was available for the use of the staff of the club?
A. When I first arrived there was a small Austin and shortly after we moved to Enschede Mr. Greenslade came home with a HUP from the Cary Company. We had two cars until after we went to Apeldoorn, and then the Austin was beyond repair.

Q.347 What happened to it?
A. I had it towed to the work-shop.

Q.348 What other transport did you acquire?
A. A jeep sir.

Q.349 You said you had charge of the liquor stock at the 100 Club throughout that period. What was the source of supply of spirits for that club?
A. We had a weekly issue from NAAFI of of 105 bottles of shiskey and 53 of gin, and whatever champagne and liqueur liquer they could spare us.

Q.350 This is from NAAFI?
A. Yes sir.

Q.351 What other source ofsupply did you have?
A. On two or three occasions at Tilburg Mr. Greenslade went to Antwerp and brought back one time two dozen bottles of assorted liqueurs, and another time about the same quantity and he would present me with the bill and I would pay him.

Q.352 Did that source of supply continue through the period at Enschede and Apeldoorn?
A. Yes sir, with the exception of one week when we drew twice.

Q.353 That other source of supply, did you have it , or what other source of supply did you have Enschede and Apeldoorn?
A. One day there was a truck drove up to the club and unloaded 1100 bottles of wine and 300 bottles of assorted liqueurs, such as Steingie and Avocaat, Apricot Brandy, etc.

Q.354 What other supplies did you receive?
A. I received some Victory gin, about five cases, 50 bottles in a case.

Q.355 Any other supply at Enschede?
A. I believe that is all we got while we were there.

Q.356 Did Major Babe acquire any liquor on behalf of the club?

Defending Officer: I suggest this man does not know.

Prosecutor: He can indicate what he acquired.

Defending Officer: I do not want any heresay evidence.

Examination of witness continues:

Q.357 Was liquor obtained for the club by Major Babe?
A. I believe so. It was delivered to the club.

Q.358 In addition to the Victory Gin, what other gin did you get in that way?
A. 500 bottles of Old Mab gins, and 500 bottles of Vermouth, delivered after we moved to Apeldoorn.

Q.359 Did the club have any supply of cognac?
A. Yes sir, a quantity of Camus cognac came while we were at Enschede.

Q.360 How much?
A. How much, well, I think it was 30 cases, 12 bottles in a case.

Q.361 When did the club move to Apeldoorn?
A. When we moved to Apeldoorn we had about 200 bottles of whiskey, 100 bottles of English gin, about 8 or 9 cases of cognac, or maybe a dozen. There were four of the big cases of Victory gin, 50 in a case, and there was all the wine I had, as we had not sold over two or three bottles of it, and probably a dozen bottles of champagne.

Q.362 Did you have any Advocaat in the Club stock?
A. Yes sir.

Q.363 When and where was it acquired?
A. Some of it came with the other liquor.

Q.364 You mean the NAAFI supply?
A. No sir. With the 1100 bottles of wine at Enschede.

Q.365 You have told us about a delivery of Old Mab gin and vermouth. When was that delivered?
A. Shortly after we went to Apeldoorn.

Q.366 Will you tell the court what the method and control of sale there was for this liquor at the 100 Club?
A. Every day I gave the bar so many bottles of liquor and they had to account for 26 drinks out of each bottle and every morning I used to go down and count my whiskey to make sure I had not taken up an extra bottle at night.

Q.367 For the purpose of accounting, you had to have either the liquor or the money?
A. Yes sir.

Q.368 What was the rate of value of spirits by the bottle?
A. Thirteen guilders for whiskey and English gin.

Q.369 What about the price for other types of gin?
A. At first the English gin was sold for 40 cents a drink, 10.40 per bottle, but after the recreation centre took us over, we sold gin for 50 cents. Champagne was sold at 20 guilders a bottle.

Q.370 What was the method of accounting with respect to gin or liquor, gin or liqueur? Other than that obtained from NAAFI?
A. All except the Avocaat and the other liqueur, everything was accounted for the same as the NAAFI.

Q.371 Thirteen guilders a bottle?
A. Yes sir.

Q.372 Was there any limit on the sales you could make?
A. There was a limit on the sales of English gin and whiskey.

Q.373 But none on the other?
A. No sir.

Q.374 And the arrangement was that you either had to have the stock or the money?
A. Yes sir.

Q.375 I believe you told us before that during all the time you were at the 100 Club Mr. Greenslade was the manager?
A. That is right.

Q.376 Did he have any special allotment?
A. Yes sir, after we moved to Apeldoorn Col Barham ordered that he was to be allowed one bottle of whiskey or the equivalent a day for entertainment.

Q.377 How was that to be issued?
A. In drinks in the club.

Q.378 Apart from that issue of drinks from the bar in the club, did you have any other transactions with Mr. Greenslade?

Judge Advocate:

Sgt Derby, you are not obliged to answer any question which you feel might incriminate yourself in any way, but if you think you may be incriminated by any question, you may ask the court for permission not to answer that question.

Examination of witness continues:

Q.379 What transactions did you have with Mr. Greenslade other than the simple issue from day to day? Did you ever receive any special orders with respect to the issue of liquor from him?
A. Yes sir, at times.

Q.380 What special orders of any kind did you ever receive from Mr. Greenslade with respect to the issue of liquor?
A. I have received orders from Mr. Greenslade to sell a bottle to an officer occasionally, and occasionally the civilian staff, and another time on his orders I delivered to him a quantity of liquor for one of the messes.

Q.381 Will you tell us about that. How did that come about?
A. One morning I was in the office of Greenslade, and he came in and asked me how much gin I had, and I told him we had too much. He asked me if I thought we could spare a mess five or six cases and I said I thought we could spare them four cases, so I went down cellar and got the gin out and he asked me what I was doing with the Avocaat and I said I did not put it on sale any more as there was no demand for it. Steinhager was not fit stuff for anybody to drink, so he got a couple of cases of that.

Q.382 What order did you receive and what did you do as a result of the order on that occasion?
A. I had two of the staff load the four cases of Old Mab and two cases of Steinhager and two cases of Avocaat in the MUP.

Q.383 When did that happen?
A. About 10 o'clock a day between the 1st and 15th of July.

Q.384 How did you take care of that issue in your records?
A. Mr. Greenslade came back at supper time and gave me the money for it sir.

Q.385 At what rates?
A. At bar rates.

Q.386 How much did you receive for the Old Nab?
A. Thirteen guilders a bottle.

Q.387 And the Steinhager?
A. Ten.

Q.388 And the Avocaat?
A. Eight.

Q.389 That balanced your books?
A. Yes sir.

Q.390 You told us before that this had been indicated to you as an issue to another Mess?
A. That is right sir.

Q.391 Did you satisfy yourself that it was an issue to another Mess?
A. I asked Mr. Greenslade to bring me back a receipt. When he came back that evening he looked through his pockets and could not find it and said he would bring it as soon as he changed his clothes.

Q.392 He paid you the money at that time?
A. Yes sir.

Q.393 Did you ever receive that receipt?
A. Yes sir.

Q.394 When?
A. Right after I had eaten my supper sir, that evening.

Q.395 What was the normal drill when transferring stock from your mess to another mess?
A. It was according to which mess it was for and who gave the order.

Q.396 Was money generally paid?
A. Yes sir, money was always paid eventually. Once we had one transaction for B Mess which I had on my books from Tilburg to Apeldoorn.

Q.397 Were you always in charge of this stock or was there any period when you were not in charge?
A. I was away on two or three different occasions overnight and I had leave in England in August for 11 days and two 48-hour extensions, because of the weather, and I was only back two or three days when I was in a jeep accident and was in hospital five or six days.

Q.398 Did you return to the club from leave?
A. Yes sir.

Q.399 How long was it afterwards you had the accident?
A. Five days.

Q.400 In the meantime you took over the stock again?
A. Yes sir.

Q.401 Who had charge while you were away?
A. I gave the keys to Mr. Greenslade. When I came back the head-waiter gave me the keys back.

Q.402 What was the state of the stock when you came back?
A. The stock of whiskey and gin looked low. I inquired and found they had not drawn the regular issue from NAAFI.

Q.403 You were employed continuously at the club. Who was responsible for the equipment around the club?
A. Mr. Greenslade.

Q.404 What bed-clothing was issued to the staff?
A. I think the staff had three blankets each and at least two sheets each.

Q.405 What kind of sheets?
A. White sheets.

Q.406 And the material, do you know?
A. I believe it was cotton.

Q.407 They were regular issue to the staff, were they?
A. They were drawn from the ADOS.

Q.408 I want you to have a look at that pile of sheets? (Exhibit "J")
A. (Witness examines Exhibit "J")

Q.409 Have you ever seen sheets like those?
A. Yes sir.

Q.410 Where?
A. The staff at the club had sheets either like that or almost exactly like that.

Q.411 How many people were employed at the 100 Club while you were there?
A. It varied, but the average was 48 to 50.

Q.412 During the time that you were at the 100 Club, was there an interpreter employed at the club?
A. Yes sir.

Q.413 Who was it?
A. Fine Mertens.

Q.414 How long was she there?
A. From about a week after we went to Enschede until the end.

Q.415 Do you know what her duties were?
A. There were probably 20 people on the staff who could not speak English and if we wanted to ask them questions or give orders to them, we had to use her, sir.

Q.416 I show you a photograph, can you tell the court who that is?
A. Yes sir, the Interpreter, Miss. Mertens. EXHIBIT "K"

Q.417 Did she have any other duties around the club that you know of?
A. No sir.

Q.418 Did she give any orders around the club that you know of?
A. No sir.

Cross-examination by Defending Officer:

Q.419 You have stated I believe quite clearly that in accounting for your stock in the morning you had to have either cash or liquor?
A. Yes sir.

Q.420 One bottle per day was allotted for entertainment to Mr. Greenslade?
A. Yes sir.

Q.421 Was there any objection to that bottle going to his room?
A. No sir.

Q.422 You were always paid for liquor sent to messes, although perhaps a delay once or twice?
A. Yes sir.

Q.423 Do you know of your own knowledge what Mr. Greenslade's general rule was with regard to the keys of the liquor cellar?
A. He never wanted to have anything to do with them.

Q.424 Did he ever have them when you were there?
A. No sir.

Q.425 Do you know of your own knowledge what he did with them when you were not there?
A. The only time I ever gave them to him was when I went to England.

Q.426 And from whom did you get them back?
A. The civilian manager.

Q.427 You say these sheets look like the sheets at the club, but you do not know if they are sheets that came from the club, you cannot say, can you?
A. Cloth is all the same to me. They look like the same sheets.

Q.428 You won't take your oath they are the same sheets?
A. I remember of no marking on the sheets.

The Prosecutor declines to re-examine.

In the opinion of the court and the Judge Advocate it is not necessary to comply with RP 83(8)

The Witness withdraws.

Third Witness for the Prosecution — Mr. Hermanus Aloysius VULKER, Oliemolinsingel 30, Enschede, having been duly sworn, is examined by the Prosecutor through the Interpreter:

Q.429 Do you consider the oath you have just taken to be binding on your conscience?
A. Yes sir.

Q.430 What do you do in Enschede?
A. I am a broker and motor car expert.

Q.431 Were you living in Enschede in the summer of 1945?
A. Yes sir.

Q.432 Do you know the accused Mr. Greenslade?
A. Yes sir. (The witness indicates the accused)

Q.433 When did you first meet him?
A. The end of April 1945.

Q.434 How did you come to meet him?
A. I went to the house where he lived at Oldenzaalsche-straat, Enschede.

Q.435 What happened there?
A. There I showed him some jewels, and then it appeared he was interested in diamond rings, a white gold ring with one large diamond and set off with sapphires.

Q.436 You say he was interested in it, what happened?
A. The ring was especially examined and several people came in and out and they examined the ring too and it seemed to me he was discussing the matter with them. I was asked what the price was. It was 10000 guilders.

Q.437 How were these negotiations conducted?
A. The translation was conducted by a girl who I later got acquainted with as Miss Fine.

Q.438 Do you know her other name?
A. No.

Q.439 I show you a photograph, Exhibit "K". Will you look at that?
A. That is she.

Q.440 I understand she acted as the interpreter?
A. Yes.

Q.441 What happened?
A. There was a good deal of talking and I was there for about an hour and a half, and at last I went away, and the price was 80000 guilders, but I did not accept that. When I went away the Lt. asked me if I would keep the ring for some days and come back. I went back three days later. When I came back there was quite a conversation about it between Mr. Greenslade and two other gentlemen who were present, and the girl. As a result of this talk I was agreeable, and I at last accepted the offer, at first of 700 English pounds. We did not agree on that, then came an offer of a piano, 120 bottles of Avecaat and 40 bottles of French cognac.

Q.442 What was done by you in respect to that offer?
A. It was accepted in principle by me. There was one condition, I had to wait for a fort-night as Mr. Greenslade had to go to France and get the cognac. The Avecaat was available.

Q.443 What happened after that?
A. I left the ring behind and as soon as the other stuff was available I should then get information when I should get it home. In the meantime I should drop in to ask if the stuff was available.

Q.444 Did the stuff become available?
A. Yes, with the exception of the piano. I was to get this when they departed to some other place.

Q.445 Did you receive the cognac and avocaat?
A. Yes sir.

Q.446 How was it delivered or did you pick it up?
A. It was delivered by an army truck and Mr. Greenslade himself was present.

Q.447 Did you ever receive the piano?
A. No.

Q.448 Did you have some other business dealings with Mr. Greenslade?
A. Yes, later I offered him a pearl ring which I had on consignment at that time.

Q.449 Will you look at this ring and examine it please?
(A white metal black pearl ring is shown to the witness)
A. That is the ring.

One White metal black pearl ring is shown to the witness, identified, produced as Exhibit "L".

The defending officer does not object.

Q.450 Did you have any further dealings with Mr. Greenslade?
A. Yes. I sold him one bracelet.

Q.451 I show you a case containing a diamond bracelet.
A. That is the bracelet.

One diamond bracelet in a case produced as Exhibit "M".

The defending officer does not object.

Q.452 When did the deal with respect to the diamond bracelet take place?
A. Between 20th and 30th of September.

Q.453 What was the price of the bracelet?
A. 1800 guilders.

Q.454 Old money or new money?
A. New money.

Q.455 Were you paid for the bracelet?
A. No sir.

Q.456 Will you tell the court what the negotiations were about payment for it?
A. The negotiations were that the price would be 1800 guilders.

Q.457 How was it to be paid?
A. In money.

Q.458 Was the bracelet delivered by you?
A. Yes sir, to Mr. Greenslade.

Q.459 Were you ever paid your money?
A. No sir.

Q.460 What happened then?
A. Finally an offer was made me for a used bicycle and 40 bottles of Avocaat. That offer was made the end of November.

Q.461 Did you receive the bicycle?
A. I received the bicycle.

Q.462 Did you receive the Avocaat?
A. No sir.

Q.463 What was the arrangement about you getting it?
A. I should get them at a later date.

Q.464 Were they to be delivered or were you going to pick it up?
A. They would be delivered.

Q.465 What happened after that when they were not delivered?
A. When the date of delivery that was mentioned to me had expired I went back one day later because I had heard that the gentlemen were going to leave. When I came there there seemed to be something special going on because nobody was available there and Mr. Greenslade was not present either.

Q.466 What happened then?
A. Then I went away. On the following Sunday some gentlemen came to me and put to me some questions.

Q.467 What do you mean "Gentlemen came to see you"?
A. I did not know them. They seemed to be military police or such.

Q.468 Did you ever receive the remainder of the Avocaat?
A. No sir.

Q.469 Did you ever recieve your money for the ring, Ex. "L"?
A. No sir.

The Defending Officer declines to re-examine.

Judge Advocate:

Q.470 You received 120 bottles of cognac as part payment of a pearl ring, did you, another ring, not in exhibit?
A. No sir.

In the opinion of the court and the Judge Advocate it is not necessary to comply with RP 83(B)

The witness withdrews.

Fourth Witness for the Prosecution — Antonius Cornelius SCHONK, Oestervijkselaan 139, Tilburg, Holland, having been duly sworn, is examined by the Prosecutor through the Interpreter:

Q.471 Will you tell the court your full name, please?
A. Antonius Cornelius Schonk.

Q.472 Where do you live?
A. Oestervijkselaan 139, Tilburg.

Q.473 What is your occupation?
A. Confectionerer.

Q.474 Do you consider the oath you have just taken to be binding on your conscience?
A. Yes sir.

Q.475 How were you employed during most of the year 1945?
A. As a cook in the 100 Officers Club.

Q.476 For how long?
A. From January till December 1945.

Q.477 Who was the manager?
A. Mr. Greenslade.

Q.478 Do you recognize Mr. Greenslade here in the court?
A. Yes sir. (The witness indicates the accused)

Q.479 During the summer of 1945 did you travel with Mr. Greenslade at various times?
A. Yes sir, I think about eight times.

Q.480 Did you ever make a trip to the Hague with Mr. Greenslade?
A. Yes sir.

Q.481 Will you tell the court about that?
A. The first time when I went to the Hague with Greenslade we stayed the night at the Marie Bar in the Hague.

Q.482 Did you have anything with you?
A. We had goods with us, Steinhager gin and cigarettes.

Q.483 How much?
A. 15 or 20 bottles, in stone jars.

Q.484 What became of it?
A. They were sold in the Marie Bar.

Q.485 Were you present?
A. Yes sir.

Q.486 Who bought them?
A. Mr. Haffert.

Q.487 What was done with the gin?
A. That was sold through the intermediary of Mr. Haffert.

Q.488 Were you present when the actual sale took place?
A. No, when he went away with the gin I was pr esent but I did not know afterwards.

Q.489 Were you there when he returned?
A. Yes sir.

Q.490 What was brought back?
A. A brown fur coat.

Q.491 Did any other transactions take place at that time, on that trip?
A. That day he bought a ring.

Q.492 Before or after the other transaction?
A. After.

Q.493 What was the transaction?
A. He bought a ring for 6000 guilders.

Q.494 Were you present when the transaction took place?
A. Yes sir.

Q.495 Did you make any further trips to the Hague?
A. Yes sir.

Q.496 With Mr. Greenslade?
A. Yes sir.

Q.497 When was that?
A. Also in the summer, but I do not know what date.

Q.498 Will you tell the court about that?
A. We went to the Hague with 200 bed-sheets.

Q.499 What was done with the sheets?
A. I delivered them to Haffert.

Q.500 Do you know where the delivery took place?
A. At Haffert's house.

Q.501 How did you come to deliver them there?
A. I do not know.

Q.502 On whose orders did you deliver them there?
A. Mr. Greenslades.

Q.503 What time of the day was this?
A. In the evening about nine or ten o'clock.

Q.504 Who else was present in the car?
A. Mr. Greenslade.

Q.505 What instructions other than delivering the 200 sheets did you receive, if any?
A. I was to say that the price of the sheets was 30 guilders each.

Q.506 What happened after you delivered the sheets?
A. Then we went away in the car from Haffert's house.

Q.507 What happened after that?
A. Thereafter there have been no further transactions.

Q.508 Did you see Haffert again? In connection with this deal?
A. Yes, a few days later.

Q.509 What happened on that occasion?
A. On that occasion Haffert gave Mr. Greenslade the money for the bed-sheets.

Q.510 Do you know how much money he gave him?
A. No, I do not know how much it was.

Q.511 I would like you to take a look at the pile of sheets there, Exhibit "J"?
A. (Witness examines Exhibit "J")

Q.512 You have just been shown a group of bed-sheets, Exhibit "J". Are you able to say whether the sheets you delivered to Haffert were of that kind?
A. No, I am not at all acquainted with that sort of thing.

Q.513 Were the staff supplied with bed-sheets at the 100 Club?
A. Yes sir.

Q.514 What kind?
A. Also white bed-sheets. What sort or where they came from I do not know.

Cross-examined by Defending Officer.

Q.515 I note that you saw Haffert give the money to Greenslade, I think you said he gave some of the money to Haffert, is that right?
A. Part of the money, yes.

Q.516 After that, where did you go?
A. As far as I can recollect we stayed the night at another hotel.

Q.517 Before you stayed the night, were you out with friends or anybody other than Mr. Greenslade in the Hague?
A. I have never spent the evening with Mr. Greenslade in the Hague.

Q.518 Did you spend that evening with any friends in the Hague?
A. No, I was at the latter part of the ENSA show.

Q.519 Mr. Greenslade gave you some money for yourself that evening, is that not right?
A. I received some money from Mr. Greenslade sometime when we were in the Hague to buy me a drink.

Q.520 Did you receive some that night?
A. I cannot recollect about that evening. It is possible but I cannot say for sure.

Q.521 Don't you remember that when Mr. Greenslade gave Haffert some money he also gave you some?
A. No sir. Perhaps I got money later in the day but not at that moment.

The Prosecutor declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(B)

The Witness withdraws.

At 1230 hours 29 Mar 46 the court adjourned to re-assemble 1400 hours 29 Mar 46. At 1400 hours 29 Mar 46 the court re-assembled pursuant to adjournment. Prsent the same members and Judge Advocate.

Fifth Witness for the Prosecution

Arie Matthaus van HAREN, Kolibristraat 3, Amsterdam, declines to give evidence on oath, and makes the following declaration: "I do solemnly promise and declare that the evidence I shall give before this court shall be the truth, the whole truth and nothing but the truth".
The witness is examined by the Prosecutor through the Interpreter:

Q.522 Will you tell the court your full name, please?
A. Arie Matthaus van Haren.

Q.523 And your address?
A. Kilibristraat 3, Amsterdam.

Q.524 Do you consider the solemn declaration you have just made is binding on your conscience?
A. Yes.

Q.525 What is your official capacity?
A. Officer in the Centrale Textile, Amsterdam.

Q.526 How long have you served in that capacity?
A. Since 21 April 1942.

Q.527 In your capacity have you occasion to know the regulations governing the sale of, and the purchase of, textiles in the Netherlands?
A. Yes sir.

Q.528 Will you describe for the benefit of the court the general system of control with respect to the sale and purchase of bed-sheets?
A. I should like to begin with giving the principle stipulations on which the purchase and sale are founded.

Q.529 Will you do that, please?
A. The trade in textiles is only allowed to enterprises who already traded on the 1 Jul 1938 till the 1 Jul 1939, and who in July 1940, when the Rijksbureau for the distribution of textiles was established, and was opened for those registered in that bureau. The firm had to apply to that bureau in order to get a permit, where they got such a permit. Then they were allowed to trade in textiles.

Q.530 Was anyone allowed to trade in textiles in substantial quantities outside of those who had a license?
A. No sir.

Q.531 Will you tell us what the regulations were in general with respect to those who did have a license?
A. In the course of the years those stipulations have been altered.

Q.532 I am interested in the period of July 1945?
A. Bed-sheets could be bought by any dealer who also did such in the basic year, but they could only be delivered to institutions such as hospitals etc on special permit from the Rijksbureau, and also in special cases they could be bought by victims of the war operations on special permit from the distribution services.

Q.533 Now was there a system of controlled prices on those articles?
A. The price control is no longer in the hands of the Central Inspectorate for Textiles but in the hands of the Director-General of prices, section, Price Control of Textiles.

Q.534 How did you obtain an expert opinion from the price control expert with respect to a certain group of sheets which were shown to you about a week ago?
A. About a week ago I was at the office of Lt.Col Campbell and one of the Inspectors was with me and he estimated the price of one sheet at 8 guilders and 50 cents. (Witness is shown Exhibit "J") This is one of the sheets that I saw which was valued by our Inspector.

Q.535 Were there any provisions in your section for the acquisition by Cdn Army Personnel of sheets?
A. They are unknown to me. I have had no occasion to deal with that.

Q.536 Do you know if there are any such regulations?
A. No.

Q.537 If there were any such regulations, would it be your duty to know about it?
A. Indeed the Rijksbureau would have to inform us of such provisions.

Cross-examined by Defending Officer.

Q.538 Would you ----- No, I am sorry, I have nothing to ask.

The Defending Officer declines to cross-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(3)

The witness withdraws.

Sixth Witness for the Prosecution — Johannes Christian KRUL, Troelstrockade 429, dem Haag, Holland, having been duly sworn is Examined by the Prosecutor through the Interpreter:

Q.539 What is your name?
A. Johannes Christian Krul.

Q.540 Where do you live?
A. Troelstrockade 429, the Hague.

Q.541 Do you consider that the oath you have just taken is binding on your conscience?
A. Yes sir.

Q.542 What is your occupation?
A. Hotel keeper.

Q.543 What hotel do you keep?
A. Huize Marie.

Q.544 in the Hague?
A. Yes sir.

Q.545 Do you know Mr. Grecmslade?
A. Yes sir.

Q.546 Can you point him out, please?
A. (Witness indicates the accused)

Q.547 When did you first meet him?
A. I think some eight months ago when he came to my business. He came to stay at the hotel.

Q.548 Do you know a man by the name of Haffert?
A. Yes sir.

Q.549 Did you during the summer of 1945 have any business dealings with Haffert?
A. Yes sir.

Q.550 Will you tell the court the nature of that business?
A. Haffert came to offer me 50 sheets. I declined it. Two days later he came back. Then I bought forty.

Q.551 What kind of sheets were they?
A. They are sheets which I saw here this week.

Q.552 How much did you pay for the 40 sheets?
A. 1500 guilders.

Q.553 When did this transaction take place?
A. It was in old money, so it must have been sometime in October before November.

Q.554 The transaction was in old money?
A. Yes sir.

Q.555 Sometime ago I understand some of these sheets were taken away from you?
A. That is right sir, from the hotel.

Q.556 What happened on that occasion?
A. They were taken away from me and I had to sign a voucher that they were taken away.

Q.557 Who took them away?
A. A sergeant-major and a fair-haired sergeant.

Q.558 Was Haffert present?
A. No sir.

Q.559 I want you to have a look at this pile of sheets here, Exhibit "J"?
A. (Witness examines Exhibit "J"). They are our sheets.

Q.560 When you say our sheets, what do you mean by that?
A. We have a partner-ship, Mary and I form a partner-ship, so I say "our sheets", our business.

Q.561 How many did you turn over to the sergeant and the sergeant-major?
A. Twenty-six sheets.

Q.562 Are those the sheets which you bought in the summer of 1945?
A. They are, sir.

Cross-examined by Defending Officer.

Q.563 How can you tell that these are the very same sheets you bought in the Summer of 1945?
A. I should state I had taken three or four new ones home, and they are among those.

Q.564 What kind of a mark is there that you can identify these?
A. We have had trouble with the laundry when they did not wash them properly on behalf of our guests.

Q.565 How do you know that any one of these sheets is a sheet you purchased from Harry?
A. Because they are so enormously stiff, which is not the case with other sheets.

Q.566 They look like the ones you bought and they are like the sheets the sergeant took away from you in January?
A. Yes sir.

The Prosecutor declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(3)

The witness withdraws.

Seventh Witness for the Prosecution — M17014 Private Jean Baptiste PEPIN, No. 1 Repatriation Depot, presently attached to HQ CFN, having been duly sworn, is examined by the Prosecutor:

Q.567 Will you tell the court your regimental number, rank and name?
A. I am 17014 Private Jean Baptiste Pepin.

Q.568 What unit do you belong to?
A. No. 1 Cdn Repat. Depot.

Q.569 Do you consider the oath you have just taken is binding on your conscience?
A. Yes sir.

Q.570 During the year 1945 how were you employed principally?
A. As a batman, sir.

Q.571 For whom?
A. For Mr. Greenslade.

Q.572 Do you recognize Mr. Greenslade?
A. Yes sir. (The witness indicates the accused)

Q.573 When did you first go to work for him?
A. In June 1945.

Q.574 Where?
A. Tilburg.

Q.575 How long did you continue to work for him?
A. Until April and then I went to Oldenburg to a different unit and I got back to him around June 1945.

Q.576 How long did you continue?
A. Till the Club closed up the first part of December.

Q.577 During that time you worked for Mr. Greenslade, how was he employed?
A. As Officer Commanding the 100 Club.

Q.578 What vehicles did you have for the use of the 100 Club while you worked there?
A. I saw an Austin and a HUP, a jeep and later we acquired a staff car.

Q.579 While you were employed at the 100 Club as batman for Mr. Greenslade, did you have occasion to make trips for supplies for the club?
A. Yes sir, rations.

Q.580 Anything else?
A. Yes sir.

Q.581 What else?
A. Bed-sheets and blankets.

Q.582 Who accompanied you on the trips for sheets and blankets?
A. Frank Rouyen.

Q.583 Who is he?
A. The civilian manager of the 100 Club I think.

Q.584 How many times did you make trips of that character?
A. Twice.

Q.585 Will you describe to the court the bed-sheets you acquired at the time of those trips?
A. They were white ordinary thick bed-sheets.

Q.586 In what quantity did you acquire them?
A. I figured about 50 of each.

Q.587 How were they bundled up?
A. Some in tens and some loose.

Q.588 What was done with them, do you know?
A. FRank took them to his room.

Q.589 During the time that you were on the staff of the 100 Club at Apeldoorn, did the staff have bed-sheets?
A. Yes sir.

Q.590 What type?
A. Those white hard thick ones.

Q.591 Did you see any other sheets brought to the 100 Club?
A. Yes, I saw Frank bring in maybe two or three more trips to the 100 Club.

Q.592 Where did you get those sheets that you brought?
A. At the ADOS dump.

Q.593 I want you to have a look at that pile of sheets, Exhibit "J".
A. (Witness examines Exhibit "J"). They are the kind of bed-sheets that Frank and I got from the ADOS dump.

Q.594 How do they compare with the sheets issued to you as members of the staff of the 100 Club?
A. They were all about the same sir.

Q.595 Did you ever have occasion to handle any other sheets besides those you have told us about?
A. Yes sir.

Q.596 Will you tell the court about that?
A. I went to Tilburg one time and we took some sheets there but how many I do not know.

Q.597 How did you take the sheets to Tilburg?
A. In the HUP.

Q.598 When did this happen?
A. I think it was around August sometime, but I am not quite sure.

Q.599 Could it have been July?
A. I do not think so, sir.

Q.600 Where did the sheets come from?
A. I do not know, sir.

Q.601 Where did you get them?
A. Outside the 100 Club.

Q.602 Who did you receive your instructions from?
A. Mr. Greenslade.

Q.603 What were you told to do?
A. To drive Fine to Tilburg.

Q.604 Who do you mean by Fine?
A. She was the interpreter who worked there.

Q.605 I show you a picture, Exhibit "K", Who is that?
A. That is the girl I call Fine.

Q.606 Do you know her family name?
A. No sir.

Q.607 What did she do at the club?
A. She was the interpreter.

Q.608 Did I understand you to say you loaded or helped to load the sheets on the HUP?
A. I helped.
Q.609 Who assisted you?
A.609 The staff who worked there.

Q.610 When they were handed to you, they were outside the club?
A. Yes sir.

Q.611 How were they put together, were they loose or in bundles?
A. Some were loose and some tied up.

Q.612 Do you know what kind they were?
A. Yes sir, the same kind I saw here.

Q.613 Did you see any more sheets besides those?
A. Yes sir.

Q.614 Where?
A. Left outside.

Q.615 Any place else?
A. No sir.

Q.616 Are you sure?
A. No sir, that is the only bundle I saw there that day.

Q.617 Were there any left when you departed?
A. Yes sir.

Q.618 Where?
A. Left right there.

Q.619 Who went to Tilburg on that trip?
A. Leo, Fine and myself.

Q.620 Who is Leo?
A. He used to be a cook but later turned out to be a barman.

Q.621 What happened when you got to Tilburg?
A. We went to a cafe and unloaded the stuff there.

Q.622 Do you know how many sheets there were?
A. No sir.

Q.623 Were you told how many there were by Greemslade?
A. No sir.

Q.624 You say you stopped outside a hotel in Tilburg?
A. A hotel or cafe.

Q.625 Who directed you there?
A. I think Leo. I cannot remember very well.

Q.626 You say they were unloaded there?
A. Yes sir.

Q.627 After that what happened?
A. I took Leo home, and then I took Fine home.

Q.628 To her home in Tilburg?
A. Yes sir.

Q.629 When did you return?
A. I think about two days later, I am not sure.

Q.630 Where had you been in the meantime?
A. I went out to Turnhout and then to Antwerp.

Cross-examined by Defending Officer.

Q.631 You looked at those sheets and as far as you know they are like, or look like, the sheets you saw?
A. Yes sir.

Q.632 If I told you I bought those sheets in Rotterdam yesterday, you would not be able to call me a liar, would you?
A. No sir.

The prosecutor declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(3)

Eighth Witness for the Prosecution — Leonardus Cornelius BERNAARDS, 19 Jan Bachstraat, Tilburg, having been duly sworn, is examined by the Prosecutor through the Interpreter:

Q.633 What is your name?
A. Leonardus Cornelius Bernaards.

Q.634 Where do you live?
A. 19 Jan Bachstraat, Tilburg.

Q.635 Do you consider the oath you have just taken to be binding on your conscience?
A. Yes sir.

Q.636 What is your occupation?
A. Labourer in a hosiery factory.

Q.637 During the your 1945 how were you employed?
A. With the Cdn Army. I was a cook and bar-keeper for the First Cdn Army, an organization known as the 100 Club.

Q.638 How long did you work there?
A. I think nine months.

Q.639 When did you start?
A. I began in March.

Q.640 And continued how long?
A. Until November I think.

Q.641 During that time where did the 100 Club operate?
A. Tilburg, Enschede and Apeldoorn.

Q.642 During that time when you were there, who was the manager?
A. Mr. Greenslade.

Q.643 Do you recognize Mr. Greenslade here?
A. Yes (The witness indicates the accused)

Q.644 Was there an interpreter employed at the 100 Club?
A. Yes sir.

Q.645 Who was it?
A. Frank van Rouyen and Fine Mertens.

Q.646 I show you a photograph, Exhibit "K" in this case. Will you look at that please. Who is that?
A. That is Fine Mertens.

Q.647 Where does your family live, where did they live in the Summer of 1945?
A. Tilburg.

Q.648 Did you visit them during the summer of 1945?
A. I went to my family and once I went to my father and mother.

Q.649 Will you tell the court the occasion on which you went to visit your family?
A. I went on leave and I wanted to go home.

Q.650 What was done them?
A. Nothing was done them.

Q.651 Did you go to Tilburg?
A. Yes.

Q.652 Who with?
A. Fine Mertens and Mr. Rocky Pepin.

Q.653 How did you come to go on that occasion?
A. Because on that occasion there was a car going to Tilburg.

Q.654 Did you get permission to go?
A. Yes.

Q.655 Tell the court everything that happened from the time you got permission to go until the time you arrived there?
A. We loaded the car in Apeldoorn with sheets.

Q.656 What kind of sheets?
A. Silk and cotton sheets.

Q.657 Do you mean real silk or artificial silk?
A. Artificial silk.

Q.658 How did you come to load up the kap with sheets?
A. Because I had to.

Q.659 Who gave you the order to do so?
A. Mr. Greenslade.

Q.660 And who assisted you?
A. The musicians.

Q.661 Were you told how many sheets to load?
A. Yes, about 500.

Q.662 Where did you get the sheets?
A. From Troelstra Ord. They were loaded at Troelstra O.rd.

Q.663 Where did you actually pick up the sheets yourself when they were put into the HUP?
A. From the room of Mr. Greenslade.

Q.664 Where was that?
A. In Troelstra Oord.

Q.665 Exactly how were these sheets set up in the room of Mr. Greenslade?
A. They were all packed up in parcels of ten.

Q.666 How were they bound together?
A. By means of flex, like the paper around cigarette boxes.

Q.667 Cellaphane cord?
A. Yessir.

Q.668 Any papers around them?
A. No sir.

Q.669 Any markings on them as far as you could see?
A. No sir.

Q.670 When you took the 500 sheets out and put them in the HUP, were there any sheets left in Mr. Greenslades room?
A. Yes sir.

Q.671 How many?
A. I Cannot say how many but I think about 400.

Q.672 When you arrived in Tilburg, where did you go?
A. The Golden Swan hotel.

Q.673 Where is that?
A. Tilburg.

Q.674 Is it near where you live?
A. It is nearby. I never knew of it before that.

Q.675 What happened when you got there?
A. This Fine Mertens went in alone.

Q.676 What happened then?
A. She came out and told that we had to unload 100 sheets.

Q.677 Did you unload them?
A. Yes sir.

Q.678 What did you do with them?
A. I took the sheets into the room of Mrs. Stiphout in the Golden Swan hotel.

Q.679 Who directed the driver to the Golden Swan hotel?
A. Fine.

Q.680 When you took in the sheets and handed them to Mrs. Stiphout, what happened then?
A. Then I heard that the price was 27 guilders each.

Q.681 You heard the discussion?
A. Yes sir.

Q.682 Then what happened?
A. Then I saw Fine collect the money and I cannot say for certain how much that was.

Q.683 What happened then?
A. I went out and got into the HUP and they put me down before my house.

Q.684 What happened to the remainder of the sheets?
A. I cannot say that because they drove off with Fine and the Driver.

Q.685 Do you mean the balance of the sheets were still in the HUP?
A. Yes sir.

Q.686 When did you return to the 100 Club?
A. Two days after by train.

Q.687 Were the staff issued bed-sheets at the 100 Club?
A. Yes sir.

Q.688 What kind of sheets?
A. They were the same as in the HUP.

Q.689 The same thing?
A. Yes sir.

(The Prosecutor asks for Mrs. Stiphout, who enters the court-room)

Q.690 You spoke of Mrs. Stiphout a minute ago. Can you identify the woman you spoke about?
A. Yes sir.

Q.691 And this is Mrs. Stiphout?
A. Yes sir.

(Mrs. Stiphout withdraws)

Q.692 You will now answer my learned friend, please.

Cross-examined by Defending Officer.

Q.693 When you left the Golden Swan hotel, did Fine give you some money for yourself for helping load?
A. No sir.

Q.694 Were you at any time arrested for stealing from the club?
A. No sir.

Q.695 You know that you are on your oath?
A. Yes sir.

Q.696 And you say that you were not arrested by the Dutch police for stealing at any time from the Club?
A. No sir.

The Prosecutor declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(b)

The witness withdraws.

Ninth Witness for the Prosecution — Mrs. Cornelia Katrina Marian van STIPHOUT, 48 Stevenzandstraat, Tilburg, having been duly sworn is examined by the Prosecutor through the Interpreter:

Q.697 Would you tell the court your full name please?
A. Mrs. Cornelia Katrina Marian van Stiphout.

Q.698 Where do you live?
A. 48 Stevenzandstraat, Tilburg.

Q.699 Do you consider that the oath you have just taken is binding on your conscience to tell the truth?
A. Yes sir.

Q.700 What were you doing during the summer of 1945. How were you employed?
A. I had a cafe and hotel.

Q.701 What is the name of it?
A. The Golden Swan.

Q.702 During the summer of 1945 did you have occasion to deal in some bed-sheets?
A. No sir.

Q.703 Did you buy any bed-sheets during the summer of 1945?
A. Yes sir.

Q.704 When did that occur?
A. I cannot say exactly when because it is so long ago. I bought around 100.

Q.705 How did you come to buy the 100 sheets?
A. A woman or a girl came to me and showed me a sheet. She offered the sheets for sale and I had none myself. I had two children and I needed the sheets for new clothing.

Q.706 Did you buy any sheets from the Dutch girl?
A. Yes.

Q.707 How much did you pay for them?
A. I don't know whether I paid 25 or 27½ guilders for each sheet.

Q.708 And how many did you buy?
A. 100.

Q.709 And who brought the sheets into the hotel?
A. The Dutch girl.

Q.710 She brought the first one in?
A. The girl went in and showed me a sheet and the others were brought in and in the meantime I had gone back to the business because I was all alone.

Q.711 Was there anyone else there when you paid the money to the girl?
A. No.

Q.712 Did you see anybody else there at the time while the transaction was going on?
A. No sir. I saw her only for about 7 minutes. I had gone out to the cafe and in the meantime she had put them down.

Q.713 There was no one else you saw?
A. No.

Q.714 What did you do with the sheets?
A. I used them also for my own purposes.

Q.715 What were those purposes?
A. I used them to make under clothing for my children and myself because I had no new things for a couple of years.

Q.716 I show you a piece of material?
A. This is one of mine. I had them made from the sheets.

Q.717 That is made from a sheet?
A. Yes, I think so, I am not sure.

ONE ENLARGED SHEET IS PRODUCED BY THE PROSECUTOR, ENTERED AS EXHIBIT "K"

The Defending Officer does not object.

The Defending Officer declines to cross-examine.

The Court:

(Exhibit "K" is shown to the witness)

Q.718 Do you recognize this person?
A. No, I do not know her.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(B)

The witness withdraws.

Tenth Witness for the Prosecution M2219 Sgt Raymond Cooper MORRIS, 1 Cdn SIS, Cdn Provost Corps, having been duly sworn, is examined by the Prosecutor:

Q.719 Will you tell the court your number, rank and name?
A. I am M2219 Sgt Raymond Cooper Morris.

Q.720 What is your unit?
A. 1 Cdn SIS, Cdn Provost Corps.

Q.721 What is your capacity at 1 Cdn SIS?
A. Investigator.

Q.722 In the course of your duties did you have occasion to to to the Hague and make certain searches for bed-sheets?
A. I did sir. On the 26 Jan 46 in company of one Haffert of the Netherlands Army I proceeded to the Marie Bar in the Hague. From the property of the proprietor I seized 25 white bed-sheets.

Q.723 Will you look at that pile of sheets, Exhibit "J"?
A. (Witness examines Exhibit "J") These are the sheets which I seized and marked at the time of seizure.

Q.724 Did you subsequently have occasion in your official capacity to proceed to Tilburg to investigate a matter of bed-sheets?
A. I had sir. On the 24 March 46 in the company of one Leo Bernaards I went to the Golden Swan cafe in Tilburg and from the proprietress, one Mrs. Stiphout I seized one white sheet.

Q.725 I show you Exhibit "N"?
A. This is the sheet which I seized at that time, which I marked at time of seizure.

Cross-examined by Defending Officer.

Q.726 At the time you seized these 25 sheets, did you mark them to identify them in any way?
A. I did, sir.

The Prosecutor declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(B)

The witness withdraws.

Eleventh Witness for the Prosecution K52869 CSM James SHARP, 1 Cdn SIS, Cdn Provost Corps, having been duly sworn, is examined by the Prosecutor:

Q.727 What is your number, rank and name?
A. I am K52869 CSM James Sharp.

Q.729 What is your unit?
A. 1 Cdn SIS, Cdn Provost Corps.

Q.730 And what are your duties there?
A. To investigate any complaints submitted to our office.

Q.731 In the case of your investigations in your official duties, did you have occasion to interview a Miss Fine Mertens?
A. Yes sir.

Q.732 I show you a photograph, Exhibit "K", who is that?
A. That is a photograph of the Miss Mertens I mean.

Q.733 On one of those occasions did you receive from her certain jewellery?
A. I did, sir.

Q.734 What was that? What date was it?
A. 28 Nov 45.

Q.735 I show you a ring, Exhibit "L", will you look at that please?
A. That is a ring I received from Miss Mertens.

Q.736 I show you a bracelet, Exhibit "M", will you look at that?
A. That is also an article I received from Miss Mertens on the same occasion.

The defending officer declines to cross-examine.

In the opinion of the court and the Judge Advocate it is not necessary to comply with RP 83(B) CONFIRMED

The witness withdraws.

Twelfth Witness for the Prosecution — Captain Harold Francis DIXON, RCOC, Cdn Army, having been duly sworn, is examined by the Prosecutor:

Q.737 What is your full name?
A. Captain Harold Francis Dixon.

Q.738 What is your corps?
A. RCOC.

Q.739 How were you employed during the summer of 1945?
A. From August until the end of November I was employed as Ordnance Officer in charge of the ADOS dump in Apeldoorn.

Q.740 When was that?
A. That was during the summer.

Q.741 And prior to that?
A. At CFN HQ in the Ordnance branch.

Q.742 I want you to examine that pile of sheets there, Exhibit "J"?
A. (The witness examines Exhibit "J")

Q.743 In your capacity as officer in charge of ADOS did you have occasion to issue bed-sheets?
A. Yes sir.

Q.744 With reference to Exhibit "J", would you describe the type of sheets that were issued by you from ADOS dump?
A. We had two types of sheets there. One type were white cotton sheets that were issued by the base depots for re-issue by the dump to hospitals only. They were marked with the broad arrow. We ~~had~~ also carried other sheets from their stores which were issued for all other purposes to units.

Q.745 Did you issue sheets to the 100 Club?

Judge Advocate:

If you feel that any question asked you might incriminate you in any way, you may ask permission of the court not to answer that question.

A. I think that sheets in small quantities were issued to the 100 Club as they would be to any other unit.

Q.746 With reference again to Exhibit "J", can you tell the court whether the sheets, Exhibit "J", were of the type that were issued out of the ADOS dump?
A. I am afraid I am not qualified to answer that sir. That was a long time ago. I am not an expert in textiles. I am afraid I cannot look at that now and say they are the same type I held. I am not qualified to say that.

Q.747 Have you any information on the subject at all?
A. No, I have not, sir.

The Defending Officer declines to cross-examine.

In the opinion of the court and the Judge Advocate it is not necessary to comply with RP 83(3)

The witness withdraws.

Prosecutor:

That closes the case for the prosecution. There are other witnesses in the Summary on other matters, some of whom have been heard in the first trial, and whose attendance certainly is not required by me. I have raised this matter with my learned friend and I will endeavour to make them available if he requires them. He states he does not require them.

Judge Advocate: (to Defending Officer)

Do you require any of those witnesses who appear in the Summary and who have not been called

Defending Officer:

I might possibly want to call Capt Dixon and there is a possibility I might want to call Miss Mertens.

Judge Advocate:

The prosecution is responsible for making available any witnesses for the purposes of cross-examination at this period, at this time. If you go into your defence the prosecution may still bring the witnesses, but they would still be considered defence witnesses.

Defending Officer:

I understand.

Judge Advocate to Prosecutor:

Do you wish these witnesses to be made available at this time or will you be content to have them brought as defence witnesses?

Prosecutor:

That is satisfactory to me.

The court adjourns at 1600 hours 29 March 1946 to re-assemble at 1000 hours 30 Mar 1946. The Court re-assembled pursuant to adjournment 1000 hours 30 Mar 1946; present the same members and Judge Advocate as on adjournment.

Medical Certificate is produced.

Defending Officer:

At this stage I wish to ask for another adjournment. My witness has not arrived from England and we have no estimated time of arrival. I would like to adjourn until Monday morning at 1000 hours.

At 1005 hours 30 Mar 1946 the Court adjourned to re-assemble 1000 hours 1 Apr 1946. At 1000 hours 1 Apr 1946 the court re-assembled pursuant to adjournment, present the same members and Judge Advocate.

Medical certificate is produced.

Defending Officer:

I have a telegram from England stating the witness for whom I asked is not prepared to come voluntarily. I would like an adjournment to 1600 hours because I believe the convening officer may have then some additional information.

At 1000 hours 1 Apr 1946 the court adjourned, to re-assemble at 1600 hours 1 Apr 1946. At 1600 hours 1 Apr 1946 the court re-assembled pursuant to adjournment; present the same members and Judge Advocate.

At 1605 hours at the request of the Defending Officer the Court adjourned, to re-assemble at 1600 hours 2 Apr 1946. At 1600 hours 2 Apr 1946 the court re-assembled pursuant to adjournment; present the same members and Judge Advocate.

(Medical Certificate produced)

R 3 Apr 46 At 1605 hours at the request of the Defending Officer the Court adjourned to re-assemble at 1400 hours 3 Apr 1946. At 1400 hours the court re-assembled pursuant to adjournment, present the same members and Judge Advocate.

Medical Certificate is produced.

At 1405 hours at the request of the Defending Officer the Court adjourned to re-assemble at 1000 hours 4 Apr 1946.

At 1000 hours 4 Apr 1946 the court re-assembled pursuant to adjournment. Present the same members and Judge Advocate.

Medical certificate is produced.

Judge Advocate to Accused:

Mr. Greenslade, the prosecution has closed its case and you are now going into the defence. You will be asked certain questions and I want to make sure you understand clearly what your rights are. It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreicate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so. But if you do give sworn evidence, you are liable to be cross-examined by the Prosecuter and questioned by the Court and Judge Advocate. If you do not give evidence on oath, you are entitled to make a statement giving your account of the subject, of the charge against you. You will not be swonr and no question may be put to you by the Court or any other person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath.

Do you understand?

Answer by accused: Yes sir.

President to accused:

Do you apply to give evidence yourself as a witness?
A. Yes sir.

Do you intend to call any other witnesses in your defence?
A. Possibly one, sir.

Is he a witness as to character only?
A. No sir.

The Defending Officer proceeds to call witnesses.

First Witness for the Defence — Lt. Theodore Lewis James GREENSLADE, the accused, RCAC, on strength 3 Canadian Transit Camp, CFB, having been duly sworn, is examined by the Defending Officer:

Defending Officer:

I think it may help if before proceeding with the examination of this witness I explained what I am about to try to do. I am going to try to establish the fact in the minds of the court that he was working in an atmosphere conducive to irregularities and the irregularities were condoned by his superior officers. There may be lack of relevancy at first, but you will find it all adds in in the general picture showing the conditions under which this officer was not only allowed to work, but encouraged, encouraged to conduct his affairs in the manner in which he did.

The Defending Officer proceeds to examine the witness.

Q.748 Will you tell the court your full name?
A. Lt. Theodore Lewis James Greenslade.

Q.749 And your corps?
A. RCAC.

Q.750 What time did you take over the management of the 100 Club?
A. I believe it was around January 10 of 1945.

Q.751 By whom were you placed in charge of that club?
A. I was asked if I had been a hotel keeper in civilian life. I was told I was just the man they wanted to open a club, the 100 Club.

Q.752 Located where?
A. In Tilburg, Hooverstraat.

Q.753 Was it a club for all army officers?
A. No sir, very strict orders were given that it was only for HQ officers and was to be considered a private club and the only time other officers could get in was with the permission of Col Barham.

Q.754 Who was your immediate supperior officer in connection with the responsibilities in the administration of this club?
A. At that time Col Barham. During his absence, or any time he was away Major Ike Smith and a Captain Mari Babe respectively were my superior officers.

Q.755 Do you remember what their appointments were?
A. I am not a staff officer myself but I believe Col Barham was at that time AAG I think and I think Major Smith was DAAG, and I think that Captain Babe was either captain, that is staff captain, I know they were all in A Branch.

Q.756 Where did you get the staff for this club?
A. I went out and hired my staff.

Q.757 What type of person do you mean?
A. The staff consisted of my army staff and the civilian staff. The army staff consisted of two ORs and a sergeant. My civilian staff consisted of cooks, waiters, one or two hat check girls.

Q.758 In total what was the civilian staff?
A. I cannot definitely swear to it but I would say around 18. Later on that staff was increased.

Q.759 Your orders for the administration of this club came from whom?
A. Col Barham through Major Smith.

Q.760 Did you have a regular war establishment?
A. There was never any war establishment whatsoever to the best of my knowledge. I can say there was never definitely a war establishment.

Q.761 Were you given any ration scale for civilian employees?
A. After a great deal of telephoning among the various branches of the Army, it was agreed I could draw rations but nobody would sign for it, so every two days I was refused rations and had to scrounge for them and get them irregularly.

Q.762 What does "scrounge" involve in your case?
A. In some cases giving the sergeant in the dump a bottle of whiskey and in some cases merely saying "I am in a spot, I need 60 loaves of bread"

Q.763 Speaking to whom?
A. Whoever happened to be in charge of rations.

Q.764 At an army establishement or civilian?
A. At army establishments.

Q.765 Did you ever exchange rations at other than army establishments?
A. Yes. That was common practice. I did that quite frequently.

Q.766 Why?
A. Due to various changes in the staff of the dumps, it was necessary to augument rations, both in Holland and by crossing the Belgian border.

Q.767 What did that entail?
A. On occasions soap, floor wax, cigarettes, liquor. That is in Tilburg we are talking about. Liquor, articles of clothing, anything I could lay my hands on.

Q.768 Did you receive any orders whatsoever as to preferential treatment for any type of person?
A. I was told both by Smith and Babe, or no, yes, both Smith and Babe himself that when Col Barham wanted to have anything out of the club he was to have it and as he was my commanding officer I never hesitated to carry out those orders.

Q.769 Have either of these officers at any time got anything out of the ordinary run of things?
A. Major Smith, no. Maybe once a couple of bottles of whiskey. Col Barham would send in for liquor in quantities of maybe six bottles and would send in for me to send liquor to me--t himself or to his mess, or would sometimes send an officer with a note that he was going to perhaps Paris and would I provide him with six or a dozen bottles as the case may be.

Q.770 You made a remark before this was all in Tilburg?
A. Yes.

Q.771 Approximately when did you move to Enschede?
A. Sometime before perhaps VE day. It would be I believe sometime in March.

Q.772 And when you moved to Enschede what did you do about your new establishment in Enschede? Did you gather together a complete new staff?
A. No, I took the majority of my old staff with me to Enschede.

Q.773 While you were in Enschede were you in the same position re civilians rations that you have related took place at Tilburg?
A. Not quite because I believe at this time civilians at allclubs, I think PCLU had made a ruling, could get two meals a day. The civilians I think were entitled to two meals a day and I could draw for that as the civilians were living at my place all the time, and for that reason I had to scrounge for their other meals.

Also there had been some changes at the ration points which made things awkward for me.

Q.774 Will your, while your club was at Enschede, were you still trading various supplies such as you have mentioned, for rations?
A. Yes, for extra rations, for I had to.

Q.775 While in Enschede were you ever approached by anybody and asked to procure various articles for them by trading or dealing in articles for people?
A. Yes, quite a few times sir.

Q.776 Give us some information on this?
A. Some of the officers would come down from Oldenburg, some of them I had known for a long time and who had been of great assistance to me, not to me personally but to the existence of the club. They would come down and tell me I was working in the town and asked me to get them things, that is, pieces of cloth, liquor, etc.

Q.777 Where did it come from?
A. Germany.

Q.778 How do you know?
A. Because they had been in Germany and told me so.

Q.779 Did you make any of these exchanges?
A. Yes.

Q.780 What did you receive for your trouble?
A. Nothing, they were friends of mine. My job was to make it easier forthe guys who were doing the fighting.

Q.781 What would these goods consist of ?
A. Liquor, clothing, various types of cloth, even one time there was a sailing vessel.

Q.782 Did you ever procure a camera for anybody?
A. Yes sir.

Q.783 For whom?
A. I procured a camera for Col Barham.

Q.784 Why?
A. Because he asked me to.

Q.785 How did you procure that?
A. He saw me taking pictures one day. He asked me to get him a camera and told me he would give m cigarettes [illegible] exchange for it.

[illegible]?
[illegible]t I did not exchange cigarettes [illegible] them.

[illegible] camera?
[illegible] for it and told him what I had done.

[illegible]he liquor from?

[illegible]or it?
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Q.785 How did you procure that?
A. He saw me taking pictures one day. He asked me to get him a camera and told me he would give me cigarettes to exchange for it.

Q.786 Did you exchange them?
A. No, I got a camera but I did not exchange cigarettes because I never got them.

Q.787 How did you get the camera?
A. I exchanged liquor for it and told him what I had done.

Q.788 Where did you get the liquor from?
A. From the club.

Q.789 Who paid for it?
A. I did.

Q.790 Were you re-paid for it?
A. No, I do not think so. He mentioned it several times, Col Barham did, but he never got around to paying for it.

Q.791 Did he know you traded club liquor for it?
A. Yes.

Q.792 How?
A. I told him I had used liquor, I did not say word for word "At the club" but he knew.

Q.793 What kind of a camera was it?
A. A Voiglander. I think it had a 3.5 lens.

Q.794 Did you at any time trade in diamonds for anybody, either buy or sell?
A. Yes.

Q.795 For whom?
A. I got a diamond for Col Dezeil.

Q.796 What was his appointment?
A. The Col A.

Q.797 Will you tell us the circumstances surrounding that particular transaction?
A. Yes, a Dutch civilian showed me a diamond. I wanted to buy it myself and I had no money, or not enough, and I happened to be in Col Dezeil's caravan and I showed him the stone. He offered to buy it off me with Dutch money. I told him that Dutch money was no good to the man who owned the stone. He offered me Belgian currency. I knew that I could buy liquor in Belgium and trade the man the liquor for the stone.

Q.798 Where could you buy the liquor?
A. From two places. One from civilians.

Q.799 Whereabouts were these civilians?
A. I could get some in Enschede and some out of NAAFI.

Q.800 And what did you do with the Belgian currency?
A. I bought liquor. I also got some liquor on that occasion from a soldier who had brought some from Germany, and with the liquor I bought the stone.

Q.801 What did you do with the stone?
A. To Col Dezeil.

Q.802 How much belgian currency to do this deal?
A. Somewhere around 15,000 francs, but to remember the exact figure is impossible.

Q.803 From whom did you get the stone?
A. I do not remember his name because nobody remembers Dutch names but it was somewhere in Enschede.

Q.804 Was it from any of the witnesses who have appeared on this trial?
A. To be absolutely honest I cannot say.

Q.805 Did you get anything from Dezeil for your trouble?
A. I think I got a cheque for a few quid.

Q.806 Do you mean English money?
A. A personal cheque, yes.

Q.807 There was produced in court a black pearl ring, what do you know about that?
A. I wanted that as a present to send home to my own wife.

Q.808 Did you ever complete the deal on the pearl ring?
A. That too is vague, I do not think so.

Q.809 There was a bracelet produced in court. Tell the court what you know about that?
A. That was first brought to my attention when one of my waiters was trying to sell it.

Q.810 Why were you interested in it?
A. I was not at the time. I was interested only as anyone would be. He failed to sell it and the owner of the bracelet who appeared in this court came to me and asked my view, and wanted to know if I would like it. I said I would and I think I was going to try and buy it, but I did not succeed in raising the goods or the money.

Q.811 Wereyou dealing on your own behalf or what?
A. Eventually I was dealing on behalf of someone else.
Q.812 Who?
A.812 One was a Dutch officer attached to the Cdn Army HQ.

Q.813 Who was the other?
A. The other one was an English officer commanding a forward Section of the ROC, attached to HQ First Cdn Army.

Q.814 Were you to get anything for your trouble on this deal, do you know?
A. No sir, I never really considered that.

Q.815 Do you happen to remember the name of either of these officers?
A. The names, no, but I could identify them if I saw them again or I could identify a photograph of them.

Q.816 To put this in proper chronological order, were all these deals at Enschede?
A. No sir. The diamond bracelet deal was a Beeksbergen affair after the club moved from Enschede. The deal with Col Dezeil was between the two. If I remember correctly it was during the time of transfer from Enschede to Apeldoorn.

Q.817 Did you at any time have anyone stay at the club who was not a civilian employee?
A. Yes sir.

Q.818 Who?
A. The first time that occurred as far as I can remember was in Enschede?

Q.819 What was the occasion?
A. I had been to Amsterdam or on the road to Amsterdam to get some fruit and on the way back I was stopped by a Belgian young lady who spoke little Dutch and no English, and asked me in French if I could give her a lift. I gave her a lift as far as Enschede.

Q.820 What happened there?
A. At Enschede I got hold of Capt Ben Johnson of the Mobile Printing section and asked him if he was going to Brussels the next day. He thought he was and I asked him to take the girl. He thought he could so the girl stayed there that night and I gave her ....

Q.821 Did she stay overnight in the staff residence?
A. Yes.

Q.822 With whom?
A. I think she stayed with a girl named Paula who was a house-keeper.

Q.823 Did she go to Belgium the next day?
A. No.

Q.824 Why?
A. That night I invited her over to the Club. She danced at the club and Johnson was not going to Belgium the next day and she met Capt Babe who was the Staff Capt A Branch at that time. One of the rungs in the ladder up to my Commander.

Q.825 What has he to do with this?
A. He became very friendly with the young lady and suggested ...

Q.826 Continue?
A. Major Babe suggested as we were short of presentable women at the club for dancing that she should be permitted to stay at the club.

Q.827 Did she?
A. Yes.

Q.828 For how long?
A. She moved to Beeksbergen with the club.

Q.829 Was she there when the club closed?
A. No, she was in jail.

Q.830 Had you at this time been given a WE for the club?
A. No sir.

Q.831 Did your civilian staff have at any time any extras from club supplies. Did you give them any extra supplies in the form of rations or anything?
A. Yes. This staf of mine came from Tilburg in the main. To keep them go together, I kept the same staff because the waiters knew all the officers and to keep them together and to keep them that far from home I had to treat them well and feed them well.

Q.832 What did you give them by way of extras?
A. Fruit, vegetables, fresh potatoes when we were issued with dehydrated ourselves.

Q.833 How often did they get these things?
A. When ever I could scrounge the things.

Q.834 Did they have any entertainment?
A. Once a week I gave a party for the staff and allowed them to bring their friends.

Q.835 Did they have liquor?
A. Yes.

Q.836 Where did it come from?
A. Chiefly out of the club but it was not paid for out of club funds.

Q.837 How was it paid for?
A. I I would take out the required amount from the stock, pay for it at bar prices, charge it to the club. I would take it out and sell it at black market prices which would give me enough guilders to buy liquor at bar prices and have enough to give a party to my staff and guests.

Q.838 Did anybody besides yourself know you were doing this?
A. Yes sir.

Q.839 Who?
A. Col Hooper.

Q.840 What was his appointment?
A. Right hand man to Col Barham. I am not sure if he was AAG or if he was in the same position as Major Babe.

Q.841 Did he know of this?
A. Yes, he was at this entertainment quite often.

Q.842 You have stated generally they knew about it. Did they know the details of the matter in which you provided liquor for this staff party. Do you know whether they knew the details?
A. To the best of my knowledge they did.

Q.843 Did you ever discuss it with either one or both of them?
A. I have definitely discussed it but I am on oath now and it is very hard for me to say. I never sat down and said "I am selling 6 and getting 8". I just discussed the general affairs. They would see records of 30 bottles being drank and that it was charged to the club for entertainment.

Q.844 Had you build up a reserve of cash or liquor?
A. Yes, a large cash reserve, sir.

Q.845 What were your instructions about that, if any?
A. To build up a cash reserve and a liquor reserve. What for nobody ever seemed to inform me. I never got a direct answer.

Q.846 Did you ever have any occasion to ask for authority to spend money from this reserve?
A. Yes. Once I remember very clearly was when I wanted to get floral decorations and I suggested that we buy flowers for the club from it.

Q.847 Were you given authority?
A. They made a joke of it. They said "Don't say you cannot get flowers without buying them"

Q.848 What was meant by that?
A. As my business deals were to find ways of doing things under the wire so to speak, that I was dumb if I could not get things to exchange for flowers.

Q.849 When did you move to Apeldoorn, approximately?
A. I think June.

Q.850 Did the club move down ahead of other units in Army HQ?
A. No sir, the moved ahead of us.

Q.851 Did that have any effect whatsoever on the administration of the club?
A. It made obtaining rations more difficult.

Q.852 Why?
A. At that time I was drawing from 406 Supply Point and the officer in charge who would do anything for us had came down here and the corporal said he had no instructions he was to supply us with anything and it got hard to get things, especially meat.

Q.853 Things changed you have said, with what result?
A. Things were thrown back on my hands. I had to go over the german border to get stuff.

Q.854 From whom did you get stuff there?
A. From Germaa civilians.

Q.855 In return for what?
A. Cigarettes.

Q.856 Where did you get the cigarettes?
A. The corporal at the 406 supply point once told me he could not let me havee stuff, but he told me he would trade me cigarettes for whiskey. I traded and got a pig with the cigarettes in Germany.

Q.857 What was your transport situation at this time when you moved to Apeldoorn?
A. In Apeldoorn I had a HUP, a motor-cycle, and an Austin utility, that for a bout a week ran, and then stopped and quit.

Q.858 Where was the club with relation to the nearest large town?
A. 9 km.

Q.859 From where?
A. Apeldoorn.

Q.860 How big a staff approximately did you have at this time?
A. I would say between 40 and 55. That is approximately.

Q.861 There was a civilian car, the subject of the proceedings is front of this court. What do you know about it?
A. A Dutch civilian came to me. He later turned out to be a Dutch officer.

Q.862 Had you met him before this time in the Club?
A. I may have seen him in the club, but I cannot definitely say so because there were a lot of officers bringing in civilians. I do not think so. He came to me and asked me if I wanted or if I knew anybody who wanted to buy a car. I asked him what kind of car and he showed it to me. I was interested and he told me he was not interested in money. I asked him if it was his own car and he said yes. He had had it under-ground and he had orders himself to go to the Dutch Indies, he was leaving in a week for England, that he had no uniform and things like that, and that he wanted clothes, shirts, etc.

Q.863 What did you agree on as a medium of exchange?
A. I gave him a serge.

Q.864 Anything else?
A. Yes sir, shoes, shirts, ties. He also wanted English money.

Q.865 How much?
A. I think it was £50.

Q.866 Did you agree to pay it?
A. No, I had no English money, but I offered him my personal cheque.

Q.867 Did he take it?
A. He refused my cheque.

Q.868 What did you do about that?
A. We made a deal.

Q.869 What did you pay him if anything in place of the suggested £50.?
A. Guilders, and I think £5 in postal notes.

Q.870 Guilders only?
A. Some guilders, some Belgian francs.

Q.871 Did you get a receipt?
A. Yes sir.

Q.872 Whereabouts is that receipt now?
A. I do not know.

Q.873 Where did you last see it?
A. Maybe a day after he gave it to me.

Q.874 Were there any further negotiations in connection with the car?
A. He told me that he was going to Arnhem and would bring me the papers.

Q.875 Did he ever do so?
A. I never saw him again, but Mrs. Pomt who appeared in this court, drove him away.

Q.876 What colour was the car at this time?
A. As far as I remember it was a grayish blue, definitely not a yellow, green or maroon.

Q.877 Did you have it painted?
A. Yes.

Q.878 What colour?
A. Army green.

Q.879 By whom?
A. By a painter at 35 Composite Coy RCASC.

Q.880 Did you ever have permission to run this car?
A. No, but I tried.

Q.881 From whom?
A. From Col Hooper.

Q.882 Did he give you permission?
A. No, he said a vehicle to be run had to have a release and be given an Cdn Army number.

Q.883 Did he indicate you could or could not get one?
A. He told me it would be very very difficult

Q.884 What did you do after he told you that?
A. I figured I had to have transport to I put a Dutch Lion on one mudguard and a Dutch Militiary Insignia with the letters "DVO" which means department of war on the other so that If I were stopped by the Cdn Provost I was driving in the car of a Dutchman. If I were stopped by the Dutch I was a Cdn Officer and they had no business stoppingme.

Q.885 How long did you have the car in this condition?
A. I made several trips with it after it had been repaired. I would say about a week.

Q.886 What did you do with it after that?
A. I sold it.

Q.887 Why?
A. Because I had been informed I was doing a very dangerous thing in putting my neck out ruaning it like that?

Q.888 Did you ask permission or speak to anybody about disposing of this car?
A. Yes, I told Col Hooper that I was going to sell my car.

Q.889 Can you remember your exact words on that occasion?
A. We were talking about black-market in general and things like that and I said I had done a lot of things in this army, but I had never sold Cdn Army Equipment.

Q.890 What were your exact words in connection with this car?
A. I do not remember the exact words. I just said I was out of pocket and I was certainly ~~was~~ not going to throw it away and suffer that loss myself.

Q.891 Did he give approval or otherwise when you announced your intention of disposing of it?
A. He did not dis-approve of it. He did not tell me it was wrong by inference.

Q.892 During your period at Apeldoorn were you still procuring extra rations as at Tilburg and Enschede?
A. Yes sir.

Q.893 These extra rations were for whatpurposes, were they for the use of the club?
A. Yes sir, if you include the staff.

Q.894 Now one of the charges which has been heard so far as to dealing with a couple of hundred sheets, you have a witness named Haffert. Can you give us any explanation of that. Where did you get the sheets, can you tell us that?
A. They were German sheets sir.

Q.895 Where did you get them if you can remember?
A. I am not sure where those were sheets that an officer brought me down from Germany or whether these were sheets that Frank Royen brought in. I believe they were sheets he brought in but I cannot swear to it.

Q.896 What did you do with them?
A. I took them down to the Hague.

Q.897 Did you sell them?
A. I sold them.

Q.898 What did you do with the proceeds?
A. One of the things I did was buy a carpet.

Q.899 What else?
A. I bought a radio for the club.

Q.900 What else?
A. I spent 450 guilders out of the proceeds myself and bought a fur coat for my wife.

Q.901 Was 450 guilders for this fur coat the only amount you spent on yourself?
A. As far as I remember, except having a drink or two.

Q.902 Was the rest all spent on the club?
A. It was spent on things inconnection with the club.

Q.903 Why were you buying furnishings for the club?
A. My staff had increased and the only furniture in the new place consisted only of a few chairs and tables. We had two large buildings and I had a staff to put up. I had tried on several occasions to get furnishings from the various dumps and later on I did get one or two things from the increment but up to this time we had nothing to do with increment and I got things wherever I could.

Q.904 What happened to the things when the club closed?
A. To the best of my knowledge the carpet was delivered to Col Barham at Army HQ.

Q.905 Why?
A. He expressed the wish to have it and it was delivered by Pepin under my orders.

Q.906 What happened to other furniture in the Club?
A. Nearly everything else went to Col Barham himself, the Brigadier's mess.

Q.907 There has been evidence given about sheets sold in Tilburg, do you know anything about those?
A. Yes.

Q.908 What?
A. That, while I ordered the truck to go down because it was going down on a run anway anyway, it was entirely some one else's deal.

Q.909 Do you know where these sheets came from?
A. Yes. I think that they were sheets, these I will not swear to, but I think they were sheets that Royer Brought into the clmb.

Q.910 Had you seen them before the day they were loaded?
A. Where. Yes.

Q.911 Where?
A. They were in Fine Mertens room.

Q.912 Who was Fine Mertens?
A. She was the interpreter at the club whom the other witnesses have identified from her photo.

Q.913 You saw them in her room?
A. Yes.

Q.914 Had you any idea why she was taking them to Tilburg?
A. Yes.

Q.915 Did you know or presume?
A. I presumed but I may have known from discussions.

Q.916 Did you have anything to do with the alleged selling in Tilburg?
A. No, I do not know. The sale was not my doings.

Q.917 Did you receive anything from the sale?
A. I think Mertens brought me back two or three pipes.

Q.918 Do you know if they were paid for from the proceeds of this sale?
A. That I do not know.

Q.919 At this time in Apeldoorn was there any preferential treatment handed to officers other than those you described before?
A. Yes. Up to this time Div troops were not permitted to the Club but I used to let them in. There was a sign up "For Cdn Army HQ Troops Only" and was a private club for Army HQ. I allowed Div tps in contrary to orders.

Q.920 Did any individuals receive any preferential treatment?
A. Yes, Major Babe and Col Hooper.

Q.921 In what shape or form?
A. They could get a bottle whenever they wanted it. They were always coming to the club.

Q.922 During club hours or otherwise?
A. Generally just about club closing time. Major Babe would order a bottle about five nights a week and always seemed to neglect to pay for it. Babe and Hooper were at the club nearly every night and that was stuff I paid for.

Q.923 Were you still arranging transactions for various people and officers while you were at Apeldoorn?
A. Yes sir, when I could.

Q.924 Do you remember any details?
A. First of all sir ----

Q.925 Did you do any deals for Major Babe?
A. He asked me to get him a Roleflex camera for 800 cigarettes, but I did not because it was not enough cigarettes.

Q.926 Did you give him back the 800 cigarettes?
A. No sir.

Q.927 Why not?
A. I remember I did not get around to it and also for almost a year I had been supplying that Major Babe a large portion of his drink, and he owned me a great deal more than 800 cigarettes.

Q.928 Any transactions for Col Barham?
A. Yes sir.

Q.929 What?
A. I got perfume in the Hague for him.

Q.930 Did he pay you for it?
A. No.

Q.931 Why?
A. At various times he would give me cigarettes and ~~twice~~ at last I got tired of receiving promises so I would bring it back and just give it to him.

Q.932 Did you arrange any other transactions for him?
A. Yes. I sold two or three cases of cognac in Amsterdam for him.

Q.933 Where did the cognac come from?
A. The club.

Q.934 Why did you sell it?
A. For a long time he wanted an enlarger. On this particular day I think around a week before the SIS raided the 100 Club, he called me in.

Q.935 What did he say about this cognac?
A. He called me in and asked me how the stock of cognac was. I told him I would go to see. He said he was short of money, when would I get him this enlarger? I had been stalling about this for quite a while because I did not relish getting it. I said I would get it in a couple of days. Two or three days before the raid on the 100 Club I informed Col Barham the cognac stock was fairly good and I could draw two or three cases.

Q.936 You told him there was enough to spare him two or three cases?
A. I would never take liquor from the club for it would affect the amount there for the officers to drink.

Q.937 You told him there was enough to spare so you could take two or three cases?
A. He said "I want to sell it and get the enlarger. You do it for me"

Q.938 Can you remember his exact words. You have said he said sell it. Can you remember his exact words because I don't want you to repeat anything that might not be so?
A. Whether he used "sell" or "flog" I cannot say but his instructions were absolutely clear and there is no doubt in my mind that the instructions were to take the cognac and sell it on the black-market and with the proceeds pay for the enlarger and give him any money left over.

Q.939 Did you sell the cognac?
A. Yes, here in Amsterdam.

Q.940 Did you buy the enlarger?
A. Yes.

Q.941 What did you get for the cognac?
A. 30 guilders a bottle.

Q.942 For how many bottles?
A. I am not sure if it was two or three cases. I believe CSM ~~Brief~~ Reif can remember.

Q.943 How much did you pay for the enlarger?
A. Approximately 250 guilders.

Q.944 Where did the cognac come from?
A. The cognac came out of the wine cellar of the 100 Club. It was obtained for me by the wife of Sgt Major Reif.

Q.945 What was Rief's job at that time?
A. He had come to take over from Sgt Derby as 2 i/c of the club.

Q.946 Having got the enlarger, what did you do with it?
A. I then went back to the 100 Club and I was informed that the SIS were there with the police, so I drove in and I took the enlarger in a case to the basement as if it were rations. The case was 2 feet by 2½ feet by 4 feet wide.

Q.947 How long did it stay there?
A. It stayed there until the next morning when I took it over to Col Barham and told him what had happened, about the raid, and told him how I had brought the enalrger into the building and told him I could not give him the extra money because I did not want any money on me in case the SIS searched me.

Q.948 Did you pay the club for the cognac?
A. I paid the club for the cognac over a period of two days.

Q.949 To whom did you pay the money?
A. BSM Reif.

Q.950 What did you do with the balance of the money left over from the sale of this cognac?
A. I went in to See Col Barham the next day or the day after I took the enlarger in. He was in his office with Major Johnson, Johnson having relieved Col Hooper as AAG. Col Barham motioned to me to take it easy and I stayed out of the office until Major Hon Johnson had left.

Q.951 Did you take the balance of the money with you that day?
A. To pay Col Barham you mean?

Q.952 Yes?
A. Yes. I walked into the office then and he asked me "Have you got the rest of the money?" to which I replied "Yes" and I gave him around 200 guilders.

Q.953 Was there any other conversation about it?
A. He told me to be careful what I said in front of Major Johnson.

Q.954 Was there any conversation about the SIS raid on the club?
A. Yes. He

told me to go back and not to worry, that he was going to close the club and asked me how long it would take and said he was going duck hunting the following day with Col Ball I believe and not to worry. Col Ball was the PM.

Q.955 Did you have any conversation with him that day about any transaction which form the subjects of the charges on which you are here?

A. Yes. I said if the SIS started investigating all the black-marketing I had done for the club and the little for myself it would be too bad because I had sold sheets and all sorts of things. He said "For goodness sake, stop worrying and go to see Capt Cardy and get a list of what he needs from your club when you close.

Q.956 You say you mentioned sheets to him. Did you mention any specific business you had carried on in sheets?

A. I mentioned sheets generally but did not mention any number at that time.

Q.957 Did you specify any places or people where you had done any of these deals?

A. I know for certain that I mentioned the Hague in connection with the sheets and I remember one occasion distinctly when he said "You have been a fool". I said "I have not benefitted from it very much. All the perfumes I got at the Hague you got".

Q.958 Now you mentioned, at least I believe you did, that he told you to close the club, and he was putting an order out?

A. Yes.

Q.959 Did you close the club?

A. Yes, as nearly as I could. All my staff were under arrest and I had to do it myself.

Q.960 Did you do anything about that?

A. I asked Major Johnson, a Lt. From the , No, I am sorry, I mean Lt. Johnson from the SIS, to send me some rations. He said he was between two fires.

Q.961 You asked Lt. Johnson from the SIS for rations?

A. Yes.

Q.962 Did you get them?

A. No.

Q.963 Did you see Col Barham again about anything?

A. Yes.

Q.964 Where and when?

A. I went to Col Barham, and said he had told me to close the club and the SIS told me to keep it open. I asked what I would do. The SIS said to keep everybody there.

Q.965 Did you get any instructions?

A. Col Barham's instructions were "You are taking orders from me. Close the club. You must understand this was at a period when a lot of things were happening.

Q.966 Can you tell me roughly on what day that was?
A. Yes. It was after Col Barham came back from duck-hunting with Col Ball, because it was then I discussed with him all the information the SIS had.

Q.967 Can you give us that day with reference to the date of the raid on the club, 1, 2, 3, 4, 5 days after or what?
A. First of all I think the afternoon Col Ball and Col Barham went duck-hunting was on a Sunday.

Q.968 Two, three or four days after the club closed, or how long after the raid?
A. Three or four days after. The club finally closed to the public but the date the club .....

Q.969 This would be three or four days after the club was raided. When he told you that he was giving you orders and that you were to go down and close the club, that was three or four days after the club was riaded?
A. Yes sir.

Q.970 Was your club ever under the administration or orders of recreational increment?
A. No sir. At the time I opened the club there was no such thing as a recreational increment which were formed after VE day.

Q.971 When they were formed, was your club put under recreational increment?
A. Only to the extent of drawing rations.

Q.972 Did they issue any orders or instructions of any character whatsoever?
A. It was given to me to understand that I was here, they were glad to have me, but they could not give me orders. I was told I was under Col Barham.

Q.973 Did you receive those instructions from A Branch?
A. Yes, From Col Hooper and Col Ball.

Q.974 Were any other clubs of any nature operating in the Cdn Army in a similar position to your own?
A. I was told I was operating the only club of its kind in the Canadian army. I was told that by the boss.

Q.975 We are now getting along to the point to where orders were given to close the club and there was going to be an order to that effect, and you have stated you spoke to Col Barham. Did you get any instructions with respect to accounts.
A. Yes sir.
Q.976 What?
A. To turn my books over to the accountant at Increment.

Q.977 That is at recreational increment?
A. Yes.

Q.978 Which one?
A. Apeldoorn.

Q.979 Can you remember any other conversation you had with Col Barham that day? Anything about the SIS?

A. Col Barham called me in and told me that he had had a full report about my activities and thathe knew all about it and that it was more serious than it appeared at first and not to worry, to get my club closed and I was going home. He said to tell him everything which I did, and he said "So long as there is nothing more than that, do not worry, you are going home as soon as you get your club closed". I said "I don't want to go home with the feeling that it will be causing trouble later. If I am going to be arrested I want to stay here and take it now.". He said "I give you my word of honour as a gentleman you will not be brought back". I said "Suppose anyone else wants to bring me back". He said "I am the only man who can bring you back".

Q.980 Did he intimate to you at any time that your arrest had been considered?

A. Yes. He said "It is only through me that you have not been arrested"

Q.981 When did that remark take place with reference to the remark about coming back, being brought back?

A. It was two or three days before that.

Q.982 Following your conversation with Col Barham when you say that he told you he was the only one who could bring you back, did you have any further instructions from him or further conversation?

A. Yes, I went to see him at the Brigadier's Mess, and there Capt Cardy, who was Mess Secretary, looked up the accounts and we talked about things we had to do.

Q.983 Who, Capt Cardy and who talked together?

A. Just us. Col Barham came later.

Q.984 Did you have any conversation with Col Barham?

A. Yes.

Q.985 What?

A. I asked him how everything was going. He asked how long before everything would be closed at the club. I said it was difficult. I said that my staff who had not been arrested were frightened and had run away. I think I told him I could get it closed in 48 hours.

Q.986 Was the club closed within 48 hours?

A. The club was closed.

Q.987 Within 48 hours was it closed to the point where you were through with the club as far as work was concerned. Was it closed to the extent that you were free to go?

A. I would say that I never saw anything close so fast in all my life. Whether 48 hours or under I do not know.

Q.988 How fast did the club close. How near to 48 hours were you when the club closed?

A. Within 48 hours except that the accounts had not been given over.

Q.989 Following that, what did you do?

A. Of course I discussed this thing myself with Col Barham. You can understand my position.

Q.990 You discussed what, this case?
A. Yes, with Col Barham, sometimes for two minutes, sometimes longer. I wanted to either get home and get my discharge or else stay here and fight the thing out. He kept assuring me that everything was all right and told me that arrangements had been made for Sgt Derby and myself, and Pte. Pepin to leave immediately and I was to report to the Camp Commandant at Army HQ.

Q.991 Did you report to him?
A. I reported to the Commandant's office. Col Barham had also told me that Major Johnson who was then AAG was fixing up everything to get us out of this theatre immediately. I then went to Major Johnson and .....

Q.992 Why?
A. He had just recently taken over and was next in command to Col Barham and he had been told to make all arrangements for me to be repatted . I went to him about the documents and papers.

Q.993 What documents and papers?
A. The documents and papers necessary to take on repat.

Q.994 Did you get them?
A. I was sent from him into the adjutant's office and got them. That was 12 o'clock on a Saturday.

Q.995 Roughly how long after the raid on the club?
A. I would say it would be anything up to 10 days.

Q.996 Having got the papers, where did you go?
A. Immediately to 13 Bn 2 CBR Gp.

Q.997 How long were you there?
A. I should say over a week.

Q.998 Where did you go then?
A. 4 Bn.

Q.999 How long were you there?
A. About the same amount of time. At Nijmegen I telephoned Col Barham. I took a jeep down with me, the one being used at the clmb. The idea, my own idea, was, he did not know I had taken the jeep.. When I got down there I drove it that day from Grave to Nijmegen. When I came back I parked the jeep and left it over-night. I found the carburetor had been taked out of the jeep and was told it had been done by Major Rose, who said he had orders from the SIS to make that vehicle so it would not run. I telephoned Col Barham what had happened. He said "Stop worrying, get that vehicle sent to car company immediately". I said "I cannot give any orders but the Adm Offr of 13 Bn is here. Will you give him that order". Col Barham then spoke to the Adm Offr.

Q.1000 Did the car go some place or do you know?
A. I think about that time the SIS arrived and the car was taken back to Car Company.

Q.1001 Do you know anything about a Rolocord camera?
A. Yes.

Q.1002 Tell the court what you know about that and what the circumstances were involving the disposal of it?
A. Shortly before I left for repat, perhaps a day before, I went into Col Barham's office and he had been wanting to get a camera like that. Mine was broken and I wanted it fixed. I said to Col Barham "Col Ball has been very decent about this whole thing, do you think he would mind if I gave him this as a parting gift". Col Barham replied "He is a very touchy fellow, but I would like it myself". Whereupon I gave Col Barham the camera.

Q.1003 Did you ever hear about that camera again?
A. Yes. When I was in a detention cell in England the SIS, a Lt. Johnson came to me and asked me if I had given Col Barham a Roloflex camera in a case, to which I replied "Yes". He described it as I knew it.

Q.1004 Would you say, from the description, if it was the camera you gave Col Barham?
A. Yes.

Q.1005 What is that slip of paper?
A. That is a statement of my bank account.

Q.1006 Is that a monthly statement or quarterly?
A. That is a Cdn Bank of Commerce statement which shows an over-draft of £14.17.11

CANADIAN BANK OF COMMERCE STATEMENT RELATING TO THE ACCUSED IS PRODUCED, MARKED EXHIBIT "O", SIGNED BY THE PRESIDENT.

Q.1007 When did you receive that?
A. In the mail yesterday.

Cross-examined by Prosecutor:

Q.1008 Did you know the witness Haffert who gave evidence in this case?
A. Yes sir.

Q.1009 You had some business transactions with him I understand in June and July 1945?
A. Yes sir.

Q.1010 Did you accompany him on a tour of various restaurants and cafes in the Hague and on that occasion did you peddle approximately 8 cases of liquor?
A. Yes sir.

Q.1011 For each you received a price of approximately 200 guilders a litre?
A. I do not remember the price. I know it was old money.

Q.1012 You received the proceeds of that sale?
A. Yes sir.

Q.1013 Who was the Sgt who accompanied you?
A. Sgt Derby.

Q.1014 Was he on that trip pursuant to your instructions?
A. Sgt Derby was following up my instructions.

Q.1015 Where did this liquor come from?
A. Most of it came from the 100 Club and some of it came from Germany.

Q.1016 You heard Sgt Derby say he had delivered to you four cases of Avocaat, four cases of Steinhager and two cases of Old Mab?
A. Yes sir.

Q.1017 Where did that come from?
A. Out of the stock at the 100 Club.

Q.1018 You know the witness Vulker?
A. Yes sir.

Q.1019 Do you remember his telling the court that he had made a deal with you through Pine Mertens as interpreter by which you acquired a diamond ring from him and for which you exchanged 120 bottles of Avocaat and 40 bottles of cognac? Is that true?
A. Yes sir.

Q.1020 Where did the liquor come from?
A. Not out of the stock of the 100 Club. It came out of the cellar of a building in which I was living and I am almost dead certain that some of it was brought in by some of the lads from the vicinity of Oldenburg or somewhere around there.

Q.1021 I suggest to you that that was part of the First Cdn Army's free issue?
A. I will not say it was not and I will not say it was because at that time I did have some liquor given to me by an officer and there is a possibility it may have been, because at that time we were getting a lot of stuff that I personally did not know where it came from but I had also received some Avocaat and other liqueurs from one of the transport officers in the Army Service Corps.

Q.1022 Do you know the witness Schoak?
A. I know Tony Schoak very well, sir.

Q.1023 Do you know of the trip on which you took him to the Hague, on which occasion you took 15 or 20 bottles of Steinhager and cigarettes, which were disposed of there?
A. Yes sir.

Q.1024 And subsequently you acquired from the proceeds of these sales a ladies fur coat and a diamond ring?
A. Yes sir.

Q.1025 Where did that liquor come from?
A. It came from the stocks of the 100 Club.

Q.1026 In what vehicle did you deliver the liquor which was peddled in the Hague in July?
A. In the HUP, an army vehicle.

Q.1027 With respect to the 100 sheets which were delivered by Schoak to Haffert one evening in the Hague, were they delivered pursuant to your instructions?
A. Yes sir.

Q.1028 Were you present at the time?
A. Yes sir.

Q.1029 Did you fix the price?
A. That I cannot remember.

Q.1030 Did you receive the proceeds?
A. Yes sir.

Q.1031 You told my learned friend you did not remember if these were German sheets or sheets brought to the club by Royen?
A. When I said I did not know if they were German sheets, I am pretty well convinced they were of German manufacture, but what I meant by that statement was that I did not know whether they were part of some which Bill Markham brought me from Germany.

Q.1032 If they were brought by Royen, where did he get them?
A. That I cannot say sir, because I only suspect.

Q.1033 What was his capacity at the 100 Club?
A. Headwaiter at the 100 Club, sir. He was also more or less manager of the civilian staff, and in that capacity he performed many duties.

Q.1034 And in that capacity you had occasions to send him to the ADOS dump for stuff?
A. Yes, and occasionally he went without my permission.

Q.1035 But he could not draw on his own authority?
A. He was so well known there that he could, and on top of that because we had no establishment, our signing was not accepted half of the time anyway.

Q.1036 Is there any doubt whatever in your mind that those sheets came from the ADOS dump?
A. I am telling the truth on this witness stand, and I am telling you, in my own mind, yes.

Q.1037 And you knew that at the time you sold them?
A. Yes, I knew that at the time. They came from an A DOS Dump but I did not know which one.

Q.1038 In any event, they are ADOS property?
A. Yes.

Q.1039 That transaction took place in the latter part of July?
A. Yes sir.

Q.1040 And it was approximately the same time that the trip was made in the HUP described by the witness Bernaard, and Pepin, in which five hundred sheets were taken to Tilburg?
A. I believe so sir. I went, but I will not swear it was that date. I remember the sheets going to Tilburg but I don't remember the month.

Q.1041 Bernaard said he got those sheets from your room on your instructions?
A. That is correct.

Q.1042 From your room?
A. No sir, it was not my room.

Q.1043 Whose room was it?
A. Fine Mertens.

Q.1044 As a matter of fact there was very little distinction, is that right?
A. You are making it .....

Q.1045 As far as the staff was concerned, one was the same as the other?
A. My personal property was always kept in the other room.

Q.1046 You knew all about these five hundred sheets?
A. Yes.

Q.1047 It was you gave the order to load them?
A. Yes sir.

Q.1048 You say it was somebody Else's deal?
A. Yes sir.

Q.1049 Whose was it?
A. It was a deal that I know Fine Mertens had on with somebody else. Who, I do not know, but I did not receive the money for those sheets.

Q.1050 Where did those sheets come from?
A. I imagine from the same place the others came from.

Q.1051 From the ADOS dump?
A. I imagine so.

Q.1052 How did they get from the ADOS dump into your premises without you knowing about it? Or did you know?
A. I do not remember any details about those sheets prior to the time they were loaded on the vehicle and I do not even remember, or did not until the evidence came into the court here.

Q.1053 As a matter of fact Fine Mertens was employed by you as the interpreter at the club about 24 April at Enschede?
A. Yes sir.

Q.1054 From that time on she acted as secretary, interpreter and many other functions as far as you were concerned?
A. That covers a lot of territory.

Q.1055 Did she act as your agent in other deals?
A. Yes sir.

Q.1056 How many other deals?
A. That I cannot remember sir, but you are making it look like she acted as an agent for me alone which is not correct.

Q.1057 She was employed under your direction?
A. She knew every officer in Army HQ and she had been working there a long long time and I never stopped her if she wanted to make a deal with other officers. It should have been my affair but I would not, and did not make it my affair.

Q.1058 You told the court a few minutes ago that you acquired this car for some clothing, a few guilders, besides

postal notes?
A. Yes sir.

Q.1059 Were you in any doubt whatever that that car which you bought was war booty?
A. I did not believe at the time it was war booty but I did think that there was some law at that time regarding vehicles of Dutch Civilians having to be turned in or registered with the military Gezacht. What the exact rule on that was I did not know but I remember at the time thinking that over, and seeing that it was a Dutch Officer, and I looked the car over and it did not look like an army vehicle and I needed the car for the club to run around in, and even if it had been war booty, if I needed a vehicle I would have got one.

Q.1060 You saw the car here. You know it had German camoflage paint on it?
A. There are lots of civilian cars painted Cdn Army green. It does not make them Cdn vehs. When I got this car there was no German color paint on it. It was not that yellow colour definitely and how that got on I do not know. The car I bought was definitely not to the best of my knowledge, aGerman yellow.

Q.1061 You saw the colour of the car?
A. Yes.

Q.1062 What colour was it when you saw it?
A. A grayish blue I believe sir, certainly nothing to do with the German army camoflage yellow.

Q.1063 Did you tell Col Barham or any other of your superior officers thatyou had sold a vehicle likely to have been war booty?
A. Yes sir.

Q.1064 When did you tell them that?
A. It came up on a couple of occasions. Once was when we were sitting around talking as people do and we were talking about Germans selling loot and some of the civilians got around to selling those things on the black market and I said I could not criticize a man too strongly for selling anything out of Germany and I said what did they feel about it and they said the same way. I said I had sold a car I bought and I did not know where it came from. I said I had a receipt and I had no compunction about selling the car whatsoever. Anyway, I actually told my superior officer I had sold the car.

Q.1065 Did you ever discuss it with them as a basis of disciplinary action against you?
A. It is a very hard question, hard for me to interpret what you mean, but... yes, I informed Col Barham that I had sold the car.

Q.1066 When?
A. After the raid on the 100 Club and after all the investigations started, sir.

Q.1067 Did you tell them it was war booty and you had sold it and kept the proceeds?
A. I told him I was accused of selling a car that should have belonged to the Cdn Army, and told him I was

accused of selling a car that the SIS said should have been turned into an "Eclipse" dump.

Q.1068 The SIS did not know anything about that car?
A. They certainly did sir. Lt. Johnson told me that himself.

Q.1069 Did you tell Col Barham you had taken two hundred sheets to the Hague and sold them for 30 guilders each?
A. I did not tell him the number.

Q.1070 You did not tell him they were Cdn Army sheets?
A. I told him they were sheets seized by us from the Germans.

Q.1071 Did you tell him about the 1000 sheets that you had in your room?
A. Sir, I have just stated that I mentioned no number of sheets. I mentioned the sheets several times. I did not mention the price because I figured it was not a case of number of sheets, but a case of irregularity of the deal.

Q.1072 You did not supply sufficient detail to him at the time to enable him to know what had happened?
A. No, what I meant is this, that Col Barham was more interested in having everything quieted down instead of listening to me sir.

Q.1073 Then he never addressed his mind to the question of discipline against you at all with respect to this transaction?
A. He certainly did sir. I had another occasion to go to him and the very fact that he said to me that the police had wanted to arrest me and he stopped that, that certainly went to show he addressed himself to disciplinary action.

Q.1074 He went to Col Ball in connection with the transaction of the 1000 kilograms of soap at the 100 Club, is that what you mean?
A. No sir. He went to Col Ball again after that. He went to Col Ball on more than one occasion.

Q.1075 You do not know what he said?
A. I know what he said he told him.

Q.1076 That is an entirely different matter.
A. Yes.

Q.1077 I suggest to you also that the discussion you had about sheets related to the thirty-five hundred sheets that were delivered to you in Amsterdam. You know all about that transaction?
A. No, that is wrong. You said regarding the sheets, at that time, no sir. At that time that was not discussed.

Q.1078 I do not care if it was discussed then, but the sheets you discussed with Col Barham were the thirty-five hundred sheets you sold here in Amsterdam on the 8th Nov 1945?
A. Do I have the privilege of refusing to answer?

Judge Advocate:

There is no suggestion is there, Col Campbell, that the witness took part in this transaction?

Prosecutor:

My suggestion is that the discussions which took place with respect to sheets was in connection with an entirely different transaction about which the witness knows, and in which he had a part as intermediary in the discussions.

Defending Officer:

I suggest that if there was a discussion about 3500 sheets which were not the subject of a charge, there is not much point on pressing the point on theprosecution's part, in view of the fact that the charge is only 200, granted the fact they may be different transactions.

Judge Advocate:

I read from RP 60(D) "The accused when giving evidence may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged, but shall not be asked, and if asked, shall not be required to answer any question tending to show that he has committed, or been convicted of, or been charged with, any offence other than that with which he is then charged, or is of bad character, unless the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence with which he is then charged."

Do you feel you come within that section?

Prosecutor:

Yes sir.

Defending Officer:

I do not agree. It is definitely a matter with which he is not charged.

Judge Advocate to Defending Officer:

You have raised the point that this has been condoned. I believe it is fair for the prosecution to prove the matter condoned is another matter.

Defending Officer:

You are asking that it tends to show he committed another offence?

Prosecutor:

I am not asking any such question.

Defending Officer:

If there was a discussion about 3500 sheets, what could that be?

Prosecutor continues cross-examination of witness:

Q.1079 Did you have some discussion with Col Barham with respect to a transaction relating to 3500 sheets which were delivered here in Amsterdam?

A. I do not know about any number of sheets. I know that I discussed, as I told you, one deal, my only sheet deal, with Col Barham, and quite a while before that time I had a discussion with Col Barham about the same trouble.

Q.1080 You had a discussion with Col Barham with respect to some trouble another officer was in about sheets?

A. I believe it was sheets.

Q.1081 You know perfectly well it was sheets?

A. Yes, I do.

Q.1082 You know a message was sent to you at the Borderij Bar and as a result of that message you went to Apeldoorn to see Col Barham. Is that not true?

A. I still don't think I have to answer that question. First of all, I don't feel that I am being tried on having anything to do with the subject the prosecutor brought up. Secondly, that discussion, I have told the prosecutor, had nothing to do with this case. I have admitted that I had a discussion with Col Barham. I did have a discussion and I have admitted it was not the same discussion , as I have discussed the thing twice with Col Barham. I believe it is irrelevant and might involve me and I feel I have the right to refuse to answer that question.

Prosecutor:

I think it is a perfectly legitimate question. I do not think it is necessary to pursue it any further. I am content to leave it at that.

AT 1230 HRS 4 APR 46 THE COURT ADJOURNS TO RE-ASSEMBLE AT 1400 HRS 4 APR 46. AT 1400 HRS 4 APR 46 THE COURT RE-ASSEMBLED PURSUANT TO ADJOURNMENT. PRESENT THE SAME MEMBERS AND JUDGE ADVOCATE AS AT ADJOURNMENT.

Cross-examination continues:

Q.1083 Before the adjournment I was directing some questions to you on the question of sheets. I want to direct your mind again to the 500 sheets that you directed should be loaded in the HUP which was proceeding to Tilburg. How did it come about that you gave the order for the loading of the 500 sheets?

A. First of all my own memory of the incident is hazy but it is perfectly natural that any order regarding anything to be loaded into the HUP would be given by me. I have told you that I knew Fine Mertens handled the sheets and told me she was going to Tilburg, and that I ordered the driver to load the sheets. I myself do not remember telling Bernaard to load the sheets. I may have done, but I am not definitely clear.

Q.1084 Bernaards also said that after the 500 sheets had been taken away there were approximately the same number left, what happened to those?

A. I do not remember them being left.

Q.1085 You heard his description about the type of package and the way they were tied, cellophane cord?

A. Yes sir.

Q.1086 You never directed their mind as to where they came from?

A. No, it all happened over a long period of time, and so much has been involved that I cannot remember any dealing in sheets that went to Tilburg or the fact of how many people were standing there.

Q.1087 That is not the question I asked you. I asked you to direct your mind to the question of where the 1000 sheets came from?

A. Frankly, I do not remember there being a thousand sheets there.

Q.1088 Assuming that the evidence of Bernaards is correct, 500 went out to the HUP, and approximately the same number were left. Do you mean to say that as a member of the Cdn Army you directed the staff to take them off as they were taken?

A. Do you mean instruct the car to go to Tilburg?

Q.1089 And take army sheets, yes?

A. It is a matter of definition whether they are army sheets or not.

Q.1090 Sheets that came from Army Stores then?

A. I remember the load of sheets going to Tilburg but to go on oath and tell you there were 400 or 600 left, I cannot remember.

Q.1091 I want to know whether you directed your mind as to the propriety of sending one of your staff on a mission of that character?

A. First of all, I did not send the member on a mission, I sent the driver because he was taking someone there. As far as I was concerned, I will admit that it was not a thing an officer should do. I realize that now and I admit I realized it at the time.

Q.1092 Were there so many of these transactions that you cannot remember a quantity of 1000 sheets in your room?

A. No, not a case of so many transactions. It is a case of the fact that I cannot remember the details any further than I told you and it is no good trying to put words in my mouth which do not give --- or do not jive.

Q.1093 I suggest that you were a party to the transaction and that you received a portion of the proceeds?

A. You may suggest that sir, but to the best of my knowledge I received nothing from it.

Q.1094 With respect to the 500 sheets which you ordered loaded in the HUP to be taken to Tilburg sometime in July, did you receive any of the proceeds or any benefit as a result of that transaction?

A. I cannot remember honestly receiving anything.

Q.1095 Are you sure you did not?

A. I am saying that I cannot remember sir.

Q.1096 You do not remember whether you got any of the proceeds whatsoever?

A. I do not and it is no good my saying I did or I did not. I cannot remember.

Q.1097 This morning you have the court a fairly elaborate description of the 100 Club which was a club assigned to provide certain amenities for the staff of HQ First Cdn Army?

A. That is right sir.

Q.1098 And you described likewise quite a number of transactions in which you carried out either the orders of Col Barham or did favours for him extending from the time the club was formed in Tilburg down to and even after the club was finally closed?

A. Yes sir.

Q.1099 And you told my learned friend it had been given to you as an order that Col Barham was to have whatever liquor he wanted out of the 100 Club stocks, is that correct?

A. Yes sir.

Q.1100 What were the mechanics by which those advances of liquor were made. How was the accounting taken care of?

A. That was quite a job at times sir. I will try to explain. Prior to D day at the club there was another Sgt whose name I have forgotten. A message would be sent over to me and I would get whatever was wanted from the Sgt for Col Barham and up until that time I believe if I remember correctly, that he paid for it at NAAFI prices. Later on at Enschede or elsewhere on several occasions or most of the time when officers wanted liquor for a party, we sold it for bar prices, but to Col Barham we sometimes charged four and one-half guilders for bottle of whiskey, and other times bar prices, and at other times he would tell me, like for example, the Col Q Accommodation was going on leave to Paris, and Col Barham said that he was to have so many cases and that was paid for at bar prices , but as I was not the bookkeeper I cannot remember how often bar prices were paid, or how often NAAFI prices.

Q.1101 Rougaly what quantities did these transactions involve?

A. That I cannot tell you exactly for this reason. At Tilburg alone I remember four or five occasions taking liquor to him myself and then on quite a few occasions having other people come over with a chit from him for liquor and then when I closed the club I was told that stuff such as Victory gin was to be sold by the bottle, but that English gin and whiskey was to go to Col Barham himself. I believe there was quite a flurry at the time because they said it should have been turned in to NAAFI instead.

Q.1102 Sometime, along about those last few days, you told the court that you got an order from Col Barham with respect to either two or three cases of cognac to sell it for black-market prices and get him an enlarger. "Flog it" was the word I believe you used?

A. Yes.

Q.1103 And you did subsequently get the enlarger which cost 250 guilders?

A. I think that was the approximate price.

Q.1104 And you said that the price was approximately 30 guilders a bottle?

A. I think so, sir.

Q.1105 By my calculations that comes to 720 guilders?

A. Yes.

Q.1106 Even for two cases, 720 guilders. And you said that you gave to Col Barham the enlarger and about 200 guilders in cash?

A. I do not remember the exact amount of cash.

Q.1107 Is what you said this morning your best estimate?

A. I would like to answer that this way. I bought the enlarger for Col Barham. I gave Col Barham all the money that I got from the deal later on, with the exception of what I spent that night on my own personal amusement, which might have run to 150 guilders. I had dinner.

Q.1108 Was the liquor paid for, did you pay the club for it?

A. When I say I paid Col Barham all that was left, naturally the price of the liquor was deducted. I remember I was a few guilders short to pay for the liquor and I forget if I paid the money from my own pocket or how, but that liquor was paid for and deducted from the sum which I paid to Col Barham.

Q.1109 Then on another occasion you obtained for Col Barham a Voiglander camera and that was paid for also from the proceeds of the 100 Club liquor?

A. Yes sir.

Q.1110 Did Col Barham know what the source of these funds was?

A. Yes sir, he knew I traded liquor for it. I told him when I gave him the cash.

Q.1111 Did he give you any money or articles at all in connection with that transaction?

A. As I said before I cannot remember whether I was paid for it, I definitely cannot remember having been paid for it, but I remember having been promised.

Q.1112 Then you said on a number of other occasions you made purchases for him in the Hague and elsewhere, of various articles including perfume, for which you never received payment?

A. Yes sir. He would ask me to get him things, and eventually, you do not like keeping asking a senior officer for money.. once he mentioned owing for a bottle of perfume when he owed me for four, and I said "That is alright, it comes from outside sources". He said "I will pay you, it must have cost you something".

Q.1113 I suggest to you, Mr. Greenslade, that these transactions you had with Col Barham, all the way through, were extremely good arrangements for Col Barham, the whole thing was a very good arrangement for him?

A. In what way sir?

Q.1114 He got a lot of things for nothing?

A. That sir, I agree with, quite a bit for nothing.

Q.1115 And he got it through your auspices as manager of the club?

A. Yes sir.

Q.1116 So that later on when you got into difficulties it is only fair to say that you said "I helped you out of difficulties, now what are you going to do to help me?"

A. I made it strictly this way. I never turned around and addressed Col Barham, like you might say, put the pressure on. Anything I said to Col Barham, I told him right to his face. I said "I am willing to take any punishment for what I have done". That was my attitude because I had a great deal of respect for Col Barham. I have said things in this court today that I did not like saying to an officer, but putting things over his head, there was never any suggestion of it.

Q.1117 But throughout all the discussions he could not help but be extremely conscious of his obligations to you?

A. I suppose you are right. I had never considered it that way before. In that Army HQ.....

Q.1118 Yes, continue, please?

A. I was going to say that in that Army HQ it was a tight packed bunch and they all sort of stuck together, but Col Barham was definitely not a loveable character and I would not definitely have dared to threaten him.

Q.1119 You have made some reference to BSM Rief. Did you have some discussion with him about this liquor, the three cases of cognac or two cases of cognac and one whiskey, taken from the club?

A. Yes sir.

Q.1120 Did he inform you that the provost knew all about that transaction?

A. Just a minute sir, I thought you meant before I took it when I said "Yes".

Q.1121 After you had taken the three cases and they had been sold for the benefit of Col Barham as you say, did you have a discussion about this matter with BSM Rief?

A. About selling it for Col Barham?

Q.1122 Yes?

A. That I cannot remember sir.

Q.1123 Do you ever remember using this explanation when told about the fact that the provost knew about the three cases of liquor "I am very glad because the cognac I took out was for Col Barham. If I tell them thecognac was for him andthe whiskey for me, they will have to fix it?"

A.1123 No sir, I definitely do not think I made that statement.

The Defending Officer declines to re-examine.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with RP 83(B)

The Witness withdraws.

Defending Officer:

I had intended to call BSM Rief as my second witness. However, he is not available until later in the day, and I do not think now that it is necessary that I use him.

Prosecutor:

I am quite satisfied.

Defending Officer:

We have no other witnesses.

THE DEFENCE HAS NO OTHER WITNESSES.

The Prosecutor makes a closing address.

May it please the court. On the present trial the accused stands charged with five charges, one of which is framed in the alternative. The charges are all under Section 40 of the Army Act with the exception of the 5th charge which is framed under Section 18(4) of the Army Act.

I think the balance of continuance may best be served by discussing these in the order in which they appear on the Charge Sheet, and to review the evidence adduced in support of each of these charges. Before doing so, there are comparatively few points of law involved, except the point of condonation which will be discussed at some length later, and the matters of credibility of witnesses, and the matters of reasonable doubt; on these things I do not propose to say anything as that is the function of the Judge Advocate.

The first charge we have before us, that is the third charge in the charge sheet, is as follows "When on Active Service, conduct to the prejudice of good order and military discipline, in that he in the Field, in Holland, between 1 April 1945 and 20 Nov 1945 was improperly concerned in the trafficking in liquor with Dutch civilians to the extent of approximately 280 bottles." The three major transactions which were described here were; first the transaction in which the witness Schonk was present, and he says that approximately fifteen to twenty bottles of Steinhager gin were taken by the accused and himself to the Hague, this was disposed of and subsequently there was acquired in exchange for it or purchased from the proceeds of the sale of the liquor and the cigarettes a ladies fur coat and a diamond ring. These facts are acknowledged by the accused. The second transaction is the transaction described by the witness Haffert, supported in part by the witness Sgt Derby in which six to eight cases of liquor, four of Old Mab gin, two of Steinhager and two of Avocaat, were taken to the Hague in a HUP, army property, and there sold in the Hague by the

accused for a price of two hundred guilders per litre. This liquor was obtained out of the stores of the 100 Club and was accounted for in its records by a payment into the club funds of the appropriate amount of money for the liquor taken at what are known as bar prices. Bar prices were established by the witnesses to be thirteen guilders a bottle, and as a bottle is three quarters of a litre, the selling price for all practical purposes was 150 guilders a bottle. That transaction is acknowledged by the accused to have taken place, and that he received the proceeds of it. A further transaction which took place was the exchange of a diamond ring by one Vulker for 120 bottles of Avocaat and 40 bottles of cognac and a German piano. That transaction is acknowledged to have taken place by the accused. The facts having been established that the buying and selling of liquor took place, it becomes only of importance to consider whether that conduct constitutes conduct to the prejudice of good order and military discipline, and if it does, then there can be no doubt as to the offences having been committed as charged.

The accused was the manager of the 100 Club and it was his responsibility as manager to preserve the property of the club and likewise it must have been known to him that the trafficking in liquor with civilians was definitely in violation of the laws of the country and likewise violation under the terms of which the liquor is brought into the country for consumption by Cdn Army personnel. If that is so, then clearly what the accused did in connection with those transactions was definitely conduct to the prejudice of good order and military discipline. If further indication of its being conduct to the prejudice of good order and military discipline is required, there is one further fact the court can take into account and that is the spectacle of a Cdn officer peddling liquor in the capital of a country we occupied, together with a person of junior rank; that is most certainly conduct to the prejudice of good order and military discipline.

With respect to the fourth charge, again conduct to the prejudice of good order and military discipline, in that he, in the Field, in Holland on or about 20 July 1945 improperly used Cdn Military transport forprivate purposes namely to deliver liquor to Dutch civilians in the Hague, Holland. That is occurred, there can be no doubt. It is acknowledged by the accused, and you will require no further submission from me in support of the contention that what was done in this case amounts to conduct to the prejudice of good order and military discipline, and that all essential facts to prove the charge have been established.

The fifth charge is framed under Section 18(4) of the Army Act, and reads as follows: "WOAS stealing public property in that he, in the Field, in Holland in the month of July or August 1945 stole two hundred bed-sheets, public property." The appropriate section of the Army Act under which this charge is laid is 18(4) which provides that every person subject to military law who commits any of the following offences, that is to say, steals, embezzles or fraudulently misapplies or receives, knowing them to be stolen or embezzled, any money or goods the property of a person subject to military law, or any money or goods belonging to any regimental mess or band, or to any regimental institution or to the Navy, Army and Air Force Institutes, or any public money or goods....

With respect to the two hundred sheets which were sold on the direction of the accused by Haffert, and for which the accused received the proceeds, there may be in your mind some doubt as to the identification of the articles. From the very nature of the articles themselves, being unmarked, it would be impossible to have positive identification. The witness Schonk who took the sheets there says that they were sheets of the type issued to the military and civilian staffs at the 100 Club. Likewise the witness Derby says that the sheets which were an exhibit in this case are also of the type issued to the civilian staff. The witness Bernaards also confirms that. That, combined with the acknowledgment of the accused that they probably came from the ADOS dump, will surely be sufficient to satisfy you that they were public property, and as far as stealing is concerned, the JA will direct that stealing under this section will be precisely as it is under the Larceny Act "A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent , at the time of such taking, permanently to deprive the owner thereof; provided that a person may be guilty of stealing a thing, notwithstanding that he has lawful possession thereof, if being a bailee or part owner thereof, he fraudulently converts the same to his own use or to the use of any person other than the owner". It is my submission that the facts are more than ample to prove that the 200 sheets were stolen by the accused.

The sixth charge, framed in the alternative to the fifth, is framed under Section 40 of the Army Act, and if you should be in sufficient doubt as to the identity of the property or the fact that it was public property, then my submission will be with respect to the sixth charge that for an army officer to traffic in sheets at obviously black-market prices, that in itself constitutes conduct to the prejudice of good order and military discipline. You will remember that the witness van Haren said that the sheets which were sold and which are an exhibit in this case, had a controlled price at that time of eight guilders and fifty cents each and the evidence is that these were sold to civilians for thirty guilders each. I think on the fact of it that is a transaction which should be deprecated and which should in itself be considered as conduct to the prejudice of good order and military discipline.

With respect to Charge Seven, again framed under Sec 40 of the Army Act, in that he, in the Field, in Holland, in the month of July or August 1945 improperly dealt in merchandise in that he sold five hundred bed sheets, other than those mentioned in Charges Five and Six, to Dutch civilians. The evidence is that the accused directed that these sheets be loaded into a military vehicle and taken to Tilburg by a confidential employee of the accused, and there is evidence that 100 of them were sold at the price of 27 guilders each. That may not be sufficient to bring the transaction home to the accused, in the light of his own testimony. That is a matter which you will have to decide on after considering all of the evidence, as to whether or not, in light of the number of times that Fine Mertens acted as agent of the accused in transactions of this character, whether or not this particular transaction, and the part which the accused took in it, amounts to an improper dealing in merchandise of 500 bed-sheets, and to a lesser quantity of 100.

If you feel the evidence does not support the charge insofar as 500 bed-sheets are concerned, I am sure the learned Judge Advocate will tell you of your rights to enter a special verdict as to the difference in quantity.

Military law acknowledges an anomalous sort of defence, and a very understandable one in view of the nature of the services which a person under military law has to act from time to time, that is the defence of condonation. It is provided in RP 36(A) that "The accused at the time of his general plea of "Guilty" or "Not guilty" to a charge for an offence, may offer a plea in bar of trial on the ground that (i) he has been previously convicted or acquitted of the offence by a competent civil court or by a court-martial, or has been dealt with summarily for the offence by his commanding officer or by an officer having power to deal summarily with the case, or a charge in respect of the offence has been dismissed, or (ii) the offence has been pardoned or condoned by competent military authority".

There is no question of pardon involved here because pardon is something quite beyond condonation. It will be only necessary to consider condonation itself. The notation which is given with respect to the expression "Condoned" in note 2 "It has long been recognized that a military offence can be "condoned". I emphasize "For the purpose of barring a trial condonation means such conduct on the part of a competent authority -- i.e., an authority having power to determine that the charge should not be proceeded with--as is inconsistent with subsequently trying the offender, and as would make it inequitable to do so; it must be a deliberate and intentional act, done with full knowledge of all material facts."

The accused's evidence was directed very largely in an effort to establish the defence of condonation. In the first place, may I submit that the word "military offence" in the beginning of that note, note 2, is a precise term and a military offence is one as distinct from a civil offence. It is difficult to see how a military commander should be in a position to condone a civilian offence, but upon that point the JA may have a different point of view and may direct you along a different line. In any event, it is material in my view because, and I am satisfied, and it is my submission, that insofar as the offences in the 4th, 5th, 6th and 7th charges are concerned, that the competent military authority referred to in the section "condoned by deliberate and intentional act and with full possession of all the facts, draws his mind to the question of discipline with respect to this charge at all". There was some general discussion about sheets with Col Barham and may I say I am quite satisfied that Col Barham was a competent military authority within the meaning of this section, but from the evidence as we have it here in this court, I am satisfied that he never directed his mind to the question of actual discipline in respect to these charges and that if he did, he did not have full knowledge of the facts.

There is another arguement to which I would like to address myself for a moment or two, and that is this. The defence of condonation, it is my submission, clearly contemplates bona fide conduct on the part of that military authority, and that if his conduct was induced by any improper act of the accused, even if he was junior in rank, surely that would vitiate completely his act, even if he intended to condone the offence, because if by the fraud of the

accused in any form he induces his military commander to act in improper fashion as he did in this case, then I say that it does not amount to condonation. On any one of these counts it will be sufficient to defeat the defence of condonation if first he did not direct his mind as a deliberate and intentional act to each of the offences in respect of which condonation is claimed. Secondly that he had full knowledge of all the material facts, for if he did not, that will defeat the defence of condonation. That competent authority must have addressed his mind to the subject of the charge, and it is my submission in this case he did not. In the third place, if you find all those things condoned, I invite you to consider the other point I raised, which you will find discussed in the section, and that is the good faith of the person purported to have condoned the offence.

The Defending Officer makes a closing address.

May it please the court. In this case we have the accused charged with a third charge of improperly trafficking. He admits he trafficked. He has admitted a portion of the proceeds were used for his own benefit but he has also shown you I submit that the vast bulk of the proceeds of this trafficking was used on an army club of which he was the manager. He has been in the box and submitted himself to a very able cross-examination. His evidence has been that the vast majority of the proceeds of the liquor mentioned in charge three were used for club purposes. On the 4th charge he is guilty, and while two wrongs do not make a right, I put it to you that every Cdn officer in Europe has been guilty of the same charge although very few have been charged. In view of the seriousness of the other charges, I submit it is not important in the courts considerations. In the 5th charge, of larceny, you have heard all the evidence without my going through it again. But I wish to draw your attention to the fact that the witnesses Haffert and Schenk have received proceeds in this deal and I direct your attention to the rule re accomplices. Furthermore, I submit there is no evidence which directly identifies those sheets with sheets from any Cdn Army depot or dump. The prosecution has raised only a presumption and the accused's own evidence has stated that he did not know where they came from. They might have come from Cdn army sources, and they might not have. There is such a doubt as to their origin that the court might well consider the charge of larceny not proven.

The accused has told you in connection with that charge that he had on various occasions things brought to him from Germany. In view of the Cdn Army Orders against trafficking in Germany, while it is true things did come from Germany, and these may have come from some German civilians, as well as from other sources.

In the alternative to the 5th charge, a charge of trafficking has been laid, If it is improper or conduct to the prejudice etc, then the accused stands guilty and he has explained that the proceeds from that trafficking were used to equip the club, and he has explained generally where the equipment of that club went.

It did not go to private sources, bar one rug. The balance went to Messes or other Army institutions.

On the 7th charge I invite the court to consider there is absolutely no connection between the accused and either the articles mentioned in this charge or the proceeds of the sale of these articles. Again I submit there is no such a case as a prima facie case, for the prosecution has not adduced evidence that he had anything whatsoever to do with this. The accused pointed out that the club truck was going to the town on that day, and what is more natural than that his secretary should take these things down with her when the trip was being made.

One thing I want to draw to the attention of the court is this. All the transactions mentioned with the single exception of the liquor deal in connection with the enlarger, took place before the change in Dutch money. In other words, the proceeds were in all cases old guilders. It is common knowledge that the Cdn Army had more old guilders than could be counted, every man in the Cdn Army in Europe had a pack full of old guilders, and if they had cigarettes, they had more guilders in the form of cigarettes. Therefore, when the price of 20 or 40 guilders is mentioned, I draw to your attention that that figure never represented the true value of any article.

Now, under RP 39 it has been pointed out to ~~me~~ you that a military offence can be condoned so regardless of the consensus on evidence or otherwise in connection with the charges. Aside from condonation, I put it to the court that there can be no question whatsoever that this man's superior officer was such an officer who could properly condone an offence. There can be no doubt about that, a full Colonel A & Q of the First Cdn Army under whose direct orders this man ran the club. Now, the question of military offences, I submit that all the offences are military offences simply because they are under military law and tried by a military court. It is alleged that all the articles involved in the charges were military property, in some form, either purchased or captured, and whether that be true or not, I submit that the wording of the charges "Committing a civil offence" does not take the offences outside this RP on condonation. There is evidence by the accused which was unshaken on cross-examination that he discussed all the material facts of these charges with Col Barham, his superior officer, there is evidence that Barham discussed it with Col Ball, the DPM of First Cdn Army, and if he discussed it with Col Ball, what more can we assume than he must have been directing his mind to these irregularities. There is no question in the foot-note or in the section itself about good faith, and I submit that it is not therefore without very good reason. It makes no difference if a junior officer doing favours for a superior officer, has an offence condoned by him, then there is remedy against the senior officer, and the penalth of senior officers condoning in good faith should not be visitated on the man concerned, who is the accused. The evidence is that Col Barham, this man's superior officer, had knowledge of the facts, including as it turns out, the facts relating to the first and second charge which have already been tried and disposed of.

The accused came into the box, he had no hope of favour nor fear, andin his evidence in chief and in cross-examination he revealed that he had done more than the charge sheet would lead one to believe. I suggest his story is true and corroborated as far as possible by the prosecutor being willing to accept his statement on the witness I was going to call, without being called. That does not say that all portions of his evidence have to be believed, but I submit it supports the credibility of the accused's evidence.

I submit, gentlemen, that this man's evidence shows his offences were in fact, in view of the RP, condoned by his superior officer, whether or not proven in this court, and that with full knowledge of the facts the senior officer allowed him to proceed out of the theatre on the way home, and that constitutes full condonation.

Mr. President and Members of the Court. It is part of my duty as Judge-Advocate to sum up the evidence and advise the Court on the law. The Court is, however, the sole judge of the facts and anything I say now or may have previously said indicating my personal views as to the facts should be entirely disregarded. The Court and the Court alone is the sole judge of the facts.

I do not consider it necessary to sum up on the evidence and with your permission I will not do so, at this time. I wish however, to point out to the court that the defence has raised the question of credibility of witnesses. If you consider that any of the witnesses for the prosecution were accomplices, that is persons who had willingly taken part in the crime charges, then their evidence should be treated as the evidence of accomplices. I read from MML page 83, Sec. 45 "Apart from any statutory requirement the evidence even of an accomplice is in strict law sufficient, if the jury consider him credible; but it is now held to be the duty of the judge to warn the jury of the danger of convicting a prisoner on theuncorroborated evidence of an accomplice and, in his discretion advise them not to do so, though at the same time pointing out that it is within their legal province to convict upon it if they choose. In a trial by court-martial where the court performs the functions of both judge and jury, they should very carefully consider the danger before convicting on the uncorrobarated testimony of an accomplice; and, if there is a judge-advocate, it is essential that he should direct their attention to the point. Except where a statute makes provision as to the nature of the evidence necessary, the corroboration required is independent testimony which confirms in some material particular not only the evidence that the crime has been committed, but also that the accused committed it." With regard to corroboration, corroboration may be found in the evidence of the accused himself.

The evidence with respect to some of the charges may be circumstantial and I wish to direct the court to the law with regard to circumstantial evidence. I read Section 42, page 81 of the MML. "From the circumstances in which crimes are ordinarily committed, it follows that direct evidence of their commission is not always obtainable, and that in very many cases reliance must be placed on circumstantial evidence. Such evidence is in no way inferior to direct evidence, and is in some respects superior to it; for it has become a proverb that "facts cannot lie," whilst witnesses may. On the other hand, it must always be borne in mind that if facts cannot "lie", they may, and often do, deceive; in other words, that the interpretation which they appear to suggest is not that which ought to be placed upon them. Therefore, before the court finds an accused person guilty on circumstantial evidence, it must be satisfied not only that the circumstances are consistent with the accused having committed the act, but that they are inconsistent with any other rational conclusion than that the accused was the guilty person".

Further, with regard to the evidence, I wish to advise that the court may accept part of a witnesses's statement,

none of it, or the whole of it, and the weight they give to any statement they do believe is entirely a matter within the jurisdiction of the court. Weight to be given to the evidence of witnesses is a matter for the court and the court alone to consider.

The accused is charged in the third charge under Army Act Section 40 as follows "WOAB, Conduct to the prejudice of good order and Military Discipline, in that he, In the Field, in Holland, between 1 April 1945 and 20 Nov 1945 was improperly concerned in the trafficking in liquor with Dutch civilians to the extent of approximately 280 bottles." To be guilty of this charge, the Court must be satisfied that the prosecution has proven that the particulars of the charge are materially proven and that if proved, it constitutes conduct to the prejudice of both good order and military discipline.

I should advise the court that at the beginning of the deliberations the court must consider the accused to be innocent. The onus is on the prosecution to prove that the accused is guilty, not for the accused to prove himself innocent. Therefore, it is necessary that the necessary elements in each charge are proven before the court can find the accused guilty on any of the charges.

The 4th charge is "WOAB, Conduct to the prejudice of Good Order and Military Discipline, in that he, In the Field, in Holland, on or about 20 July 1945 improperly used Canadian Military transport for private purposes namely to deliver liquor to Dutch civilians in The Hague, Holland." In this charge also the prosecution must satisfy the court that the particulars of the charge are materially proven, and if proven, that it constitutes conduct to the prejudice of good order and military discipline.

The 5th charge is under Section 18(4) of the Army Act, as follows "WOAB stealing public property, in that he, In the Field, in Holland in the month of July or August 1945 stole two hundred-bed-sheets, public property." Theft, under Sec 18(4) of the Army Act is by virtue of s.190 sub sec 35(a) of the Army Act the same as theft under the Larceny Act. "A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof". The expression "Carries away" is the removal of anything taken away from the place where it occupies. "Owner" is described as a person who is legal owner of the property stolen, or he may be part owner or person having control of or special property in anything capable of being stolen. The article must be taken fraudulently, fraudulent intention must exist at the time. The slightest amount of moving is sufficient, and the property must be taken with the intention of permanently depriving the owner thereof. The court must be satisfied that all the particulars are proven, and that the articles taken were public property. If the court cannot find the articles are public property, then the accused cannot be found guilty of this charge. On this charge there may be an alternative finding of Fraudulent misapplication under Sec 56 of the Army Act. Public property means the property of any allied government, regardless of whether it is Belgian, French, Canadian or Dutch.

The 6th charge, under Sec 40 of the Army Act, is the alternative to the 5th charge, in that he, in the Field, in Holland, in the month of July or August 1945, improperly dealt in merchandise in that he sold two hundred bed-sheets to Dutch civilians. To be guilty of this charge, the prosecution must satisfy the court that the particulars of the charge, if proved, constitute prejudice to both good order and military discipline.

The 7th charge is WOAB conduct to the prejudice of good order and military discipline, in that he, in the Field, in Holland, in the month of July or August 1945, improperly dealt in merchandise in that he sold five hundred bed sheets, other than those mentioned in Charge five and Six, to Dutch civilians. The same law applies to this charge as to other charges under Section 40. In this charge the court may make a special finding provided that it does not materially alter the particulars of the charge, that is, if the court finds all other elements of the charge are proven.

With regard to the third, fourth, sixth and seventh charges, all are laid under Section 40 of the Army Act. The prosecution has introduced into the court a Routine Order which has been published twice, once in November 1944 and once in July 1945. The accused is not charged with neglect to obey that order nor is there any evidence before the court that the accused was aware of the existence of the order.

These offences of conduct to the prejudice of good order and military discipline under Section 40 may be of two kinds. The offence may be one that is bad in itself, that is malum per se, and if the court finds that the offence is one that is bad in itself, then it is not necessary to show that it is bad by virtue of some routine order in order that the accused may be guilty of that offence, provided that the particulars of that offence are materially proven. If the court finds however, that the offence is not one that is bad in itself but is an offence only by virtue of a Routine Order, that is malum prohibito, then I would advise the court not to find the accused guilty as there is no evidence that the accused was aware of the existence of the Routine Order.

The defence has raised the point of condonation of the offence. This has been argued also by the prosecution. I read from page 640 of MML, the note to AP 86 "It has long been recognized that a military offence can be "condoned". For the purpose of barring a trial condonation means such conduct on the part of a competent authority i.e. an authority having power to determine that the charge should not be proceeded with -- as is inconsistent with subsequently trying the offender, and as would make it inequitable to do so; it must be a deliberate and intentional act, done with full knowledge of all material facts." The defence has not raised the defence of condonation as a bar to trial, but this does not prevent this defence being raised at this time. If the court finds that these offences or any of them were condoned, then the court should find the accused not guilty. Before an offence can be said to be condoned, it must be proven that a competent authority, that is, an authority having power to determine that the charge should not be proceeded with has conducted himself in such a manner as is inconsistent with later trying the accused. Condonation must be a deliberate act, it must be intentional and the competent authority doing the condoning must have full knowledge of all material facts of the case. By full knowledge of all the material facts it is meant he must have a comprehensive understanding of the charge that he is condoning before its condonation. The question was raised between the prosecution and defence of condonation being done in good or bad faith and nothing is said in the MML about this. I would advise the court that the motive of the officer condoning the offence at the time of condonation is immaterial, that is if he condoned the offence with an ulterior motive to protect himself or for some other reason that is material and beneficial to him, then it would still be a good case of condonation. However, if he condoned the offence as a result of threats made to him, either physical or a threat of black-mail, by the accused, then the condonation would not be a good condonation, having been adduced by threats, duress or black-mail and therefore if you find that all particulars of the condonation as laid down are complied with with the exception that you may feel that the officer condoning the offence acted for his own benefit, then I advise the court it is a good case for condonation and I advise the court the accused should be acquitted on those charges which have been so condoned.

It is also my duty to point out to the court that the accused is entitled to the benefit of any reasonable doubt. I say a reasonable doubt, that is some doubt which is based on the facts before the Court and not some doubt which is purely imaginary. If the Court had a reasonable doubt after hearing and weighing the evidence then the accused is entitled to the benefit of that doubt.

That is all I wish to say sir, unless the court or the Prosecutor or the Defending Officer require an explanation on anything I may have overlooked.

THE COURT, THE PROSECUTOR AND THE DEFENDING OFFICER REQUIRE NO FURTHER EXPLANATION.

The court is closed to consider the finding.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE FINDING.

The court find that the accused, Lt. Theodore Lewis James GREENSLADE, RCAC, on strength 3 Can Transit Camp, CFN, is Guilty of the Third, Fourth and Sixth Charges, and is Not Guilty of the Fifth and Seventh Charges.

The Court is re-opened.

The President announces the findings of Not Guilty and states to the accused that the findings of the Court on the Third, Fourth and Sixth Charges, being subject to confirmation, will be promulgated later.

The Prosecutor, Lt.Col C.S. Campbell, having been duly sworn, is examined by the President:

Q. Have you any evidence to produce as to the character and particulars of service of the accused?
A. Yes sir, I have the MF M6 of the accused which is clear.

MF M6 of the accused is marked Exhibit "P", signed by the President, attached to the proceedings.

I also have the AF B296 of the accused which shows he has approximately 4 years service, and has been under close arrest for 82 days. He is entitled to the following decorations: 1939-45 Star, France and Germany Star, CVSM and Clasp. There are no other convictions.

AF B296 of the accused is marked Exhibit "Q", signed by the President, attached to the proceedings.

Q. Is the accused the person named in the statement which we have heard read?
A. Yes sir.

Q. Have you compared the statements with the regimental books?
A. Yes sir.

Q. Are they true extracts from the regimental books, and is the statement of the conduct sheet a fair and true statement?
A. Yes sir.

The Defending Officer does not object to the production of Exhibits "P" & "Q".

The Defending Officer declines to question the witness.

Q. by President to the Accused:

Do you wish to address the court?
A. Yes sir. My defending Officer will make a plea in mitigation of punishment, and I will make a statement myself first.

(See folio)

STATEMENT BY ACCUSED

I left Europe 18th or 19th Dec 45. Approximately 7th Jan 46 I was taken off the Queen Elizabeth. Approximately one week later I went to hospital with Jaundice. The day after admittance the SIS (Lieut Johnston) visited me and told me I was under arrest. He made me get up and accompany him to another part of the hospital which was reserved for soldiers under sentence or awaiting trial from Headley and other punishment camps or barracks. The windows were barred and the bldg was surrounded by barb wire fences.

Lieut Neff (Cdn P. Corps) was present. It was first intended to place me in a cell but that was stopped by a doctor. I was placed in a small room. There I was stripped of all my personal belongings including clothes and told by Johnston and Neff that I was to be treated as any other soldier under sentence, to be allowed no visitors and that my mail would be censored. Neif and Johnston left me in the room under guard of an OR who was outside the door. The OR was told to escort me if I walked out of the room for any purpose.

A charge dated 16 Jan 46 was handed to me after I had been there a day or two. My Regt Padre tried to see me and was refused admission on three occasions in four days.

At not time was I paraded to any CO nor remanded for trial. I remained in that place from approximately 16 Jan to approximately 11 Feb and at no time in that period was I paraded to anyone nor did any officer approach me to speak of this charge. I have been under close arrest ever since.

PLEA IN MITIGATION OF PUNISHMENT BY DEFENDING OFFICER.

I have endeavoured in the defence of this officer to bring out the fact that conditions around this club were to say the least, poor. It is undeniable that there were irregularities and if not condoned, were certainly known in general, and probably in some detail, and there is evidence of one irregularity taking place at the order of a superior officer. At some time or other there was disclosure of the whole thing or part of his irregularities prior to his leaving Europe. In the face of that he was allowed to leave Europe which is a different procedure than in other cases which are of common knowledge. I think it has been demonstrated by the evidence and corroborated by a bank statement that this officer has been infinitely more foolish, and that his personal gain from these irregularities has amounted to nil. I believe it to be corroborated by his bank account, that he will have made nothing out of these deals, for if he had, he would have a coveted balance in his bank account. In addition to that, as he has stated in his statement, he has been under close arrest since 16 Jan 1946. At no time has he been paraded. A coveriag charge was given. I believe that is contrary to proper military procedure. I submit that an officer with nearly four years of service that his treatment was not what it should have been for an officer while he is still presumed to be innocent, in a detention wing of a hospital with an OR on guard at the door, with his padre not being allowed to see him, and his mail was being censored. That, I submit, with 63 days in close arrest, which is 63 days loss of pay, should bulk largely in the courts consideration of the punishment to be awarded on the charges on which he may stand convicted. I think the fact that this investigation started sometime, according to the evidence, around 20 Nov 45, andthe accused is only now being brought to trial, also should count heavily in his favour.

While he knows, and I know, and you know there are difficulties on these things occasionally, I ask the court to have the feeling that the gathering of the necessary evidence in this case could have been done more expeditiously than it was. That, plus his completely unmilitary treatment, should result in considerably lighter punishment than might otherwise be the case, that, coupled with the obvious knowledge of certain of his superior officers of at least some irregularities in the conduct of this club. Thank you.

At 1600 hours 4 April 1946 the court closed for the consideration of the sentence. The President announces that the sentence to be awarded by the court, being subject to confirmation, will not be announced but will be promulgated later, and the proceedings in open court are accordingly terminated.

F.

SENTENCE

Sentence. 122

The Court sentence the accused Lt. Theodore Lewis James GREENSLADE to be cashiered and to be imprisoned without hard labour for ninety (90) days.

CASHIERING
90 DAYS IMPRISONMENT

4 April 1946.

A.M. Ecclestone
(A.M. Ecclestone) Major
JUDGE ADVOCATE

W.W. Lockhart
(W.W. Lockhart) Lt.Col
PRESIDENT

Reserved for superior authority
F.J. Rutherford Brig
Dep Comd. CFN

19. April. 46.

" I do not confirm the finding of the court upon the first charge. I confirm the findings of the Court upon the third, fourth and sixth charges. I commute the sentence as awarded by the Court to read " To be dismissed from His Majesty's Service" and confirm the sentence as so commuted.

" J.C. Murchie "
Lieut. General
Chief of Staff.

3 May 46

Promulgated and extracts taken

6 May 1946

Thursley, Surrey John R. Barber
Lt-Col. "

Army Form A 47

"X"

C O U R T S - M A R T I A L

FORM OF ORDER FOR THE ASSEMBLY OF A GENERAL COURT MARTIAL.

Convening Order by Brigadier T.J. RUTHERFORD, CBE, Deputy Commander, Cdn Forces in the Netherlands.

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In the Field - 25 March 1946

Lt. Theodore Lewis James GREENSLADE
X-4 List, RCAC, 3 Cdn Transit Camp CFN

The detail of officers as mentioned below will assemble at AMSTERDAM, Holland, at 44 Wiottastraat, at 1000 hours on the 27th day of March 1946 for the purpose of trying by a General Court-Martial the accused person named in the margin.

PRESIDENT

Lt-Col William Wallace LOCKHART, Royal Canadian Corps of Signals

In my opinion an officer not below the rank of General Officer or Colonel is not, having due regard to the public service, available to sit as President.

MEMBERS

Lt-Col Richard Gilbert Lewes PARKER, Canadian Infantry Corps

Lt-Col Adam Porter DODDS, Royal Canadian Artillery

Lt-Col Edwin Leonard de PENCIER, Royal Canadian Artillery

Captain Harvey N. McLEOD, MC, Canadian Infantry Corps

WAITING MEMBERS

Major A.S. TODD, MC, Royal Canadian Corps of Signals

Captain Y. VEZINA, Canadian Infantry Corps

JUDGE-ADVOCATE

Major A.M. Ecclestone, DJA, No. 3 Cdn Transit Camp, CFN, is hereby appointed Judge-Advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to Deputy Commander, Cdn Forces in the Netherlands.

Signed this 25th day of March 1946.

(T.J. Rutherford) Brigadier
Deputy Commander
Cdn Forces in the Netherlands

Ex. H

"W W Lockhart" Lt-Col

CERTIFIED TRUE EXTRACT FROM CANADIAN ROUTINE ORDERS
(21 A Gp) 519 issued 3 Nov 1944.

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"4. Other financial Transactions.

Military personnel in this theatre are forbidden to:

(a) Purchase, sell or exchange currency of any kind except through military channnels.

(b) Take part in any transaction involving such purchase, sale or exchange.

(c) Deal in gold coin and bullion.

(d) Import or export securities, deal in shares or engage in any transaction involving transfer or real property situated within the theatre or any interest therein

(e) Act directly or indirectly as agents for any company, firm or individual or personally to engage in trade.

5. Disciplinary Action.

Military personnel violating this Order will be Subject to severe disciplinary action."

"W W Lockhart" Lt-Col

Preseident
G.C.M.

"W W Lockhart" Lt-Col

Ex 1

CERTIFIED TRUE EXTRACT FROM CANADIAN ROUTINE ORDERS
(21 A Gp) 1508 issued 22 Jun 1945

"4. OTHER FINANCIAL TRANSACTIONS.
Military personnel in this theatre are forbidden to:

125

(a) purchase, sell or exchange currency of any kind except through military channels.

(b) Take part in any transactions involving such purchase, sale or exchange.

(c) Deal in gold coin and bullion.

(d) Import or export securities, deal in shares or engage in any transactions involving transfer of real property situated within the theatre or any interest therein.

(e) Act directly or indirectly as agents for any company firm or individual or personally to engage in trade.

(f) Export unused postage stamps from the theatre, provided that.
(i) Personnel leaving the theatre may take with them postage stamps not exceeding in value 2/6.

(ii) Postage stamps not exceeding 11d in value duly affixed to a properly acquired postal Order may be exported with the Postal Order.".

"W W Lockart" Lt-Col
President G.C.M.

GREENSLADE LT THEODORE LEWIS in Account with.
JAMES The Canadian Bank of Commerce
7901 2 Lombard Street.
London E.C. 3

Bills "O"

Date.	Particulars	Debit	Credit	Balance.
				14.15.11 O.D.
26 Mar	INT	2.0		14.17.11 OD.

127

"Ex "O"

Please advice us promptly of any change of address.

Unless otherwise shown balances are Credit.

Debit balances are indicated by the Symbol "O.D."

Enlist P WW Lockhart Lt Col
President G CM

No. ~~Capt~~ LT JHW T L & Greenslade Name Sqn, Battery, or Company Corps RC Armd C Date of enlistment GC Badges Service or ~~Pensionary Pay~~ 3/17 MFM 6 (AFB 122) 40/PAS/128 (3m/12)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		128		NIL JHW					
				Certified a true copy C Campbell Lt Col Offr i/c Records					

WWL Lockhart LLC
Exhibit 9

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
	~~Capt~~ LT	TL Greenslade	X-4 List RC Armd C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :— 129.

For ---------- times.

For ---------- times.

For ---------- times.

For ---------- times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 83 days in military custody, i.e., ... days in open arrest, 83 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 36

6. The date of his attestation / calling up for military service is Mar 1942

7. The service which the accused is allowed to reckon is 1939-45 Star, France & Germany

8. The accused is in possession of† Star, CVSM & C

†State the military decorations (if any) held by accused.

9. ~~(If the accused is a survivor of a C.C.E.)—The accused has served continuously without reduction, to the present date.~~

	Date of Promotion.
~~In the substantive rank of~~	
~~In the war substantive rank of~~	
~~In the acting rank of~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 58000/1009 20,000 3/44 51-4751. Forms/B.296/War/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4th day of April 1916

J. H. Watson, Lieut

SUMMARY OF EVIDENCE

Summary of Evidence in the case of Capt T.L. Greenslade, RCAC, 3 Cdn Transit Camp, an officer of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath:

First Witness Prosecution B27265 Sgt Derby, Milton Whitney, R.C.E., having been duly sworn states:

"I was bookkeeper and stockkeeper at the "100" Club at Tilburg, Enschede and Apeldoorn from 14 Feb 45 until it closed about 20 Nov 45. Capt Greenslade was officer in charge of the club for the whole period I was there. I was responsible for a proper accounting of the liquid stock.

At Tilburg we obtained NAAFI beer, wine and whisky, a weekly quota of 105 bottles of whisky and 53 of gin and whatever beer they could spare. We got about 160 bottles of Cointreau liqueur at one time and on two or three other occasions obtained about a dozen bottles of mixed liqueurs, Cherry, Orange and Apricot, etc. The boss, Capt Greenslade, made several trips to Belgium and returned with small quantities, maybe a dozen bottles. He'd present me with a bill and be reimbursed out of the till.

In April the club moved to Enschede and set up in a club house. While there we took in our regular NAAFI supplies and also about 300 bottles of liqueurs and Steinhager's Gin, hard laquors and about 1200 bottles of wine. This was given to us by an offr from the Amenities Control Board.

Capt Babe, now Major, bought about 30 cases, roughly 360 bottles of Camus Cognac for the club. This was delivered to the Club just before we closed at Enschede. He also got about 500 bottles of Victory Gin.

About the 8th of June we closed at Enschede and Capt Greenslade and I re-ced the Apeldoorn site. On moving to Apeldoorn we had on hand about 280 bottles of whisky, 100 NAAFI Gin and all but about half a case of the Victory Gin and 80 bottles of liqueurs.

Some time late in June or early July, Capt Babe got 500 bottles of Old Mab Gin and 100 bottles of vermouth. I think this is about all we had besides one NAAFI is we until the Recreational Centre took over the administration. They gave us Benedictine (Dom), Cherry Brandy, Raspail, Triple-Sec and Champagne and also 75 bottles of Gin Royal. I looked after the liquor stock and books until 25 Aug 45 at which time I was injured going to 2 CCS, returning to the club on the afternoon of Aug 30th. I was also on leave from the 2nd of Aug until the 18th. These were the only periods I was away from the Club and during my absence Capt Greenslade was responsible. He kept track of the bottles sold and the money taken in but never touched the books.

CSM Reif arrived about 10 Nov 45 to take over my job and he looked after it for a few days, but after the delivery of boots and soap on 20 Nov 45 to the club he left and I again took over the books and closed the account when the Club was closed.

At no time while I was looking after the stock did Capt Greenslade take liquor, wines, spirits, etc, out of the Club in any quantity. He did have authority for a bottle a day for entertainment but I know this was used for entertainment.

During the time we were at the Club we were short of transport. At Tilburg we had a Utility Austin. We took it to Enschede and finally to Apeldoorn. The last time I saw the Austin was when I towed it into wksp 1356 and for a couple of bottles of whisky I got a jeep which I used. This was the vehicle I used to haul rations and supplies in as the boss was away most of the time with the HUP, which the Car Coy, Army HQ, loaned the Club.

There was a period of a few days, maybe a week, when a Civilian Car was parked right out in front of the Club at Apeldoorn, if I remember correctly it was a Ford with a left hand drive. I don't know where it came from or where it went. It didn't belong to any of the civilians on the Staff and I cannot connect it with anyone. It disappeared just as mysteriously as it arrived, sometime before I took my leave or during my leave to the UK on 2 Aug 45.

Regarding the sales of spirits in the period while I was on leave. When I returned it seemed to me there was more sold than over the average period of that time. Whisky sales were very high and the Gin sales were even higher. I had built up a stock of about 200 bottles of Scotch and about 100 of Gin to be saved for Christmas. Besides this there was the weekly allotment which amounted to about 100 bottles of Scotch and 50 Gin but I later found that this allocation had not been drawn. When I returned there were about 180 bottles of whisky and possible 40 Gin all told left.

We had two floor shows at the "100" Club in Oct and I was to get sheets and bedding for them. Frank Van Royen, the head waiter, then said he would go and get them and he returned with sheets and hospital mattresses, the biscuit type, in potato sack cloth. He had sufficient for 10 people. The next week another show came and they complained about dirty sheets and Frank said he'd fix that and I heard no more about it.

I know the boss, Capt Greenslade, had a number of cameras but I don't know where, how or when he got them or the other photographic equipment. He got all this stuff with the exception of the cameras and set up his dark room while I was away on leave. I have seen the boss with jewelry, a chronographic gold watch, which he stated he got in the Hague. He also had a couple of rings, one Miss Mertens had and the other he wore. He also had a necklace, a fine chain with a diamond in a drop. This he had before I went on leave, then he had a bracelet with maybe 10 stones in it, set in a white metal.

One time about 1 Sep 45 Miss Mertens gave me a piece of cotton to make pillow slips, it was folded up like a sheet. I got the cloth from Miss Mertens in Greenslade's room and I noticed she took it out of a box about 3' long 2' wide and 18" deep. This box was just plain wood and had steel straps

around both ends of it. There was a paper lining inside the box. This is the only occasion on which I have seen the box.

Frank Van Royen used to go to the ADOS Dump in Apeldoorn and get stuff about once a week. On one occasion he got about 6 sheets and on others he got boots, the odd battledress, underwear, socks and pyjamas. On one occasion he also got 20 towels. The civilian staff used to come to me and say Frank had something and request me to get it for them but because it was Army stuff I refused.

On the 20 Nov in the morning CSM Reif and I went into ADOS Dump at Apeldoorn and drew two cases of soap and washing soda for the club. About 1530 hours returning from Apeldoorn with the rations on arrival at the Club we found we couldn't drive into the garage because there was a pile of shoe boxes. I think there were about 12 boxes 5' long and 1½' by 1½' square and two on the top were open and I could see they contained shoes.

Sometime later I was in my room with CSM Reif and his wife and Capt Dixon came in. I had been up to Army HQ and on return found Provost men loading up shoes and soap in cars. When Dixon came I told him the Provost had been there and took the boots and soap. He turned pale and said something like "I guess I can kiss my gratuity good-bye". Then he said "Come here" and we stepped into the hallway and he asked me if I had any idea who had informed the Provost and I said no. He left and I didn't see him again that night."

Questioned by accused

Q. Was it not possible that Capt Dixon said to you 'Why did the Provost come and who called them?' when you were standing outside the door?
A. He may have but I understood him to say 'Who called the Provost?' but the radio was playing. I answered 'I do not know'.

Q. Did we have any regualr war establishment for the club or did we have to scrounge for almost everything?
A. We had no regular channels except for NAAFI supplies.

Q. Have you ever seen a Canadian soldier wearing the same boots you saw in the boxes, officially?
A. No sir.

Q. Was my dark room at all times open to any Provost officer who wanted to come in?
A. Yes sir, it was open to anybody.

Q. Did any of the Provost Officers prior to the soap raid question my possession of the equipment used in photography?
A. Not in my presence.

Q. Have you seen me working in the studio with Provost officers present?
A. Yes sir

Q. Can you identify those offrs?
A. Yes sir.

Q. Did my commanding offrs, Major Babe and Col Hooper know of the camera eqpt I had?
A. Yes, I have seen them in the darkroom several times.

Q. Was I or was I not popular with the officers?
A. As far as I know you were.

Q. Have I ever bawled employees out for going to offrs and getting stuff in my name?
A. Yes, you have.

Q. Do you recall a large hand made lighter given to me by Capt McAllister of the RCASC?
A. Very well, sir.

Q. Were gifts to me from offrs an unusual occurrence?
A. I know thatlots of things you had were given to you by offrs.

Q. Were you and I ever asked by offrs if we could secure various articles, such as jewelery for them?
A. Yes sir.

Q. What was my attitude toward offrs who attempted to obtain extra liquor by paying more than the legal price to us?
A. I remember once you heatedly refused to sell a British offr a bottle of whisky for 200 guilders stating he might have got it at normal bar prices but by trying to bribe you he'd never get it.

Q. Would you say that in our work it was impossible to adhere strictly to routine orders and operate efficiently?
A. Yes, that's right, it was impossible.

The accused declines to question the witness further.

"M.W. Derby"

Second Witness Prosecution — Capt H.F. Dixon, RCOC, 3 Cdn Transit Camp, having been duly sworn, states:

"Approximately the middle of Nov I was instructed to supply units in Army Tps with whatever stores were available to carry the units until time of disbandment or despatch for repatriation. As a consequence I discussed with Capt Greenslade the necessity of his club, the "100" Club at Apeldoorn, drawing stores at that time, including stores of soap, as the dump was looking forward to cutting down stocks in the near future, the policy being to cut dump stocks to a bare minimum.

The quantity at that time was not discussed as I recall but that is a long time ago. On the 20th of Nov I issued 2000 lbs of soap to the "100" Club. This quantity was arrived at by referring to the dump records and thus determining the quantity which the club had been accustomed to consuming, the issue being made to cover the Clubs needs until the end of January.

During the times stated above I was OC ADOS Dump at Apeldoorn.

The accused declines to question the witness.

"H.F. Dixon"

Third Witness Prosecution — H8603 Pte Link C.O., RCASC, having been duly sworn, states:

"On 20 Nov 45 I was a driver for No. 35 Composite Coy, RCASC. On this day in the morning I was instructed to go to the "100" Club in Apeldoorn for duty. On arrival there I reported to Capt Greenslade, who I now recognize. He ordered me to report to ADOS Dump to Capt Dixon. I do not recall whether he told me to report to Capt Dixon personally. I there reported to Capt Dixon and proceeded to the soap store where 50 cases of soap were loaded on my vehicle. I then had lunch and then about 250 pairs of boots were loaded on my truck. An indent or receipt was made out by one of the loaders and I signed it.

From there I proceeded to the "100" Club and reported to Capt Greenslade. I turned the copy of the receipt over to Capt Greenslade and was then directed by a man to the basement to unload the goods. Four or five men unloaded the goods, and I then proceeded with one of the men to Capt Greenslades office where Capt Greenslade offered me a drink of liquor. I had the drink and proceeded back to my unit.

Accused declines to question this witness.

"C.O. Link"

Fourth Witness Prosecution — K73340 BSM Reif M.H., RCA, having been duly sworn, states:

"On 13 Nov 45 I was posted to the "100" Club in Apeldoorn as NCO in charge. On 20 Nov 45 I had been to ADOS Dump with Sgt Derby and a civilian named Frank who was the civilian manager, about ten o'clock in the morning, and there had drawn soap for the kitchen, washing powder, boots for myself, sheets for the club and a large can-opener.

After dinner I went to Recreational HQ to draw rations with Sgt Derby. On returning to the "100" Club at about 1600 hrs I was unable to drive the jeep into the garage on account of a large number of boxes being stocked in the doorway. I saw a number of civilian employees breaking open the boxes, part of which contained soap, which they were carrying to cupboards in the garage and part of which contained brown US Army type boots which they were taking to a small recess in the garage. Some of the civilians were carrying the boxes to the back of the club where they were burning them with petrol. I dismounted from the jeep with Sgt Derby, proceeded through the kitchen upstairs to Sgt Derby's room. I asked my wife who was in the room when these things had come in. As a result of what she told me I took the number of a ~~60 cwt~~ truck which was parked in front of the Club. I then went with a jeep to recreational HQ and reported what had happened to the Major in charge. I then heard the major call the Provost.

I returned to the Club and approximately two hours later two members of the Provost arrived in a station wagon. They identified themselves as members of No. 1 S.I.S. They confiscated the boots and a portion of the soap, the balance of the soap I being ordered to lock up in the liquor room as they would return for it in the morning.

The accused declines to question this witness.

"M.H. Reif"

Fifth Witness Prosecution — Mr. G.H. Vulker, Oliemolinsingel 30-32, Enschede, having been duly sworn, states:

"Sometime during the month of April 1945 I met a Canadian officer who I now recognize as Capt Greenslade, the accused. Shortly after I met this offr, he expressed his desire to buy a ladies platinum ring which had a two and one half carat brilliant in a blue sapphire setting. I offered this ring for sale for 10,000 guilders. Capt Greenslde offered to pay 8,000 guilders for the ring, however, I did not accept this offr. Three days later I met Capt Greenslade at his billet, where we again discussed the sale of the ring. As I speak very little English, a girl named Fune, who had been introduced as Capt Greenslade's secretary, acted as interpreter. Capt Greenslade offered in exchange for the ring, 120 bottles of Dutch Advocat, 40 bottles of cognac and one old piano, German make. I accepted this offer and gave the ring to Capt Greenslade. I received all the liquor a few days later it being delivered to me by Capt Greenslade. I was to have received the pianon when the club moved from Enschede. After the club had moved from Enschede I made enquiries about the piano, but I was unable to get it. I then contacted Capt Greenslade and told him this. Capt Greenslade was apparently unable to locate the piano and promised to bring me 1000 guilders, which to date I have not received. During the early part of June 45 I offered to sell Capt Greenslade a ladies platinum ring with a large black pearl for the sum of 6000 guilden. Capt Greenslade received the ring and promised to pay me later. I have not as yet been paid for this ring, nor have I received anything in exchange for it. The girl named Fine again acted as interpreter during this transaction. Approx in mid October of 45 I contacted Capt Greenslade at the 100 Club in Apeldoorn. On this occasion I had a ladies white gold narrow bracelet with about six diamonds in a setting. Capt Greenslade agreed to buy this bracelet for 1800 guilden. The officer stated that he was unable to pay me at this time and added that he would see me within a few days. I met Capt Greenslade several days later at the Club where I accepted an offer of 50 bottles of Advocat and an old bicycle in exchange for the bracelet.

Approx mid November I returned to the 100 Club and requested that Capt Greenslade complete payment for the jewelry that he had received from me. Capt Greenslade stated at this time that he was expecting 3000 kilo of soap, which he offered for sale. He stated his price was 3 guilders for one kilo. After making enquiries I returned to Capt Greenslade and stated that I would buy 1000 kilo of soap, at 2 guilden per kilo. Capt Greenslade accepted my offer and stated that he would have the soap delivered to my home in Enschede. I had also arranged to buy 100,000 Gillette razor blades from Capt Greenslade, for 3000 guilden to be delivered with the soap. The soap was to arrive at my home one evening late in November but it didn't actually arrive. The same girl named Fine acted as interpreter during this transaction.

The accused declines to question this witness.

(G.H. Vulker)

Sixth Witness Prosecution — Mr. Antonius Shonk, 139 Oostervijkselaan, Tilburg, having been duly sworn states:

"I was employed as a cook at the "100" Club at Tilburg, Enschede, Apeldoorn, from Jan 1945 until about 1 Dec 45. During the month of July 45 I travelled to Den Haag with Capt Greenslade, who I now recognize as the accused and who was manager of the Club, and spent the evening there. We stayed in rooms above the Mari Bar cafe. We arrived at the rooms at about 1630 hours and carried about 6000 cigarettes and 15 or 20 bottles of German gin from the HUP to Capt Greenslade's room. A civilian named Haffert entered the room a short time later and arranged to sell the cigarettes and gin for Capt Greenslade. The cigarettes were then taken from the room, together with the gin by Haffert and Capt Greenslade. Capt Greenslade returned a short time later with a lady's brown fur coat. I do not recall the time but sometime during this same day an elderly man came into the room. This man spoke very good English and discussed the sale of diamonds with Capt Greenslade. Capt Greenslade bought a diamond ring from this man for approx 6000 guilden. On another occasion I was with Capt Greenslade at an address in Den Haag, Waggon Straat, 10 where he bought two diamond rings and a gold bracelet. Capt Greenslade paid this civilian 2500 or 2600 guilden for one of the rings, but I do not recall the price of the other ring or the bracelet. On another occasion I accompanied the Capt to this same address. I waited in the vehicle while Capt Greenslade went into the house. He returned a short time later with a diamond ring which he stated he had bought, however, he did not state the price of the ring.

One day during the latter part of July 45, I was with Capt Greenslade when we delivered 200 white sheets to the home of a civilian named Haffert. Capt Greenslade actually stayed in the car and I carried the sheets into the house and told Haffert Capt Greenslade wanted 30 guilden apiece for them and would return for the money a few days later. Several days later I returned with Capt Greenslade to Haffert's home. Haffert handed a handful of money to Capt Greenslade who accepted it without counting it. Capt Greenslade then gave Haffert about 600 or 700 guilden for selling the sheets.

Capt Greenslade had told me that he was buying jewelry for another party.

The accused declines to question this witness.

"A.C. Schonk"

Seventh Witness Prosecution — M2219 Sgt Morris R.C., Cdn Provost Corps, having been duly sworn, states:

"I am an investigator for the Special Investigation Section, Cdn Provost Corps. On the 26 Jan 46 in the company of one Cpl Haffert of the Netherlands Army I proceeded to a cafe known as the Mari Bar in Den Haag. From this cafe which has a hotel on the premises I seized 25 white bed sheets, bearing no distinctive marks, which I now produce (Exhibit "A"). These sheets have been in my safekeeping since that time.

On the same date in the company of Cpl Haffert I proceeded to a dressmakers shop of M. Zolowsky in Den Haag and there seized two pieces of material, one printed in a flowered design (Exhibit "B") the other being plain (Exhibit "C"). I identify these pieces as being that material and they have been in my safe-keeping since that time.

Accused declines to question this witness.

(R.C. Morris"

Sixth Witness Prosecution (Recalled) — Mr. Antonius Shonk, 139 Oestervijkselaan, Tilburg, on his former oath, further states:

"I was employed at the "100" Club, Apeldoorn from Jan 45 until Dec 45. During the last seven months of this period I was chief cook and Capt Greenslade was manager. At about 1000 hrs 20 Nov 45, Capt Greenslade came to me and said that a large quantity of soap would be delivered to the club sometime during the day. My instructions from Capt Greenslde were to unload the vehicle on arrival and burn the cases immediately. The veh carrying the soap arrived at the Club at about 1500 hrs. I directed the driver to a garage in the cellar of the Club. I obtained the assistance of four cleaners and unloaded a large quantity of soap in card-board cases. We also unloaded a large quantity of brown leather boots. I had the cleaners remove the soap and boots from the card-board cases. The cases were then taken to the side of the club near a bush. Petrol was poured onto the cases and set alight, as instructed by Capt Greenslade. After the veh had been unloaded I went with the driver to Capt Greenslade's room where we had two drinks of whisky with the a/m officer. After having the drinks I returned to the kitchen. Capt Greenslade was present at the time the veh arrived at the Club with the cases of soap and boots. I had expected because of what he told me, a delivery of soap only and upon seeing the boots I remarked "I thought the laod was to be only soap". Capt Greenslade replied "Probably Capt Dixon put them on. They are good for the business". As this was a normal expression of Capt Greenslade's in connection with normal business and everything about the Club, I thought nothing of the expression.

Accused declines to question the witness.

"A.C. Schonk"

Eighth Witness Prosecution — 163103 Cpl Haffert, Henry, C.G.R., Emmalaan 2, Amsterdam, having been duly sworn, states:

"One day during the early part of June 45 I was standing on one of the main streets in Den Haag, when a Canadian Lieut approached me and asked the direction to the Hotel Terminus. I now recognize Capt Greenslade, the accused, as this officer. As I was unemployed at this time I volunteered to direct the offr to the hotel. While on the way to the hotel I noticed that the offr was carrying a camera. I remarked that it was a very nice camera. The officer then told me that he had exchanged cigarettes for the camera, and pointed out the store where the exchange had taken place. I made an offer that I would exchange further cigarettes for wrist watches and cameras with other persons for him. I left the offr at the Hotel Terminus. Before leaving he told me his name was Ted and that I could contact him at the hotel the following week. I returned to the hotel several times to see the offr but was unable to contact him. I left my name and address at the hotel to be given to him as soon as he returned. During the third week of June 45, Capt Greenslade called at my home with a driver named Rocky. He asked me if I knew of any person willing to exchange a camera for cigarettes. I told him I did not know of any person at the time, but that it would not be difficult at the town square. We proceeded in the jeep to the square and a short time later the offr contacted a civilian with whom he exchanged approximately 800 cigarettes for a folding type camera. About one week later this offr returned to my home with the same driver. He stated that he would like to have a good wrist watch. I directed the offr to a civilian while the driver remained at the hotel. I called the civilian out of his house and I remained in the hallway. The civilian went to the car and talked to Capt Greenslade. Later at the hotel Capt Greenslade gave me 150 cigarettes and several chocolate bars, I presumed for arranging the transaction for the purchase of the watch.

About the first or second week of July 45 this offr came to my home and suggested I go to No. 4 Merwede Straat, Den Haag, as he had there a quantity of dress material he wanted to exchange for diamonds and brilliants. I went there that evening and a girl opened a door and we went into a private room where she showed me a large quantity of flowered dress material. I wrapped the material up and took it to my home. He returned two days later when I told him that I had been unable to arrange the exchange as he requested, but that I could arrange the sale of the material. He agreed to this and I sold the material to two parties for the total sum of 10,500 guilden, which I handed over to the officer three days later or thereabouts. Capt Greenslade gave me 600 guilden for arranging and completing this sale. Approx ten days later the offr returned to my home and stated that he had a quantity of gin for sale. He requested that I accompany him and arrange the sale of same. We got into the vehicle and I noticed a Sgt in the front seat. The offr drove the vehicle to a cafe located at Laan Van Meerdevort, Den Haag. I entered the cafe where I contacted the wife of the proprietor. This woman bought about 50 litres of Old Mab and Steinhager Gin for 600 guilden. I returned to the vehicle and turned the money over to the Sgt. On this same day we proceeded to the Cafe Aml Appim, Oude Molstraat, 26, where I sold 8 bottles of Advocaat and approx 12 bottles of Old Mab Gin. I received approximately 2500 guilden from the proprietor, which I handed over to the Sergeant. Capt. Greenslade then, I believe, instructed the Sgt. to give me 600 guilden as my percentage on both deals.

One evening towards the latter part of July 45 a civilian named Tony, who I had previously met with Capt. Greenslade came to my house with 200 white sheets. As a result of what he told me I sold the sheets to various civilians in town and two or three days later I gave Capt. Greenslade 6000 guilden, while I retained a profit of 450 guilden. In addition Capt. Greenslade handed me 400 guilden. A short time later Capt. Greenslade stated he had 500 more sheets for sale and would see me later. Two or three days later he returned to my home and stated that the case was over and he had nothing to deal with. This was done thru Tony as an interpreter.

Part of the flowered dress material I mentioned before I sold to a dressmaker's shop. I identify the piece produced (Exhibit "B") as part of this material and I accompanied Sgt Morris when he seized it on 26 Jan 46.

Sometime during June or July 45 I met Capt Greenslade at the Mari Bar in Den Haag. On this occasion he stated he had a Ford Car for sale, V8 model. Capt Greenslade asked me if I could sell this car for him for about 4000 or 5000 guilden. As a result of arrangements made by me Capt Greenslade some evenings later went to the Mari Bar and I went there also arriving shortly before half past ten. About half past ten an intended purchaser whose name I do not know, came in. Capt Greenslade was in one corner of the bar and the purchaser in another. The proprietor of the bar, the purchaser and I sat in one corner and discussed the purchase. The intended purchaser went out and I presume he looked at the car, which was standing in front of the hotel, then returned and paid 4000 guilders to the proprietor of the bar, whom I only know as "Frank". I was later paid 350 guilders by "Frans" and left the bar. I don't remember whether I talked to Capt Greenslade after the transaction."

The accused declines to question this witness.

Supplementary Statement

163103 Cpl Haffert, Henry, CGR, having been sworn, states further:

"As I had worked in Germany for 2½ years and had stolen some food and spent 3 weeks in the cells of the Hall of Justice in Hamburg, being released in mid-December 1944 and returning to work in Hamburg until May 1945 I was in a nervous state at the time of these events and I cannot remember exactly dates nor every word or everything I have done with Capt Greenslade exactly.

"H. Haffert"

Supplementary Statement

163103 Cpl Haffert, Henry, CGR, The Netherlands Army, having been sworn, states further:

"When I made my original statement my memory about the payment for the car was not clear. I now remember that Frans, Hillman and I were in the bar and other people. We discussed the transaction but I saw Capt Greenslade in the bar. I do not know whether Capt Greenslade was in the bar during the discussion but he did not enter into the discussion. As a result of our discussion Mr. Hillemase took out a bundle of guilders, I don't know whether it was four or five thousand guilders. I don't remember whether he placed them on the table or handed them to Frans. Frans counted the money and I was at the table. We rose and Mr. Hillemasr left the bar. I don't remember whether I went upstairs and I don't remember whether I saw the money paid to Capt Greenslade. I then left the bar and went home."

The accused declines to question the witness.

"H. Haffert"

Ninth Witness Prosecution — K52869 CSM Sharp J., 1 S.I.S., Cdn Provost Corps, having been duly sworn, states:

"About 20 Nov 45 I examined a large quantity of laundry soap, approximately 2000 lbs, and 190 pairs of brown leather ankle boots which appeared to be U.S. Army type at SIS HQ, Apeldoorn. About six weeks later when our section moved to Amsterdam this property was surrendered to No. 1 Cdn Turn-in Depot and a receipt was obtained. This receipt was produced as an exhibit in a previous case.

I later interviewed about 1 Dec 45, Mr. Vulker of Enschede at this town. As a result of what he told me I then interviewed a Miss Fina Mertens from whom I received several articles of jewelry, a white metal bracelet with seven large stones and several small stones mounted on it, (Exhibit C), a black pearl platinum ring (Exhibit D), one gold ring with a blue stone surrounded by small pearls, one pearl being loose from the ring (Exhibit E), one 10 guilder gold piece (Exhibit F), one "Eclipse" fountain pen (Exhibit G) and one gents gold stop watch with no face and loose back (Exhibit H). They have been continuously in my safekeeping ever since."

The accused declines to question the witness.

"J. Sharp"

Tenth Witness Prosecution — Mr. Frans Frederick Ruifrok, Nieuze Marie, Den Haag, having been duly sworn, states:

"I am an assistant at the Marie Bar in Den Haag. Five or six months ago an officer who I knew only as Captain Ted and who I now recognize as the accused stayed several times at the Marie Bar. One day Capt Ted through Harry acting as an interpreter, offered a car for sale to me. I now recognize Harry as Harry Haffert. They asked me if I knew someone who would buy the car. Three days later at about seven-thirty in the evening Harry & Capt Ted arrived at the bar and on this occasion they had the car with them. I saw the car and it was green in colour but I do not know whether it had any military markings on it.

At half-past ten a man named Hillenaae arrived at the bar. We had some conversation and Hillenaae paid five thousand guilders to Harry for the car in the bar. During this time Capt Ted was up in the room No. 1 of our hotel. Harry and I went upstairs and there Harry paid four thousand guilders to Capt Ted. Harry counted out the money on the table to Capt Ted and Capt Ted put the money into his pocket. Hillenaae was on his motorcycle so he asked me to drive the car to his garage which I did. I do not know definitely what date this took place but my wife made a notation of it at the time in my daily guest register. Harry retained five hundred guilders and I received five hundred guilders.

The accused declines to question the witness.

"F. Ruifrok"

Eleventh Witness Prosecution — Mr. J.C. Krul, Troelstraekade 429, den Haag, declares:

"In September 1945 I met a man named Haffert in company with a Canadian officer, Capt Greenslade, who had stayed at the Marie Bar several times.

About a fortnight after this meeting Haffert offered to sell me fifty white sheets in my bar. At first I did not accept the offer but a few days later I purchased forty of the sheets for 150 guilders and the sheets were delivered to the bar by Haffert.

About 26 Jan 46 I turned 25 of these same sheets over to Sgt Morris of the Cdn Army."

In my opinion the attendance of this witness cannot be readily procured due to expenses and loss of time involved. A written statement signed by him and reading as above has been read to the accused and is included in the Summary under RP (4)(G). The accused does not demand the attendance of this witness for cross-examination.

"E.C. Peckham" Major
Officer detailed to take the Summary.

Twelfth Witness Prosecution — Mr. Marin Zolowsky, Plaats 1, den Haag, declares:

"In May or June of 1945 I purchased a quantity of plain and flowered dress material, five rolls of about four metres each. I paid 750 guilders for this material. On 26 Jan 46 I was visited by a member of the Cdn SIS and the man from whom I bought the material, who was in the uniform of the Netherlands army, and I surrendered a small piece of the materials to the SIS investigator. The pieces surrendered consisted of two rolls."

In my opinion the attendance of this witness cannot be readily procured due to expenses and loss of time involved. A written statement signed by him and reading as above has been read to the accused and is included in the Summary under RP 4(G). The accused does not demand the attendance of this witness for cross-examination.

"E.C. Peckham" Major
Officer detailed to take the Summary.

Thirteenth Witness Prosecution — Mr. F.J. Hillenaar, Haagweg 84, Den Haag, declares:

"In June of 1945 I met a man named Harry in the street in Den Haag. During our conversation he stated he had a Ford V8 car for sale for which he wanted ten thousand guilders. We walked to the Marie Bar and I there saw the car, which was green in colour. I refused to buy the car at that time. This was about seven o'clock in the evening. Later in the evening Harry phoned me and as a result of what he said and I returned to the Marie Bar on my motorcycle. Harry & Frans the proprietor, were waiting outside the bar and we there arranged that I would buy the car for 5000 guilders. We stepped into the bar and I there paid Harry the money personally. I did not see a Canadian officer in the bar. I then left with my motorcycle. Frans drove the car to my garage alone. The motor number of the car I purchased was 74-BB647 and I later had it requesitioned by the Government. During the time I had the car I had it painted dark red."

In my opinion the attendance of this witness cannot be readily procured due to expenses and loss of time involved. A written statement signed by him and reading as above has been read to the accused and is included in the Summary under RP 4(G). The accused does not demand the attendance of this witness for cross-examination.

(E.C. Peckham) Major
Officer detailed to take the Summary.

Fourteenth Witness Prosecution — Miss Jean van Drongelen, Vossiusstraat 15, Amsterdam, having been duly sworn states:

"I consider that the oath I have just sworn is binding on my conscience.

I know Capt T.L.G. Greenslade whom I identify as the officer in this room and I first met him about the middle of August 1945 at the 100 Club in Apeldoorn. I went to live in the 100 Club where I was a guest of Capt Greenslade for a period of eight weeks, commencing about the 15th of August 1945. I left the 100 Club and returned to my residence in Amsterdam about the middle of October, a few days before Capt H.F. Dixon left for Italy on his leave. I did not pay anything for board or room and I do not know if anyone else paid for me. When I was at the Club I was there as a friend of Capt Dixon, rather than Capt Greenslade. I had met Capt Dixon about the end of June 1945 and it was through him that the arrangements were made for me to go to stay at the 100 Club. I was not employed there in any capacity.

From the time when I met Capt Dixon at the end of June 1945 down to the time when I went to stay at the 100 Club at Apeldoorn, Capt Dixon came to see me on the average of three times a week at my home in Amsterdam. It is my understanding that at that time Capt Dixon was residing in Apeldoorn. Later, when I went to live at the 100 Club, I saw Capt Dixon every day. After I left the 100 Club around the middle of October 1945 I saw Capt Dixon once in Amsterdam before he left for Italy around the 11th of October 1945. For 17 days after that I did not see him at all. I next saw Capt Dixon again about the end of October and from that time until he left for Canada at the end of November I saw him about three times a week at my home in Amsterdam. During the time when I was staying at the 100 Club in Apeldoorn, Capt Dixon and I drove into Amsterdam almost every Saturday afternoon in a jeep.

During the time that I was at Apeldoorn I had no business dealings with Capt Greenslade or Capt Dixon. On the 15th Nov 45 a birth-day party was held for Capt Dixon. The party started originally at the Villa d'Este Cafe at Amsterdam. At this party were Capt Dixon, Capt Greenslade, and another captain called "Douglas". I believe Douglas is his Christian name. The other people who were on this party were Mr. and Mrs. Fred Wiemar; Mr. and Mrs. Dick Homberg, and their son, and daughter-in-law, Mr. and Mrs. Kees Homberg. After the party at the Villa d'Este, we went to the house where I lived and the party was continued. There may have been other persons present there besides those I have listed during the first hour after we left the Villa d'Este, because I went upstairs to my room and had a sleep for about an hour, approximately.

As a general thing Capt Dixon did not discuss with me his work or business affairs, but on a Saturday night just about the time of his birthday, when he and I were having a drink in the Borderij Bar in Amsterdam, between 7 o'clock and 8o'clock in the evening, a man came into the bar and gave his name as "Joop Verhoeven".

He spoke to Capt Dixon and called him outside the bar. Capt Dixon went out of the bar with Verhoeven, and shortly afterwards returned alone and said to me "Excuse me, I must speak with Capt Greenslade". I had seen Greenslade in the bar earlier the same evening with two drivers, called "Rocky" and "Scotty". Capt Dixon returned and joined me in the bar, and a few minutes later Capt Greenslade came in and spoke to Capt Dixon, and said "I will go straight out to Apeldoorn, and I will fix it for you". Capt Greenslade left the bar and I only saw him once after that - in Apeldoorn, when I went out to the 100 Club to recover some shoes. After Capt Greenslade had left, I asked Capt Dixon if he had any troubles and he said "No, that is not women's business". I never herd any more about this incident.

On the occasions when Capt Dixon came to see me when I was living at my home in Amsterdam, we frequently visited the bars in the Liedscheplien, the Villa d'Este and the Borderij. I am sure that were at the Borderij bar at least five times. We also visited the officers de Groot club and the Park club.

The accused declines to question the witness.

(Jean van Drongelen)

Fifteenth Witness

STATEMENT OF: D-95792 Sgt TIMMONS, Norman, Andrews, No. 2 Section Catering Pool, RCASC. present location Oldenburg, Germany.

I consider that the oath that I have just taken is binding on my conscience.

I know Capt T L J Greenslade whom I identify as the officer in this room. As well as I can remember I met him at the De Groote Club in Amsterdam sometime in the summer of 1945 of which club I was the manager.

I know Capt H F Dixon, a Canadian Officer whom I identified yesterday and whom I met sometime in July or August 1945. I met him at the De Groote Club. I saw Capt Dixon at the De Groote Club several times but on each occasion when he spoke to me it had to do with reservations for evening meals at the Club.

Sometime during the month of June I became the military manager of the "Suisse" hotel and from the time I became the manager until the 9 November 1945 I had my personal sleeping quarters there. One day in late August 1945 Capt H F Dixon came to me at the De Groote Club and inquired if I was in a position to arrange for sleeping accommodation for him for the night in Amsterdam. I got in touch with the staff at the Suisse Hotel and arranged for him to have a room there. By reference to the hotel register of the Suisse hotel I can fix the date as the 27 August 1945.

When I had arranged with the Suisse hotel for the room I reported the result to Capt H F Dixon whom I directed to the Suisse hotel. Shortly after this Capt Dixon came to my room, number 23 at the Suisse hotel.

While he was there I introduced him to Mr. Maartin Vastenhouw whom I know as an agent for the sale of liquor, and whom I identified yesterday. This occurred sometime late in the afternoon. It is my recollection that Mr. Vastenhouw came to my room on that occasion for the purpose of discussing with me the possible sale of liquor to the Canadian Leave Centre.

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

.....
(D-95792 Sgt Timmons N.A.)

First Witness (Recalled)

STATEMENT OF: B-27265 Sgt DERBY, Milton, Whitney, RCE

I consider that the oath that I have just taken is binding on my conscience.

In my previous statement in this Summary of Evidence I made the following statement: "At no time while I was looking after the stock at the "100 Club" did Capt Greenslade take liquor, wines, spirits etc., out of the club in any quantity. He did have authority for a bottle a day for entertainment but I know that this was used for entertainment.".

I now wish to correct this statement by referring to one incident. The incident I wish to refer to is as follows: One Morning during the first half of July 1945 Capt Greenslade came to me at the "100 Club" and told me to put four cases of "Old Mab"gin, two cases of"Steinhagger" and two cases of Avocaat into the HUP. I inquired from Capt Greenslade what it was for and he stated that it was for one of the messes. I gave orders to the civilian staff to load this liquor into the HUP and I requested Capt Greenslade touring back the receipt for it. Capt Greenslade told me when he gave me the order that the arrangement was that the other club to which the liquor was to be delivered would pay at the rate of the bar price of the liquor at the "100 Club" which at that time was 13 Guilders a bottle for "Old Mab" gin, 10 Guilders a bottle for "Steinhagger" and 8 Guilders a bottle for Avocaat. Later the same day Capt Greenslade paid me the money for this liquor at the bar prices, but at first he did not give me the receipt.

Sometime later the same night he handed me a receipt covering the liquor signed by some S/Sgt. I had no further transactions of this character with Capt Greenslade. All other transactions of this nature of transferring liquor from one mess to another were made at NAAFI prices for the goods.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

M.W. Derby.
(B-27265 Sgt DERBY M.W.)

Sixteenth Witness

STATEMENT OF: M-17014 Pte PEPIN Jeanne Baptiste, commonly known as "Rocky".

I consider that the oath that I have just taken is binding on my conscience.

I know Lieut T L J Greenslade whom I identify as the officer present. I first worked for him as batman and part time as driver. I went to work for him in January 1945 and continued with him until sometime in April 1945 during which time he was manager of the "100 Club" at Tilburg. I went to another unit at that time and later returned and performed the same duties for Lieut Greenslade at Enschede sometime in June 1945 and continued in that capacity at Apeldoorn down to the time that the Club was wound up in November 1945. During the time I drove for Lieut Greenslade at Apeldoorn I drove an Austin, a HUP, and later there was a jeep. In September or October there was an army staff car as well.

Sometime in July or August 1945 I went with Frank Van Royen the head waiter at the "100Club" to the ADOS dump in Apeldoorn in the HUP where we picked up a load of blankets and sheets. I think there was about 50 of each I do not know what was done with these but it was my understanding that he was to distribute them to the staff and I received two of these sheets shortly afterwards. The sheets I received were the same kind that were shown to me this morning.

On two or three occasions after this Frank Van Royen went to the Army Service Corps platoon and got a truck to go for some more sheets and blankets. I have seen him on one or two occasions unload two or three armloads of sheets and I think he took them down to his room.

Later, around the month of September 1945, I again drove Frank Van Royen down to the ADOS dump where we drew a further load of blankets and sheets, about the same size as the first load, which were taken to the "100 Club".

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

J B Pepin

(M-17014 Pte PEPIN J.B.)

The accused was cautioned as follows:-

Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Certified that all the provisions of R.P. 4(c)(d)(e)(f) and (g) have been complied with. Taken down by me in the presence and hearing of the accused this 25 Feb, 7,8,12,16,17,18,19 and 20 March 1946.

In the Field

20 March 1946.

E C Peckham

(E C Peckham) Major
Officer detailed to take
Summary of Evidence.

LIST OF WITNESSES

Prosecution

B-27265 Sgt DERBY, Milton, Whitney, R.C.E.

Capt H F DIXON, RCOC, 3 Cdn Transit Camp, CFN

H-8603 Pte LINK, C.O. RCASC

K-73340 BSM REIF, M.H.,RCA

Mr. G H VULKER, Oliemolinsingel 30-32, Enschede.

Mr. Antonius SHONK, 139 Oestervijkselaan, Tilburg.

M-2219 Sgt MORRIS R.C., 1 S.I.S. Cdn Provost Corps

163103 Cpl HAFFERT, Henry, C.G.R., Emmalaan 2, Amsterdam.

K-52869 CSM SHARP J., 1 S.I.S. Cdn Provost Corps.

Mr. Frans Frederick RUIFROK, Huize Marie, Den Haag.

Mr. J.C. KRUL, Troelstrackade 429, Den Haag.

Mr. Marin ZOLOWSKY, Plants 1, Den Haag.

Mr.FJ HILLENAAR, Haagweg 84, Den Haag.

Miss Jean van DRONGELEN, Vossiusstraat, 15, Amsterdam.

D-95792 Sgt Timmons, Norman, Andrews, No. 2 Sec Catering Pool, RCASC, present location Oldenburg, Germany.

M-17014 Pte PEPIN, J.B. (Rocky)

Defence.

NONE.

LIST OF EXHIBITS.

Exhibit "A" - 25 white sheets

" "B" - 2 pieces of dress material

" "C" - White metal bracelet with jewels.

" "D" - Black pearl platinum ring

" "E" - Gold ring with blue stone.

" "F" - One Dutch 10 Guilder gold coin

" "G" - One Eclipse Fountain pen.

" "H" - One gent's stopwatch.

I hereby acknowledge receipt of one copy of the Charge Sheet and one copy of the Summary of Evidence, delivered to me free of charge this 20th day of March 1946.

.....
(T L J Greenslade) Lieut.
RCAC, att 3 Cdn Transit Camp.

I request that Major J Clements be appointed my Defending Officer at myforthcoming trial by General Court Martial.

.....
(T L J Greenslade) Lieut.
RCAC, att 3 Cdn Transit Camp

ABSTRACT OF THE EVIDENCE

of

Mr. A.M. van Haren

who will say:-

He is an official of the Netherlands Central Textile Inspectorate and will give expert testimony as to the regulations in Holland with respect to the buying and selling of textiles by Dutch civilians and firms.

ABSTRACT OF THE EVIDENCE

of

Major Arthur Rutherford KILGOUR

who will say:-

He is an officer of RCOC and during the first half of the year 1945 was employed at HQ First Cdn Army as officer in charge of Vehicle Section of Ordnance. He will describe the normal drill for the handling of captured and surrendered enemy vehicles both before and after the commencement of Operation "Eclipse".

ABSTRACT OF THE EVIDENCE OF

Cornelia Maria Catharina van Stiphout

46 Stevenzandstraat, Tilburg.

who will say:-

She was manager of the Golden Swan Hotel at Tilburg during the summer of 1945.

One evening a Dutch woman came to the hotel with a sample of a bed-sheet and offered to sell a quantity of sh eets of the same kind. Some negotiations followed and then she agreed to purchase one hundred sheets. The price was either 27 fl or 25 fl each.

The Dutch woman went away and returned in a few minutes with a Dutch man who carried the sheets into the hotel.

When the sheets had been delivered the witness paid to the Dutch woman the purchase price.

The witness used this material to make clothing for her children pillow slips and sheets for the hotel and will identify one price of material purchased from the Dutch woman.

ABSTRACT OF THE EVIDENCE

OF

Leonardus Cornelius BERNAARDS

19 Bachstraat, Tilburg

who will say:-

He was employed as cook and later as waiter at the "100 Club" from March 1945 until November 1945 during all of which time Capt T L J Greenslade was club manager and Miss Fine Martins was his secretary and interpreter.

Sometime in the latter part of July 1945 he asked permission to go to Tilburg to visit his family which was granted and he went in an NUP with Miss Fine Martins and Pte "Rocky" Pepin.

Before starting out Capt Greenslade ordered him to assist in loading 500 bed sheets into the NUP. These were obtained from Capt Greenslade's bed-room where there were large piles of such sheets in bundles of ten.

On arriving in Tilburg Miss Martins directed the driver to the Golden Swan Hotel near the home of the witness. Miss Martins went into the hotel and after a few minutes returned and directed the witness to carry 100 sheets into the hotel from the NUP. This was done and they were delivered to Mrs Cornelia van Stiphout.

During the negotiations between Miss Martins and Mrs van Stiphout the witness heard the price of 27 fl per sheet mentioned and saw Mrs van Stiphout pay to Miss Martins a large sum of money.

These bed sheets were the same kind as were supplied for the use of the civilian staff at the "100" Club.

On one occasion during the latter part of the time the "100" Club was at Apeldoorn the witness saw a pile of twenty heavy cardboard carton boxes just outside the bedroom of Capt T L J Greenslade. These boxes were uniform size 1 metre by 40 cm by 40 cm.

He examined the contents of one of the boxes and found it to contain heavy dark brown boots with thick soles. He did not see these boxes again although he saw Tony Behonk the head cook at the "100" Club wearing a pair of these kind of boot sometime later.

ABSTRACT OF THE EVIDENCE

OF

Miss Fine Mertens

161 Sarphatistraat, Amsterdan.

She was employed by Capt T L J Greenslade as interpreter at the "100" Club from 24 Apr 45 until the end of November 1945 and was put on the staff pay roll.

During the latter part of May 1945 she acted as interpreter in a deal between Capt Greenslade and a civilian by the name of VULKER in which the civilian sold a lady's platinum ring with a large diamond for a German piano, 120 bottles of Avocaat and 40 bottles of cognac.

When the "100" Club moved from Enschede to Apeldoorn she went with it and continued as interpreter secretary for Capt Greenslade.

One day during July 1945 she accompanied Capt Greenslade to The Hague in a staff car which was followed by the NSF used for the Club. Greenslade indicated that he knew "the king of the Black Market" in The Hague who was going to sell the staff car for him. He then drove to the home of a civilian named HAFFMET who was not at home. A message was left for HAFFMET to come to the Marie Bar in The Hague.

Some time later the same day HAFFMET arrived at the Marie Bar and it was arranged that HAFFMET would endeavour to find a buyer for the car. Later the same evening Greenslade told her that he had received 4000 fl for the car.

Sometime in October, Vulker came to the "100" Club and wanted to sell a ladies diamond bracelet - the price was to be 2000 fl. The witness acted as interpreter. A deal was finally arranged by which Greenslade agreed to give a bicycle and 60 bottles of liquor. The bicycle was delivered but witness does not know if the liquor was delivered.

The witness also acted as interpreter in a further deal between Greenslade and Vulker in which Vulker agreed to buy 1000 kilograms of soap for two guilden per kilo.

TTT-121 Case #9.

Pte. Greenwell, E.A

See. A-357 for 1st Case

" EE-81 " 2 "

RECORDED AT CMHQ IN AB 160 [illegible]

RECEIVED 14 AUG 1944 C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA&C (To Issue of AP&P) 40/P/M/St/1944 (30/10)

4/38B

Convened by Order of Brig GSN Gostling, ED Comd "A" GP CRU dated 1 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K53062	Pte		Ernest Albert	GREENWELL	1 CIRU

PROCEEDINGS REVIEWED 15 Aug 44 Seaforth of C

R. Deau Wills Capt

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (*country*) [illegible] on (*date*) 2 Aug 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn AOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 to 19. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to [illegible] as interpreter? Ans [illegible]

~~The Interpreter is sworn.(1) Do you object to~~ ~~The shorthand writer is sworn.(1)~~ as shorthand writer? Ans [illegible]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	R M WYNN	1 CIRU
Member	Capt	T.A. Bate	1 CIRU
Member	Lt	W.R. Saunders	1 CIRU
Judge-Advocate	[illegible]	[illegible]	[illegible]
Prosecutor	Lieut.	R.B. Allen	1 CIRU
Defending Offr	Capt.	D.C. ~~Gale~~ Lee	1 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div Bk.)

A8. The accused K53062 Pte GREENWELL, E A before arraignment make(s) (no) ~~plea~~ plea to ~~the jurisdiction~~ ~~in bar of trial~~ ~~to the competency of the Court~~ ~~to the charge~~ ~~to the charge sheet~~ ~~to the jurisdiction of the Court~~ Defendant's offer awarded week to 7 days notice under RP 89 B & D (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ~~directed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 90, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N/D Sir (5)

(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Instrs.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on / charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CHARGE SHEET

The accused, No. K-53062 Private Ernest Albert GREENWELL of the Seaforth Highlanders of Canada, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 15(1)
ARMY ACT.

When on Active Service, Absenting himself without leave,

in that he,

In the Field, absented himself without leave from 1000 hours on the 26th day of June 1944 until apprehended by the Military Police at Sheffield at 0630 hours on the 15th day of July 1944.

Absent: 18 days, 20 hours, 30 minutes.

.....Colonel
(H. Sharp) Commander
1 Cdn. Inf. Reinf. Unit.

In the Field,

29th day of July 1944.

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
1 Aug 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 106, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K53062	Pte		Ernest Albert	GREENWELL	1 CIRU Seaforth of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Aug 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint an officer to form the Court, (b) no Fd Offr is available, for the reasons I have otherwise hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the one the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	R M WYNN		1 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 1 CIRU	
Lt	to be detailed by OC 1 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	to be detailed by OC 1 CIRU	

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 1 Aug 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S N Gostling)
Commanding "A" Gp Cdn Rft Units C A (O)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (F.A.G.S. (In Duty of A.F.A.)) 40/F & S/1695 (1400)

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No. K53062 .....
S.T.E. GREENWELL ....and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial. insofar as his category permits. S5

Station: WELBECK .....

Date: Aug 2nd/44 .....

A. C. Stevenson Capt. .....
(Medical Officer)

A. I am of the opinion that such cases should be held in protective custody sending desk.

Q. In your exp. have you found that the results as brought out by "M" test have been fairly dependable in mean of subsequent events?

A. Yes

Q. I would like Greenwell on the interpretation of the results of "M" tests. There are I believe 3 tests in all. Is that correct.

A. That is right.

Q. They are I understand divided into 3 main gps. The first consisting of 3 tests requires native ability, but no particular knowledge. The Greenwell obtained 52 out of a possible 61 in these tests.
The second gp consists of 2 tests and regs. mechanical knowledge. Greenwell got 41 out of 65 in these. The third gp regs. a general knowledge. Greenwell obtained 52 out of a possible 85. In other words the Greenwell obtained a total of 158 out of a poss. 211. This is considerably above the ad for an O.P. is it not?

A. Well above ad.

Q. In fact Greenwell has above an intelligence

A. Yes

3 Papers

First Witness for the Defence.

A/ Capt. M. K. Morrison, having been sworn, states

Q. Will you tell the Court your rank, name and present occupation

A. A/ Capt. M. K. Morrison, employed as S.P.C. on the str. of #1 S.I.R.V.

Q. How long have you been in the army?

A. 2 yrs.

Q. What was your civil occupation prior to enlistment?

A. Dist. Mgr. of Unemployment Ins. Commn.

Q. Since enlistment how long have you been employed in a similar capac. to your present one?

A. 16 months

Q. I presume that your civil and army experience has enabled you to sage ups fairly accurately the mental capacity and stability of an individual. Is that so?

A. Yes.

Q. Do you recognize the accused?

A. Yes

Q. Have you had occasion to recently interview the accused?

A. Yes

Q. Will you tell the court the opinion you formed as a result of the interview

as to the mental outlook and stability of the accused?

A. It is contained in this report made out for Major Mr Lean.
Submitted and marked Ex "E"

Q. You know the accused has an S5 cat.?

A. Yes.

Q. And as such he would eventually automatically be dead.

A. Yes.

Q. You are aware that the accused has served numerous periods of detn.?

A. Yes.

Q. In your opinion would a further period have a salutary effect on him?

A. No. It would be detrimental.

Q. On the other hand do you feel that it would have a very detrimental effect likely to have undesirable repercussions when he again returns to civil life.

A. Yes.

Q. Do you feel that the army has a resp. to a soldier as an individual and that he should not be considered only as a cog in the wheel of a large machine?

A. Yes.

Q. Do you agree when I state that today competent authorities are more interested

in the prevention of crime than in its punishment?

A. Yes.

Q. The accused was married in Jul 42. From your infm have you reason to believe that his marriage has been a success.

A. I would think so.

Q. I understand he gets along very well with his wife's parents and that his father in law has promised him a job when he secures his discharge. Is that correct.

A. Yes.

Q. Are you aware that the accused has been trying to get his death in this country and that he had been given compas. leave to enable him to intervene the labour ex. so as to facilitate this?

A. I hadn't been aware of the leave. I knew of the intervene.

Q. Do you feel that in this case there has been some lack of men management?

A. Yes.

Q. In view of the accused S.5 cat. his record and the obvious fact that he would be sadly dead, do you not think that a greater control might not have be exercised over him?

P. 5

Q. Are you of the opinion that the [illegible] if given an opportunity to re-[illegible] himself in civil life might [illegible] become an asset to the community

A. [illegible]

No questions by the Prosecution.

L.P. 83(B) complied with

[illegible] Major

2 Aug 44

Second Witness for the Defence
K 52193 C.S.M. McIntosh S. J.
of C.C.I.R.H. being sworn, states.

Q. How old are you.
A. 36.

Q. Have you just returned from C.M.F.
A. Yes.

Q. How long were you with your field unit.
A. 4½ yrs.

Q. Do you recog. the accused.
A. Yes.

Q. How long have you known him.
A. Over 2 yrs.

Q. You are aware that he has undergone F.D. and or detn for numerous cases of A.W.L.
A. Yes.

Q. At one period during the time he was at the field unit were you in charge of the R.P.
A. Yes.

Q. And during that time Greenwell was continually in the g.d. rm for one case of A.W.L. after another.
A. Yes.

Q. Did he when undergoing F.D. [illegible]

to obey an order or show signs of rebelling against army discipline.

A. No.

Q. Was he cheerful, under what most people would consider adversity.

A. Sits never seemed to bother him at all. He seemed as happy there as on the loose.

Q. During your life how long have you been in either His Majesty's or some of other joint service

A. Approx. 8 yrs.

Q. Are you surprised when I tell you that on 27 Apr. 44 the accused was given an S-5 cat.

A. No not a bit.

Q. In other words you think that he should have received this cat. yes ago and been disch. from the army.

A. He in the mind had struggle up to the M.O. for the same thing. He was irresponsible but nothing must could be done about it.

Q. From your pers. knowledge of the accused are you of the opinion that he is totally unstable and has no sense of responsibility.

A. Absolutely.

No questions by the Prosecutor.

R.P. 83 (A) Complied with

2 Aug 44

[illegible signature]

Third Witness for the Defence

Capt. A.C. Stevenson M.O. - 1, C.I.R.U. & sworn states:

Q. I am correct, am I not, in saying that every accused before undergoing F.G.C.M. must be examined by you to see if he is fit condition to be tried.

A. That is right.

Q. Do you recognize this document

A. I do.

Q. Will you tell the court what it is for

A. It certifies a man's fitness to undergo C.M.

Q. You have recently received instr. have you not, as to the wording of this cert. with regard to personnel having an S.S. Cat.

A. I have.

Q. What amendments or additions have been made to it

A. The words "In so far as his cat. permits"

Q. On whose authority has this change been made.

A. ADM.S

Q. Why has this change been made

A. As a protection for a cat. man. Should he have to carry out any sentence or duty, they must conform to his cat.

Q. Then I am correct in saying that it is possible that a person with such a cat. might suffer serious results should he be sent to undergo a lengthy period of (~~[illegible]~~ [illegible]) detn.

A. I think that ans. could not be given by a specialist's report. It is a psychiatric problem & should be referred to such.

Quest. by the Prosecution

The cert. referred to has to do only with fitness for trial. So the directors (~~[illegible]~~ [illegible]) you have referred to has nothing relation to do with this cert.

Ans. Yes it has.

Q. Am I correct in saying there is a R.O. or directive from higher authority for the guidance of M.C.s in giving such cert. to the effect that the fitness referred to is physical only.

A. The point in ques is this. An Sretary deals with more than stability. It may include any type of psychoses. Which also implies fitness.

Q. Could there possibly be anything in trial by C.M. which the accused's cat. would render him unfit to undergo.

A. Insanity.

Q. What I mean – in this particular case.

A. I am not prepared to answer in this case. I did not interview him.

P. 3

Quest. by the President

This certificate shows whether or not a man is physically fit to stand C.M.

Ans. In deciding a man physically fit the whole Pulhems profile must be examined.

Q. Is he fit to stand C.M. or is his cert. such that it is advisable to get a report from a particulist, or is your cert. sufficient to say he is fit or not fit.

A. I report my decision as to his fitness is qualified by my statement on his fitness slip. "In so far as his cert. permits. Any further questions as to his fitness or unfitness must be corroborated by a particulist's report for it is a specialist's problem in an 35 rating.

S.P. 83 (B) Complied with

2 Aug 44 [signature] Major

PLEA FOR MITIGATION OF PUNISHMENT
BY THE DEFENDING OFFICER.

The accused No K53062, Pte. GREENWELL, E.A., enlisted in Jan 1940 at the age of 21 and came overseas in July of the same year. He had just been through a period in Canadian affairs, in fact world affairs, when conditions were exceedingly unsettled and opportunities for employment were few and far between. The conditions existing at that time are too well known to the memories of this court for me to dwell further on them other than to emphasize that their influence almost created an upheaval in the social strata. This tended to create a feeling of restlessness and uncertainity particularly among the younger generation, one of whom you now see before you in the person of the accused.

Pte G has served 16 days in detention and/or undergoing FP on 12 charges of AWL, during a period of 4½ yrs of Army life, approximately 6 mths of which time he was with his FU. This is undoubtedly not a record to be proud of but I believe that the evidence that has been produced before this court has shown that it has been due to the unbalanced condition of the accused and his total lack of responsibility. However there is one obvious conclusion which I think this court must draw and that is that disciplinary action has no effect on the accused.

On April 27 1944, Pte G was given a medical category of S- 5 which I submit on the evidence and his record, he should have received several years ago. At this point I would like to point out to the court that according to his MFM 4 and MFM 6 all the charges on which he has been convicted with the exception of ~~one~~ 3 minor offenses have been under Sec 15(1) of the A.A., which is an Army crime only. In other words the accused is only a criminal in the army sense and I feel that the crimes of which he has been convicted and for which he shs paid the penalty are not due to a wilful desire to disregard army discipline but are a direct result of his mental instability and total lack of a sense of responsibility which have been engendered to a large extent by the years immediately preceeding his enlistment. This is I think brought out in the SPOs report which I have submitted as appendix (E).

I would now like to draw the attention of this court to the fact that Pte G has only been married for 2 yrs. Those members of this court who are married will agree with me when I say that the 1st few years of married life are the most important and that those years decide it's success or failure and that aprolonged absence during that period might have serious effects not only on him but upon his wife in their future relationship.

The charge on which the accused is now before you has arisen as a direct result of his married life. On 24 Jun Pte G received a letter from his mother-in-law to the effect that the plant in which his wife worked had been bombed and that she (his wife) was suffering from shock. He naturally wanted to rush down to look after her welfare but did not feel that he would be granted permission as he had only just returned from a 48 hr compassionate leave. He had secured this leave in order that he interview the labour exchange in regard to his employment in this country in the event of his obtaining his discharge over here. On the 26th June as brought out in thesummary of evidxnce he was dispatched to 2 Cdn Medical Centre at Leeds. On arriving at the LMS station at Sheffield and while awaiting a train to Leeds he dxcided that he must personally satisfy himself as to his wife's conditionand as the London train left from the same platform he caught it and proceeded to London. According to him he gave no thought to the fact that he was AWL and even neglected to mention the fact to his

wife. It is hard to imagine a individual with such a mentality that he would apparently completely disregard this fact, and yet, in this case, I submit, on the evidence it is comprehensible.
Eventually he decided he would report to 2 Can Medical Centre but was packed upby the M.P., at the train L.M.S. station, Sheffield awaiting a train to Leeds.
I should not think that there can be any doubt in the minds of the members of this court as to the mental lack of stability and total irresponsibility of the accused. I submit that the opinion of the SPO, as brought out in evidence, which you may consider is to some extent theoretical, has been more than substantiated practically by the evidence of CSM McIntyre, from his own personal knowledge of the accused. If any additional corroboration is necessary the record of the accused should be more than sufficient.

I nowwant to deal for a moment on the question of punishment. Inflicting punishment for crime began in the beginning of creation. It's object was to protect society in two ways, (1) by acting as a deterrent against a repetition of the offense and (2) as an example to other potential wrongdoers. In the case of Pte G I submit that in his condition the 1st objective will not be obtained as continual periods of AWL have clearly shown that punishment has no effect upon him. The 2nd objective I feel is wholly unnecessary as without his there are quite sufficient cases to act as examples to maintain army discipline.

I have just referred to crimes against society in general, I now wish to refer to purely Army crimes, on one of which the accused is now before you. The basic reason underlying the awarding of punishment in the army is primarily to enforce discipline and produce as a result a good soldier. I submit that on the evidence in this case, punishment is futile. ------See (1) below ---- (1)

In view of the plea of guilty by the accused this court has only two alternatives. Either to inflict a severe punishment sentence which will undoubtedly have a prejudicial effect upon the accused or having regard to the fact that he has already spent 17 days under close arrest and bearing in mind the evidence which has been submitted award a nominal punishment and give him an early opportunity, to which I believe he is entitled, of returning to civilian life and his wife, where I feel sure with his ability and her steadying influence he will become a credit to society.

In conclusion may I request that this court adds a ryder to it's verdict to the effect that it's proceedings be forwarded to the senior officer administration officer at CMHQ for review in the hope that some steps may be initiated to prevent or curtail the ever increasing occurrences of army and civil crimes committed by personnel ofsimiliar Pulhems grading to the accused.

(1) I want at this point to draw the attention of the court to one fact in particulsr. That is, that as brought out in evidence there has been a material and radical change in the form of the medical certificate necessary before an accused with an S-5 category may be tried by FGCM. Although the witness for the defence Capt STEVENSON refused to admit that a soldier with such a category would be liable to suffer from a lengthy period of detention, I submit that it should be fairly obvious from his remarks or lack of remarks both in his direct examination and in his cross examination by the prosecutor, that it is felt by higher authority that a lengthy term of detention would be prejudicial to a soldier with such a category.
I believe it is reasonable to assume that the amendment to the medical certificate was issued to act as a guide to members of Courts Martial in awarding sentence, as a soldier with an S-5 category is not capable of doing the same type of punishment as one with an "A" category.

SUMMARY OF EVIDENCE

In the case of No. K-53062 Pte. Greenwell, E.A., Seaforth Highlanders of Canada, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath:

FIRST WITNESS for the PROSECUTION

K-53653 Cpl Smith G., Seaforth Highlanders of Canada, on the strength of No. 1 Cdn. Inf. Reinf. Unit, a soldier of the Cdn. Army Overseas, having been duly sworn states:
I am K-53653 Cpl Smith G., on the strength of No. 1 Cdn. Inf. Reinf. Unit and employed in the First Aid Post of 1 C.I.R.U. On the 26th Jun 44 at 1000 hours I gave Pte. Greenwell whom I now recognize a railway warrant to Leeds and a 292 which is the admission form to No. 2 Cdn. Medical Centre. If Greenwell had reported to No. 2 C.M.C. he would have been kept for 48 hours, if not admitted as a patient. If he were admitted as a patient, the F.AP. at this Unit would be notified within 4 days. So that within four days, Greenwell should have reported back to the FAP at this Unit or the F.A.P. should have been notified that he was a patient at No. 2 C.M.C. Pte Greenwell did not report back to the F.A.P. The F.A.P. was not notified that he was being kept at No. 2 C.M.C. as a patient.

The accused declines to cross-examine this witness.

G. Smith Cpl

.....
K-53653 Cpl Smith, G.

SECOND WITNESS for the PROSECUTION

Capt. A.A. Cardish, Officer Commanding, 2 C.M.C., R.C.A.M.C., an Officer of the Canadian Army Overseas. A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence.
"This is to certify that K-53062 Private Greenwell, E.A., 1 Cdn. Inf. Rft. Unit, did not report to this Unit on 26 Jun 44 nor on any day thereafter, and has still not reported. Above has been verified from Records presently in my possession."

(sgd) A.A. Cardish Capt.
(A.A. Cardish) Offr.Commanding,
2 C.M.C. - R.C.A.M.C.

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

R.B. Allan Lieut.
(R.B. Allan) Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross examination.

THIRD WITNESS for the PROSECUTION

Capt. H.C. Shaw, Cdn. Inf. Corps, on the strength of No. 1 Cdn. Inf. Reinf. Unit, an Officer of the Cdn. Army Overseas, having been duly sworn states:
I am Capt. H.C. Shaw, on the strength of No. 1 C.I.R.U. I produce certificate of apprehension in accordance with Army Act Section 163(1)(J)(J) purporting to be signed by Capt. Thomson Garrison Adjutant, Somme Barracks, Sheffield, Yorks. This document which relates to the accused is marked exhibit "A" and is duly initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

H.C. Shaw Capt

(Capt. H.C. Shaw)

2.

SUMMARY OF EVIDENCE

In the Case of No. K-53062 Pte. Greenwell, E.A., Seaforth Highlanders, of Canada on the strength of No. 1 Cdn. Inf. Reinf. Unit., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

R.B. Allan ..... Lieut.
(R.B. Allan) Officer detailed to take the Summary of Evidence.

In the Field,

29th day of July 1944.

CERTIFICATE IN ACCORDANCE WITH ARMY ACT SECTION.

165 (I) (J) (J). Exhibit "A"

I certify that No. K.33062 Rank Pte. Name Greenwell, B.A.

Unit Seaforth Highlanders. Canadian Army, England.

was arrested at Sheffield, on the 17 July 44. 00:30 hrs. and at the time of his arrest was wearing :-

Military Uniform.

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above named person was taken on arrest.

Somme Barracks,
SHEFFIELD.
15 July 44.

Capt.
Garrison Adjutant

M.F.B. 325
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-63062	Pte	GREENWELL E.A.	1 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec 15(1)	2 times	10 times
For A.A. Sec 11	times	1 times
For A.A. Sec 40	times	2 times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ ~~A.F.A. 79~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 17 days in military custody, making a total of 17 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26 yrs.

6. The date of his ~~completion~~ attestation specified in his ~~record of service~~ attestation paper is 19 Jan 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 184 days.

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to no air force decoration~~, or air force reward (or is ~~in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. ~~military~~ CVS M & CLASP

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of _____

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number K-53062 Rank Fte.

Name GREENWELL E.A. of Seaforth of C. - 1 C.I.R.U. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	22 Mar 41 Oxted	A.A. Sec 15(1) A.A. Sec 22 A.A. Sec 12(1)(a)	60 days detention	20 days remission
F.G.C.M.	14 May 43 Field	A.A. Sec 15(1)	180 days detention	56 days remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of Aug 42

(J. B. Baird) Lieut Asst Records Offr. 1 CIRU

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. K53062 Name GREENWELL E.A. Sqn, Battery, or Company | Corps C.I.C. (G.H. 76 C) | Date of enlistment 19.1.40 | GC Badges | Service or Proficiency Pay S.D. 3/17 MFM 6 (APR 1939) 40 [illegible]

Date of last entry in Company Conduct Sheet 18-6-40 | No. and date of last drunk NIL | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Previous		Sheet Destroyed on Completion Six Months Service			19 July 40.		
FIELD	19.11.40	Pte		AA Sec 15(1) awl from 1630 hrs 19/11/40 to 1800 hrs 20/11/40. Absent 1 day 1 hr. 30 mins	B.S.M. Mack	5 days C.B.	21.11.40	[illegible]	[illegible]
Oxted	30.12.40	Pte		AA Sec 15(1) AWL AA Sec 22 escaping from confinement AA Sec 12(1)(A) desertion	documentary	60 days detn 20 days [illegible]	22.3.41	F.G.C.M.	[illegible]
Jasper	7.6.41	Pte		AA Sec 15(1) awl from 2400 hrs 1.6.41 to 0733 hrs 2.6.41 Absent 2 days 9 hrs 33 mins	Cpl Mati J	7 days [illegible] F.R.1 149(2)	10.6.41	Maj Vickers	[illegible]
Jasper	7.9.41	Pte		AA Sec 15(1) awl from 2350 hrs 7.9.41 to 0300 hrs 25.9.41 Absent 17 days 3 hrs.	[illegible]	21 day detention	25.9.41	C.S. Redman	[illegible]

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
COVE	18.1.42	Pte		AA Sec 15(1) awl from 2200 hrs 18.1.42 to 2359 hrs 18.1.42 absent 1 hr.	Cpl Shanty	1 days Pay FR&I 149(2)	19.1.42	J.R. Barber Maj	
Swanthorpe House	6.8.42	Pte		AA Sec 15(1) awl from 2359 hrs 3 Aug 42 to 2245 hrs 6 Aug 42 absent 2 days 22 hrs 46 mins	Sgt Rugan	admonished	7.8.42	Lt R.A. OGLIVE	3 days Pay FR&I 149(1)(A)
Swanthorpe House	23.8.42	L/Cpl		AA Sec 11 - neglecting to obey standing orders for drivers of Mech Vehicles AA Sec 15(1) awl from 1830 hrs 23.8.42 to 0615 hrs 24.8.42 absent 11 hrs 45 mins.	Sgt Gould	Reduced to Pte	25.8.42	R.A. O'GLIVE A/capt	1 days Pay FR&I 149(1)(A)
algonquin camp	15.9.42	Pte		AA Sec 40 - act to prej good order & mil disc in that he failed to appear at place of parade	A/Cpl Darwell	3 days C.B.	16.9.42	R. SEMPLE LT	
algonquin camp	21.9.42	Pte		AA Sec 15(1) awl from 2359 hrs 20.9.42 to 0945 hrs 21.9.42 absent 9 hrs 46 mins	A/Cpl Stevenson	3 days F.P. 7 days Pay FR&I 149(2)	22.9.42	LT-COL. C.C. FERRIE	8 days Pay
FIELD	21.12.42	Pte		AA Sec 15(1) awl from 0910 hrs 21.12.42 to 1200 hrs 6 Jan 43. absent 16 days, 3 hrs. AA Sec 40 - con. prej gd ord & mil disc in that he failed to have pass stamp.	Sgt Tickene " Jones	28 days F.P. 17 days Pay FR&I 149(2)	7.1.43	LT-COL HOFFMEISTER	

No. K5306 Name GREENWELL E.A. Sqn, Battery, & Company Corps O.I.C. (S.H. of C) Date of enlistment 19-1-40 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/130 (5412)

Date of last entry in Company Conduct Sheet NIL No. and date of last drunk NIL Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Dial	By whom awarded	Remarks
FIELD	14.4.43	Pte		AA Sec 15(1) awl 2000 hrs 14.4.43 to 0830 hrs 5 May 43 absent 20 days 12 hrs 30 mins. Released from Detention Barracks 14 Sept 43 - 56 days Remission with Pay	Documentary	180 days detn.	14.5.43	F.G.C.M.	total fort 20 days Pay
I.O.I.R.U	7.11.43	Pte		AA Sec 15(1) awl from 2000 hrs 7.11.43 to 0640 hrs 10.11.43 absent 2 days, 8 hrs 40 mins	Cpl Inglehead Documentary	14 days Pay FR&F 149 (2)	11.11.43	[illegible] Mothersill	3 days Pay [illegible]
FIELD	23.12.43	Pte		AA Sec 15(1) awl from 1330 hrs 23.12.43 to 0925 hrs 10 Jan 44 absent 17 days 19 hrs 52 mins	Documentary	28 days detention	11.1.44	H.L. Bord	[illegible] total fort 4 days Pay
						examined 11 days remission with Pay	3 Feb 44		

CERTIFIED TRUE COPY CONSISTING OF TWO PAGES:
DATE: 2 Aug 44

J.B. Baird .....Lieut
[J.B. Baird] AustRecords Officer
1 Canadian Infantry Reinforcement Unit
(Officer having custody of original documents & Regtl Books.

(PTO)

Copy

Exhibit "E"

SELECTION OF PERSONNEL OFFICE

1 CIRU

50/RRR/G
26 Jul 44

O.C.,
"A" Wing, 1 CIRU

K.53062 Pte Greenwell, E.A.

Born in Victoria, B.C. 24 Aug 19, is the oldest in a family of 5 - 1 brother and 3 sisters. According to subject parents were in good health until just recently. The last letter from home mentioned his father's failing health but indicated no reason.

Attended city school in Victoria and completed Grade 8. Attended High School one year but did not try exams. Started school at age 7 and left age 17.

Immediately on leaving school subject's first job was that of personal chauffeur for Capt. Troop, a retired naval officer. He remained on this job for a year -1936- and then became employed in a logging mill as a grader for 18 months, following which he worked at a sawmill on edging saw. He remained at this latter employment for 6 months when he accepted employment as driver with B.C. Rfg. Co. where he was employed for 1 year to enlistment.

Subject enlisted 15 Jan 40. Basic Trg completed in Toronto and Adv Trg completed C/S. Arrived C/S Jul 40. Is a qualified Dvr IC (W) Cl III. Arrived C/S as a rft for Seaforth Highs and remained with that regt with the exception of 8 mos 1941-2 during which time he was employed as batman driver in the Provost Corps. During this latter period subject had one minor crime for making an unauthorized trip in an Army vehicle.

Subject has had a series of major crimes during his period in the service. First crime in 1940 AWL 23 days and most recent in Apr 43 AWL 16 days.

Subject is a young man of average height and weight with above average intelligence and learning ability. Family relations on a good level, states he got along well at school. Between time of leaving school and enlistment employed in 4 different occupations. States he was never dismissed from a job. Worked for a period, got fed up and quit.

Was married 25 Jul 42, no children. Wife persently employed with Atlas Lamp Coy, North London, manufacturers of electrical appliances for planes. States he is very fond of his wife and that the feeling is mutual. Is on exeellent terms with his in-laws.

When questioned regarding the present charge he states that he had received from his mother-in-law a letter advising that

the plant where his wife is employed was hit by a flying bomb causing considerable damage. The following day he was en route to hospital for a spinal test when he decided he would return home and see his wife. This he states was due to his troubled frame of mind since learning ofthe accident. On his return home he states he gave no thought to the possible consequences of his being AWL nor was it ever mentioned by his wife. This, I take it, is further evidence of his inherent instability.

Subject's civilian work history, changing from job to job, would indicate some instability. This, however, is not unusual in young men starting out in the world who are not qualified tradesmen. He has no civilian crimes. It is quite possible that, with the influence of his wife and home environment, subject might settle down and become a responsible citizen. His record in the Army would indicate that this instability has been continually present amd is not a result of his marriage two yesrs ago. According to subject his wife's family are in the brick laying business and can provide him with employment as soon as he is available.

In the opinion of this SPO subject has never properly adjusted to army life and it is very doubtful if a further sentence at this time would help toward his rehabilitation in civilian life. Rather it would most probably have a detrimental effect. It is strictly a case of deciding whether or not he is worth salvaging for civilian life as his S5 would indicate his total unsuitability for the Army. I believe he is worth salvaging.

COPY/RDG

.....Capt.
(M. K. Morrison) SPO (2) 1 CIRU.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 Cdn Inf. Reinf Unit, In the Field, [illegible], preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at 1 C.I.R.U., In the Field,
this 27 day of
July 1944.

E. [illegible]

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Maj. Dunn
if he is available.

#2
CANADIAN MEDICAL CENTRE
R.C.A.M.C.

28 Jul 44

Officer Commanding,
1 Cdn Inf Rft Unit,
Cdn Army, Overseas.

This is to certify that K-58062 Private Greenwell, E.A., 1 Cdn Inf Rft Unit, did not report to this Unit on 26 Jun 44 nor on any day thereafter, and has still not reported.

Above has been verified from Records, presently in my possession.

A.B. Cardish capt Capt.
(A.B. Cardish) Officer Commanding
#2 CMC - R.C.A.M.C.

AVJB

Officers under instruction
#1 Major J. W. Baldwin
Lieut. C. S. Glen.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 50(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....

Do you intend to call witnesses on your behalf?

Ans.....

Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A); see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. Yes, I intend to call witnesses on my behalf

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(2)

(1. MFB 365 or FEB 296. 2. MFB 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment?(1) Ans. Yes, I do.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which [illegible] found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Ord [illegible] 309, 2323, MML p 68, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release upon arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K53062 Pte Ernest Albert GREENWELL - 1 CIRU - Seaforth of C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lost of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ ~~(1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of (6) Six Months.

(Sgd) Judge-Advocate, if any. 2 Aug 44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

~~PART II. MINUTE WHERE CONFIRMATION RESERVED.~~ (AA 54(5), RP 120(P), MML p 760.)

~~Date (Sgd) Commanding~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~

(1. AA 57A. Delete if not used.)

Date 5 Aug 44

(Sgd) [signature]

(G S N Gostling) Brig

Commanding Comd "A" Gp Cdn Rft Units C A (O)

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. K-53062 Pte GREENWELL E.A. Seaforth of [illegible] - 1 C.I.R.U.

Date. 6 Aug 44

Signature of Offr. [signature] Colonel (H. Sharp) Commander, 1 Cdn. Inf. Reinf. Unit.

Promulgated in Part II Order No. 173 d/5 Aug 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

EE-81 (Case #3)

PTE GREENWELL E.A

See A-357 for Lot Case

EE-82

HEADQUARTERS 17 MAY 1943 2nd CDN. INF. BDE.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELFTH day of MAY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of SECOND CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[illegible]

27 May 43

(5)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	A.E.T. Paquet	PPCLI

Members.

Rank.	Name.	Regiment.
Capt	J.E.Leach	PPCLI
Capt	~~H. Smith~~ W.S. Backman A.E.T. Pres.	EDMN R
(w) Lieut	G.W. Kelloway	EDMN R

*Signed (R.A. Lindsay) Lt-Col

T/Commanding 2 Cdn Inf Bde

Convening Officer.

A.E.T. Paquet Major President

A 2.

2

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K53062 Pte. Ernest Albert GREENWELL SEAFORTH OF C	Charge Sec 15(1) A.A. W.O.A.S. absenting himself without leave.	Guilty Guilty.	Sentence. The court Sentence The accused K 53062 pte Ernest albert Greenwell S.W. of To undergo detention for a period of (180) one hundred and Eighty days. A.E.T. Paquet Major. C.I.C (P.P.C.L.I) president 14 May. 1943 - In the field	Confirmed R.A. Lindsay Lieut Colonel a/Comdr. 2 Cdn Inf Bde

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) R.A. Lindsay (R.A. Lindsay) Lt-Col (Signed) A.E.T. Paquet Major C.I.C (P.P.C.L.I.)
T/ *Commanding* 2 Cdn Inf Bde — *President.*
Convening Officer (*c*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

3

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 14th day of May - 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) N.C.M.O.
*(4. ~~The officers under instruction~~) N.C.M.O.
were duly sworn.

*Omit if not applicable.

Signed this 14th day of MAY 1943

A.E.T. Paquet Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

A.E.T. Paquet Major
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~ Lab.

Signed this 14th day of May 1943

R.A. Lindsay Lieut Col
Confirming Officer
a/Comdr. 2 Cdn Inf Bde
K53062 Pte Ernest Albert Greenwell Seaforth of C

Promulgated and extracts taken in the case of

(*a*) (Dated) 15 May 1943. (Signed) Court Secretary

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23170) Wt.46170-929 50,000 7-43 A.A.F.W.3.325 Gp.498

B 2

C H A R G E S H E E T

The accused, K-53062, Pte. Ernest Albert GREENWELL, of the Seaforth Highlanders of Canada, a soldier in the Canadian Army, Overseas, is charged with,

While on Active Service,

1st charge
Sec. 15(c)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he, in the field, at 2000 hours 14 Apr 43, illegally absented himself without leave, and remained so absent until he surrendered himself to his unit, in the field, at 0630 hours 5 May 43.

Absent 20 days, 12 hours, 30 mins.

B.H. Hoffmeister Lt.-Col.,
Officer Commanding,
The Seaforth Highlanders of Canada.

In the Field 10 May 43

To be tried by F.G.C.M.

R.A. Lindsay Lt Col
A/Comdr 2 Cdn Inf Bde

A.E.T. Paquet Major
C.I.C. (P.P.C.L.I.) present

A.3

This is to certify that I have today examined R53062 Pte. Greenwell, B.A., The Seaforth Highlanders of Canada, and find him fit to undergo trial by Field General Court Martial In accordance with CAORO 55.

14 May 43

W. K. Macdonald
Signature of Medical Officer
Capt

A.C.I. Request Major
President

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ in the Field
on the 14th day of MAY 1943 by order of
St Col R A Lindsay Commanding 2 Cdn Inf Bde.
dated the 12th day of MAY 1943

President.
MAJOR A E T. Paquet C.I.C (P.P.C.L.I)

Members.
Capt W S BACKMAN C.I.C (Cdn. R.R.)
Capt J C Beach C.I.C (P.P.C.L.I)
W. Lieut C W Retloway (Cdn R.R.) C.I.C.

, ~~Judge Advocate~~.

Trial of* K 53062 Pte Ernest Greenwell, S.H. of C

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~
~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt J.E.T. McMullen C.I.C. (S.H. of C)

Counsel‡ or defending officer† Sgt D.B. Cameron C.I.C (S.H. of C)

At 0900 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. 1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? NO

Answer by accused.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 273
1938—8-41 (3319)
H.Q. 1272-99-224

B

A. E. D.

The President, members and ~~judge advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~ A. E. D.

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Q. 1. Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read? — GUILTY. *Question to the accused.*

Answer.

A. E. D. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

A. E. D. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

A. E. D. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the _____ charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge ~~to which he has pleaded "Guilty"~~ is read to him again.]

The accused K53062 Pte Ernest Albert Greenwell S.W.A.C. is found guilty of guilty of the charge laid against him

*The summary (or abstract) of evidence is read, marked CC2, signed by the President, and attached to the proceedings.

Question to the accused. Q3. Do you wish to make any statement in mitigation of punishment?

Answer. A3. No. The ~~accused in mitigation of punishment says~~:— NO. A.C.T.O.

[*or* hands in a written statement, which is read, marked , signed by A.C.T.O. the ~~President~~, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

P.C.T.P.

Q. 4 Do you wish to give evidence yourself or to call any witnesses as to character? NO.

Question to the accused.

A. H.

Answer.

Evidence as to character.

See closing address by defendants officer.

P.C.T.P.

D.D1

Closing Remarks by Defending Officer

The accused and his brother enlisted together on 19 Jan. 40 They are determined to go into action together. The accused is not afraid to fight or die for his country. It was signs of action that brought him back.

I was speaking to his brother this morning and during our conversation he began to cry. He can not see himself going into action without his older brother.

The accused got married in July 42 and is very devoted to his wife. The fact that his wife has been sick was the cause for him going A.W.L.

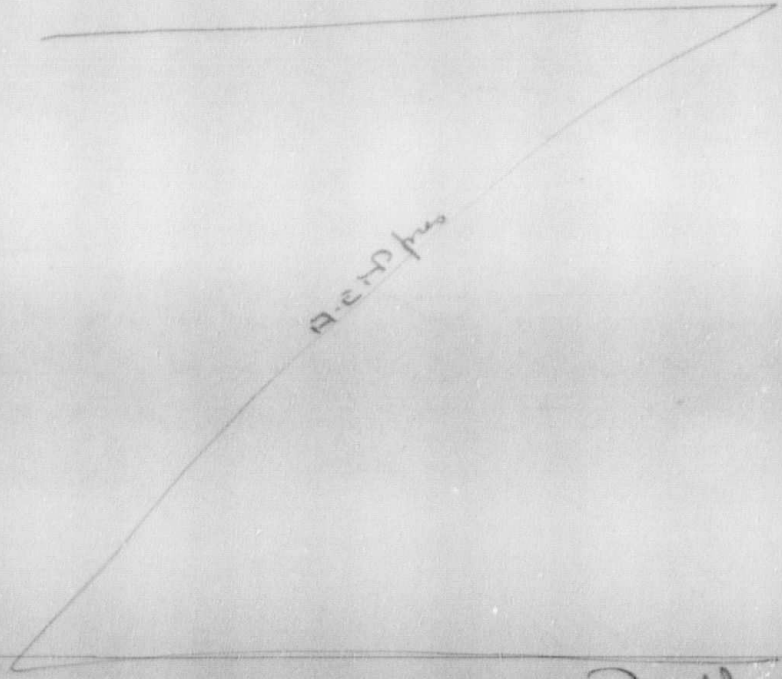
The day before he returned he met a friend of his from the P.P.C.L.I. in London. From information received from his friend the accused felt that action was at last coming. He therefore immediately returned to his unit.

Gentleman of the board I strongly ask you to give due consideration to above remarks

so that the two brothers can be together when the day of action comes.

A. Cameron LT.
S. H. of C

A.C.T. pres



A.C.T. Paquet Major
P.P.C.L.I. president

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused

K 53062 pte Ernest Albert Greenwell. S. H. of C. Canadian Army overseas. "guilty" of the charge laid against him.

A. E. T. D. pres

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt. J. E. T. McMullen, S. H. of C. is duly sworn.

Question by the President.

Q5 Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] ~~are~~ A. E. T. D. read, marked A. E. T. D. E 2 and E 3 signed by the President, and annexed to the proceedings.

Question by the President.

Q6 Is the accused the person named in the statement which you have A6 heard read? ~~*Answer by the Witness.*~~ Yes.

Question.

Q7 Have you compared the contents of the above statement with the A7 regimental books? *Answer.* Yes.

Question.

Q 8 Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* 8 - yes

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

& the accused declines to cross examine

Question to the accused.

Q9 Do you wish to address the Court? *Answer.* See closing address by defending office marked D.D. 2 A. E. T. D.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused *Sentence.*

K 53062 Pte Ernest Albert Greenwell
Seaforth Highlanders of Canada, Canadian
Army overseas. To undergo detention for
a period of (180) one hundred and eighty
days.

Signed.
A.C.T. Paquet Major, President
In the field, 14th day May 1943.
at 1000 hrs. the trial ends.

A.C.T.P.

CC2

Summary of Evidence in the case of K-53062 Private Ernest Albert Greenwell, of The Seaforth Highlanders of Canada

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness. K52478 A/CSM. McMahon, G., having been duly sworn states:-

"On the 14th of April, 1943, I was platoon sergeant of # 13 Platoon of which the accused, Pte Greenwell was a member. At 2000 hours 14 April 43 I took a Stand-to roll call of my platoon & found that Pte Greenwell was absent. At 0630 hours 15 April 43, I called the roll of my platoon and Pte Greenwell was still absent. He was absent from all subsequent parades of the platoon and I have not seen him since"

K52478 G McMahon A/CSM

The accused declines to cross-examine the witness

Second Witness K-52741, C.S.M. Black, R.M., having been duly sworn, states:-

"I am Company Sergeant-Major of "C" Company, The Seafath Highlanders of Canada. At 0830 hours on 5 May 43 Pte Greenwell, E-A. reported in to me. He was clean, sober, and properly dressed"

R M Black, C.S.M.

The accused declines to cross-examine the witness

The accused was cautioned as follows:

Do you wish to make any statement or give any evidence under oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make any statement or give any evidence on oath. He did not wish to call any witnesses on his behalf.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with

C W H McClurk Lieut

In the Field 8 May, 1943 The Seafath Highlanders of Canada

A.E.T. Lloyd Major President

cc 2

Summary of evidence in the case of K-53062 Private Ernest Albert, GREENWELL, of the Seaforth Highlanders of Canada.

By direction of the Commanding Officer, the evidence is on oath.

FIRST WITNESS: K-52476 A/CSM. McMahon, G., having been duly sworn, states:

"On the 14th of April, 1943, I was platoon sergeant of #13 Platoon of which the accused, Pte. Greenwell was a member. At 2000 hours 14 April 43, I took a 'Stand To' roll call of my platoon and found that Pte. Greenwell was absent. At 0630 hours 15 April 43, I called the roll of my platoon and Pte. Greenwell was still absent. He was absent from all subsequent parades of the platoon and I have not seen him since."

Sgd. K52476 A/CSM. McMahon, G.

The accused declines to cross-examine the witness.

SECOND WITNESS: K-52741 CSM. Black, R.M., having been dulysworn, states:

"I am Company Sergeant-Major of "C" Company, The Seaforth Highlanders of Canada. At 0630 hours on 5 May 43 Pte. Greenwell, E.A. reported in to me. He was clean, sober, and properly dressed."

Sgd. K52741 CSM. Blac, R.M.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make any statement or give any evidence on oath. He did not with to call any witnesses on his behalf.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

W.H. Melhuish Lieut.
The Seaforth Highlanders of Canada

In the Field

6 May, 1943.

A.C.T. Paquet Major Pres

A-4

List of Witnesses in the case of K-53062 Pte. Ernest Albert, GREENWELL, of the Seaforth Highlanders of Canada.

1. K-52476 A/~~CSM.~~ McMahon, G., Seaforth of C.
2. K-52741 CSM. Black, R.M. Seaforth of C.

List of Exhibits in the case of K-53062 Pte. Ernest Albert, GREENWELL, of the Seaforth Highlanders of Canada.

Nil

Officer Commanding,
The Seaforth Highlanders of Canada.

Sir,

I respectfully request that ~~Capt. F.M. Bonnell~~ LIEUT. D.B. CAMERON E.A.G. be appointed to represent me at my forthcoming F.G.C.M.

E.A. Greenwell

A.E. Paquet Maj for pres

E 2

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2657)

No. K53062 Name Greenwell, E.A. Sqn., Battery, or Company

Corps S.H. of C. No.9 Provost Co. Date of enlistment 19.1.40 G.C. Badges

Service or Proficiency Pay A.L.

Date of last entry in Company Conduct Sheet 6.6.40 No. and date of last drunk Nil

Period not reckoning towards freedom from extra fine

Sheet No. 2

Signature O.C. Company, etc. Gollnick, Capt.

Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19.11.40	Pte	-	WOAS AWL from 1630 hrs 19.11.40 to 1600 hrs 20.11.40. Absent 1 day 1 hr, 30 mins. A.A.15(1)	PSM Mack	5 days C.B.	21.11.40	Capt. J. Harper	For. 2 days pay.
Oxted	30.12.40	Pte	-	1/ AA 15(1) WOAS AWL. 2/ AA 22(1) WOAS escaping from confinement. 3/AA 12(1)(a) WOAS Desertion.	F.G.C.M.	60 days det'n. &stoppages of £17-6-2½	22.3.41	(F.G.C.M. (President Maj. (A.S.Donald	Earned a remission of 20 days. D.O. 106 2.5.41.
Jasper	7.6.41	Pte	-	WOAS AWL from 2200 hrs 7.6.41 to 0735 hrs 10.6.41. Absent 2 days, 9 hrs, 35 min. A.A.15(1)	Cpl. Mate, J	7 days pay stoppage	10.6.41	Maj. Vicars	Forf. 10 days pay
Jasper	7.9.41	Pte		AWL from 2339 7.9.41 to 0300 hrs 25.9.41. Absent 17 days 3 hrs AA 15(1)	Sgt. Lipsett	27 days det'n.	27.9.41	Col. Redman	Forf. 45 days pay

RELEASED FROM CANADIAN DETENTION BARRACKS ON 23 OCT 41, SENTENCE HAVING EXPIRED.

E 2

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Cove, Hants	16.1.42	Pte		AA 15(1) AWL 2200 hrs 16.1.42 to 2300 hrs 16.1.42	Cpl.Shantz	1 days payfine.	19.1.42	J.R. Barber, Major	(auto.for.
Swanthorpe House	6.6.42	Pte		AWL 2359 3.6.42 to 2245 hrs 6.6. 42. Absent 2 days, 22 hrs 45mins. AA 15(1)	Sgt.Kerman	Admonished	7.6.42	Lt.R.A. Ogilvie	(3dys pay FRI 149(1)(e)
Swanthorpe	23.6.42	L/Cpl. w.o.p.		L/Neg. obey Standing Orders for Drivers of Mech.Veh. AA Sec.11. 2/AWL 1630 23.6.42 to 0615 hrs 24.6.42. Absent 11 hrs 45 min. AA	Sgt.Gould	Reduced to Pte	25.6.42	A/Capt.RA	(Forf.1dys pay Ogilvie FRI 149(1)(e)
Algonquin Camp	15.7.42	Pte		WOAS Failed to appear place of parade appointed by his C.O.	Sec15(1) L/C.Darwell A/Cpl.Stephenson	3 days C.B.	16.7.42	R.Semple Lt.	
Algonquin	21.7.42	Pte		AWL 2359 20.7.42 to 0945 21.7.42 Absent 9 hrs 46 mins AA 15(1)		7 days F.P.	22.7.42	Lt-Col Ferrie	1 dys auto.for.
In the Field	21.12.42	Pte	L/Cpl.	AWL 0900 21.12.42 to 1200 6.1.43 2/AA Sec.40 failed to have pass stamped	Sgt.Treherne Sgt.Jones	14 days for.pay 14 days F.P.	7.1.43	Lt-Col. Hoffmeister	

CERTIFIED TRUE COPY as at 10 May 43.

[signature] Strain, Capt.
Adjutant, The Seaforth Highlanders of Canada.

D.E.T. Paquet Major
pbsident

E 3

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-53062	Private	Ernest Albert, GREENWELL	Seaforth or C.

1. The following is a fair and true summary of the entries in the Field Service and General ~~Regimental or Squadron or Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L. AA 15(1)	four times	nine times
For AA 22(1)	---- times	once times
For ~~AA 40~~ AA 12(1)	once times	once times
For AA 11	once times	once times
For AA 12(2)	---- times	once

Number of instances of gallantry or distinguished conduct Nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for n/a beginning on the n/a day of n/a

4. The accused has been in confinement awaiting trial on the present charges, for n/a days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which n/a days were spent in hospital.

5. The present age of the accused according to his record of service is 24 attestation paper is

6. The date of his ~~enlistment~~ attestation specified in his ~~record~~ attestation paper is 19 Jany 1940

7. The service which the accused is allowed to reckon towards discharge is n/a

8. The accused is entitled to reckon n/a service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. n/a

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of n/a

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated n/a, and in his regiment (or corps), the rank of

N/A dated n/a.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

n/a Date of promotion.

In the rank of n/a years.

In the rank of n/a years.

In the rank of n/a years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K-53062 Rank Pte.

Name Ernest Albert GREENWELL of Seaforth of Canada Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Oxted 22.3.41	A.A.15(1) A.A.22(1) A.A.12(1)	60 days detention & stoppages of £17-6-2½	Remission of 20 days

A.E.T. pres.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of May 1943 [signature] Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

A.E.T. Paquet Major pres.

BBB-105

SGT GREENWOOD F.G.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-99014 Sergt. John Gladwell Greenwood Reinf Sec C.F.C. attd 28 Coy C.F.C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty,	on Revision 3 Feb. 44.
2nd Alternative	Not Guilty	Guilty	except that he was not in improperly in possession of — £ s. d. 8 3/4 lbs Sugar - value at 2½d per lb — 1-7½ 7 3/4 lbs Tea - value at 2/3 per lb — 17-6
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn * para 2, RP 44. special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the rank of Private.
To undergo detention for ~~Sixty (60)~~ forty (40) Days
3 Feb.

(Sgd) ..... Judge-Advocate, if any. Date awarded. (Sgd) A.M. Roxby Major President. (RP 45, 46)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised; AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1*)
(1. AA 57A. Delete if not used.)

(Sgd) C.E.F. Jones Colonel

Date 3 Feb 44 Commanding Canadian Forestry Corps
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K99014 Sergt John Gladwell Greenwood	4 Feb 44	Thomas Percy Lieut & Adjt No. 28 Company, Canadian Forestry Corps.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

B55-105

CFA96 (In lieu of AFA2) 41/P.A.R./1608 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Colonel C.E.F. Jones Comd Cdn For Corps dated 29 Dec. 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) ~~Appmt, A/R or A/Appmt~~.	Full Christian Names.	Surname.	Unit.
K 99014	Sgt.	John Gladwell	Greenwood.	Reinforcement Sec. C.F.C. att'd 28 Coy C.F.C.

PROCEEDINGS REVIEWED
15 Feb 44
for Judge Advocate General
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Scotland on (date(s)) 4 Jan. 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~FA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and ~~the~~ each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. ~~At~~ At 11.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to an interpreter?~~ Ans ~~Not~~

~~The Interpreter is sworn.(1)~~ Do you object to Sgt. Craig as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 53, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~FA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.M. Roxby M.C.	14 Coy C.F.C.
Member	Captain	R.K. Allen	15 Coy C.F.C.
Member	Lieut	K.C. Ferguson	14 Coy C.F.C.
~~Judge Advocate~~			
Prosecutor	Capt.	F. Percy	18 Coy C.F.C.
Defending Offr	Lieut	R.M. Calder	No 5 Dist. H.Q.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused K99014 Sgt Gladwell Greenwood JG before arraignment make(s) (no) (~~a~~) plea (s)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All caps and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused ~~is~~ (~~are~~) ~~NG~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet. The President records the pleas in Part I of the Schedule.
(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 35. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and, considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*KP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 2. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B3 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on ~~the~~ both charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the two charge(s), ~~and allowed on the ..... charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Evidence on Oath. Do you intend to call witnesses on your behalf ?
Ans. No Are they witnesses as to character only ? Ans. N.A.
(*1. RP ~~455~~ 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Both charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (d), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(*1. MFB 255 or AFB 294. 2. MFM 6. 2. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP ~~240~~. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 80 proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 114, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

REVISION

At Belladrum, on the 3rd day of February 1944 at 1130 hrs., the Court re-assemble by order of The Convening Officer for the purpose of re-considering their finding and sentence.

Present, the same members as on the 4 Jan.44.

The letter directing the re-assembly of the Court for the revision, and giving the reasons of the confirming authority for requiring a revision of the finding and sentence is read, marked "A" signed by the president, and attached to the proceedings.

The Court having attentively considered the observations of the confirming authority, and the whole of the proceedings:

do now revoke their finding and sentence, and find the accused Guilty on the second charge except that he was not improperly in possession of 8½ lbs. sugar - valued at 2½d. per lb. 1s.7½d and 7½ lbs. tea - valued and 2s.3d. per lb. 17s.6d.

and sentence the accused to be reduced to the rank of private and to undergo detention for forty days.

Signed at Belladrum, this third day of February 1944.

(C.V.M-Roxby) Major,
President

IN REPLY PLEASE QUOTE
NO. CFM/5-L/71/Greenwood, J.G.

Department of National Defence

HEADQUARTERS, CANADIAN FORESTRY CORPS

CANADA

1 Feb. 44 194

CONFIDENTIAL

Major C.V. Maude-Roxby, M.C.,
No. 19 Coy. C.F.C.

'A'
Mr Roxby Major
President.

F.G.C.M.
K.90014 Sgt. Greenwood, J.G.
Reinf. Sect. C.F.C.

1. Reference the m/n F.G.C.M.

2. Proceedings were forwarded to CMHQ for consideration prior to confirmation, and conclusions thereon have now been received.

3. It is the opinion of the A.J.A.G. at C.M.H.Q. that there was no evidence before the court to prove that the sugar and tea referred to in the second charge were public property or that there was any impropriety about the possession thereof by the accused. The DJAG considers, however, that there was sufficient evidence before the Court with respect to the jam referred to in the said charge.

4. Under instructions of the Major General in Charge of Administration, the Court is directed to reassemble and enter a special finding that the accused was Guilty of the second charge except that he was not improperly in possession of the sugar and tea, the said articles to be specified in the manner shown in the charge. This procedure is done by virtue of A.A. 54 and R.P. 31 and it should be noted that the Court will have to impose a new sentence.

5. Your attention is called to Sec. 54(2) Army Act and Fn. 4 thereto, R.P. 31 and Fn. 4 thereto, also R.P. 52.

6. Passed to you for immediate action, please.

W.H. Wallace
(W.H. Wallace) Major,
Headquarters,
Canadian Forestry Corps

Encl.

NAT. DEF. R. 448
1,000M-7-40 (5858-4-5)
H.Q. 1772—39—797

CHARGE SHEET

The accused No. R.99014 Sergeant John Gladwell GREENWOOD, Reinforcement Section, Canadian Forestry Corps, attached No. 28 Company, C.F.C., a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec. 18(4)
Army Act

RECEIVING, KNOWING IT TO HAVE BEEN STOLEN, PUBLIC PROPERTY

in that he

at No. 7 Company, Canadian Forestry Corps Camp, Scotland, on the 3rd October, 1943, did receive from R.99121 Private F.N. Stephenson

	£.	S.	d.
8½ lbs. Sugar - valued at 2½d per lb.	-	1:	7½
7½ lbs. Tea - valued at 2/3 per lb.	-	17:	6
44 lbs. Greengage Jam - valued at 8d. per lb.	1:	9:	4
TOTAL VALUE	2:	8:	5½

rations on charge to No. 7 Company, Canadian Forestry Corps, which he knew to have been stolen.

Second Charge
(Alternative)
Sec. 40
Army Act.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at No. 6 Glenurquhart Road, Inverness, Scotland, on 7 Oct 43, was improperly in possession of

	£.	S.	d.
8½ lbs. Sugar - valued at 2½d per lb.	-	1:	7½
7½ lbs. Tea - valued at 2/3 per lb.	-	17:	6
44 lbs. Greengage Jam - valued at 8d. per lb.	1:	9:	4
TOTAL VALUE	2:	8:	5½

rations on charge to No. 7 Company, Canadian Forestry Corps, public property.

In the Field
10 Oct. 1943.

Major
(R.T.L. Molyneux)
C.O. No. 28 Company,
Canadian Forestry Corps.

To be tried by Field General Court Martial.

In the Field.
29 Dec. 1943

Colonel
(C.E.F. Jones)
Commander,
Canadian Forestry Corps.

MMP

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1097 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate amdts, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K-99014	Sergt.		John Gladwell	Greenwood	Reinf.Sec. CFC Att'd. 28 Coy. C.F.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Dec 1943 endorsed by me, ~~(or by an offr of any staff for trial~~, "To be tried by Field General Court-Martial". C.E.C.F.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ C.E.C.F.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ C.E.C.F.
(AA 49, RP 106(E), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~ C.E.C.F.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	O. V. Maude-Roxby, M.C.	19 Coy. CFC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	R. K. Allen	15 Coy. CFC
Capt.	J. P. St. C. MacKay	13 Coy. CFC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.-col.	J. H. Dunlop	Mil. Trg. Sec. HQ CFC
Lieut.	K. C. Ferguson	19 Coy. CFC

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Scotland (Country.) C.E.C.F. Jones (Signed personally. RP 105 fn 2.) Colonel (Rank.)

Date 29 Dec 43 Commanding Canadian Forestry Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

I CERTIFY THAT I HAVE THIS MORNING EXAMINED NO. K-99014 SGT. GREENWOOD, J.G., REINFORCEMENT SECTION, CANADIAN FORESTRY CORPS, AND IN MY OPINION HE IS ..fit.... TO UNDERGO TRIAL BY COURT MARTIAL.

....4.Jan.44

.....
Medical Officer
Ardersier.

THE PROSECUTOR MAKES AN OPENING ADDRESS:

Mr. President:

The circumstances of this case are Sir, that on the night of 3 Oct. 43 the accused is said to have received stolen property - rations - the same night that the theft took place in the reserve ration stores at No. 7 Coy. It will be shown that the accused paid another soldier a sum of money for the rations. It will also be shown that the accused received money from a civilian for which he gave him some sugar and told him to "keep it out of sight."

It will be shown too that the civilian police searched the home of the accused and found rations - public property - there and these rations will be identified in this Court as the goods taken from the Reserve Ration Store Room at No. 7 Coy. C.P.C.

I now call on the first witness for the prosecution -

First witness for The Prosecution:

Detective-Sergeant Urquhart, age 40 years, Inverness Constabulary, stationed at the Castle, Inverness, being duly sworn, states:

Q. Do you recognise the accused?

A. Yes. (witness identifies accused).

Q. Do you recall investigating a case in October at No. 7 Coy., C.P.U. in which the accused was concerned?

A. Yes.

Q. Tell the Court about this investigation as far as it relates to the accused?

A. On Thursday, 7 Oct. 43, along with another constable, I proceeded to No. 7 Coy. camp and made inquiries in connection with the theft of rations from the reserve ration stores. In the course of the inquiry we learned that there was a strong suspicion of a man, Mr. Archibald MacDonald, crofter and railway man, East Hill, Culloden, may be in possession of some stolen property. We went to MacDonald's house, saw him and told him the purpose of our visit. He denied all knowledge of connection with the theft but had no objection to a search being made of his house and premises. In carrying out the search I found in the bottom of a swill tin in his motor car, six 2 lb tins of Green Gage Jam. He said that he got the tins from Mrs. Greenwood, wife of the accused, on Tuesday 5th Oct. when she was leaving for Inverness. On being further questioned he led us to believe that he suspected two people at the camp as being connected with the theft.

On the strength of this we went to a house at 6, Glenurquhart Road, Inverness. We saw the accused, Sgt. Greenwood, about 11 o'clock that night - he was just leaving to catch the 11.30 train from Inverness back to camp. We told him the purpose of our visit and that we had reason to believe that some stolen property was in his house. He said that he had no objection to a search being made and then he left the house. In the course of our search, we found in a cupboard in the kitchen tin boxes, containing approximately 8½ lbs. sugar, a khaki coloured box containing 7½ lbs. of tea. In the sideboard I found 22 two lb. tins of Green Gage Jam. Mrs. Greenwood was cautioned and asked how she came to have this property. She stated that the jam was brought to the house one night in the previous week by her husband. We took possession of the property and brought it to our H.Q..

Q. I'm showing you Sgt. Urquhart, 3 cases; look at them and see if you can identify them?

A. This first tin is the one which contained sugar and was taken from the accused's house at Glenurquhart Rd. It contained about 8½ lbs. of sugar.

Q. And this one?

A. This was the tin found containing approximately 7½ lbs. of tea.

Q. And this case?

A. This contains the 22 two lb. tins of jam found at the accused's house at Glenurquhart Rd.

Q. Do you identify all this as the property found in the house of the accused?

A. Yes, I do.

First Witness for the Prosecution: (continued)

Q. What day was that?

A. It was on the 7th of October.

Q. How long before that did the alleged theft take place?

A. On Sunday 3 Oct. - 4 days.

Q. Can you describe the demeanour of the accused on 7 Oct.?

A. We just met the accused at the door of his house - he was on his way to catch a train back to camp.

Q. Did he appear to have any knowledge of stolen property?

A. He didn't say so.

Q. Did he convey anything to you in this connection?

A. No, he was on his way to catch a train.

Q. Did you spend some time around No. 7 Coy. camp investigating the case?

A. Yes.

Q. Did you find that it was common knowledge in the camp that you were making an investigation?

A. Yes.

Cross-examined by Defending Officer:

Q. In the early part of your statement you say that six 2 lb. tins of jam were found in a swill tin?

A. Yes.

Q. Was there anything to indicate that these tins could not have been bought in a store?

A. I've never seen that type of a tin in a Grocer's store.

Q. You make the statement that Sgt. Greenwood made no objection to his house being entered and searched?

A. Yes.

Q. It certainly did not appear then that he was trying to conceal anything?

A. No.

Q. Was there anything to indicate that the box containing the sugar came from No. 7 Coy.'s reserve ration stores?

A. Only that it was the same type of tin as those stolen.

Q. The tin was not concealed in any way?

A. No.

Q. The 22 tins of jam were found piled on a shelf on the sideboard?

A. Yes.

Q. They were not concealed in any way?

A. No.

Cross-examined by Defending Officer: (continued)

Q. You state that Mrs. Greenwood said she had received the jam from her husband?

A. She said her husband had brought the jam in a box to her house one night the previous week. Tuesday, I believe.

Q. And the theft took place on Sunday the 3 Oct.?

A. Yes.

Q. Will you please tell the Court the condition you found Mrs. Greenwood in on 7 Oct.?

A. A bit upset.

Q. Why was she upset?

A. It was quite natural for her to be upset when we conducted a search of her house.

Q. Anything else?

A. Yes, she was in a certain condition.

Questioned by the President:

Q. Sgt. Urquhart, tell the Court what the ration of jam for civilians is?

A. I don't know.

Q. Haven't you any idea?

A. I'm afraid I can't tell you - it varies - I leave that to my wife.

Q. Would it be possible for a household - say Greenwood's - to be legally in possession of 44 lbs. of jam?

A. It would be unusual.

The witness withdrew.

Second Witness for the Prosecution:

K.99116 C/S Rigbey, R., Reinforcement Section, C.W.C., formerly of No. 7 Coy. C.W.C., being duly sworn, states:

Q. What were your duties at No. 7 Coy. C.W.C.?

A. Acting C.Q.M.S.

Q. What dates?

A. From about 18 July, as far as I remember.

Q. Was you C/S of 7 Coy. on the 3 Oct?

A. Yes.

Q. Do you recognise the accused?

A. Yes. (witness identifies accused).

Second Witness for The Prosecution: (Continued)

Q. I show you this list (Prosecutor hands witness list) tell the court what it is?

A. This list held in my hand is the list of articles of rations kept in the reserve ration room at No. 7 Coy.

Q. This list was compiled by whom?

A. This list was compiled by me as the rations which were kept at all times in the store room.

Q. There are prices listed on this sheet - from whom did you obtain these prices?

A. These prices were obtained from the Officer i/c Supply Depot, R.A.S.C., Inverness.

Q. Why did you go to the R.A.S.C. to get these prices?

A. Because these rations had been issued by them.

Q. These rations belonged to whom?

A. These rations were public property on charge to No. 7 Coy.

Q. Does this list include sugar, tea and green gage jam?

A. Yes.

The List shown to Witness is marked exhibit "B" signed by the President & attached to the Proceedings.

Q. On or about 4th Oct. what did you discover in regard to these rations?

A. The reserve ration store room had been broken into.

Q. What was the condition of the store room?

A. The outer door which was kept locked at all times was unlocked and the padlock missing. The inner door which was at all times locked was ajar.

Q. Having observed the condition of the store room and rations, what was your conclusion?

A. I came to the conclusion that the store room had been burglared.

Q. Was it common knowledge at 7 Coy. camp that a theft had taken place?

A. After that date, I discovered it was common knowledge.

Q. I show you another form (Prosecutor hands witness a form) what is it?

A. This is the monthly return sheet, copy of which would be sent to the Officer i/c Supply Depot, R.A.S.C., Inverness. This report shows the total rations and daily rations received by the Coy. also total weights of rations at end of the period and also lists the reserve rations held by the Coy. at the end of the messing period.

Q. By whom is it checked and verified?

A. It is checked by me as Q.M. and signed by the Officer i/c Supply Depot, R.A.S.C., Inverness.

Q. Why does he check it?

A. To ensure that the proper rations are being issued.

Second Witness for the Prosecution: (continued)

THE FORM IS MARKED EXHIBIT "C", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Q. Regarding Exhibit "C"; is that the last form you have?

A. That is a spare.

Q. Here (Prosecutor points) we have a large quantity of goods, can you identify these goods?

A. A tin canister containing sugar.

Q. Is that your signature on the identity tag?

A. Yes.

Q. What do you identify these goods as?

A. As rations taken from the store room at No. 7 Coy.

Q. Do you recognise this tin (points to tin) as being the canister containing sugar and kept with the other containers on the shelves of the reserve ration store room at No. 7 Coy.?

A. Yes.

Q. Look at these 22 tins of green gage jam (Prosecutor points to jam) do you recognise these ~~xxxxxxx~~ as reserve rations stolen from No. 7 Coy, camp?

A. Yes.

Q. This square canister said to contain 7½ lbs. of tea - do you recognise these as reserve rations stolen from No. 7 Coy. camp?

A. Yes.

~~The witness withdrew.~~ mc

THE TWO CANISTERS CONTAINING SUGAR AND TEA AND A CARDBOARD CASE CONTAINING 22 two lb. tins of Green Gage Jam are marked Exhibit "A".

Cross-examined by The Defending Officer:

Q. In connection with Exhibit "A" - these canisters; you identify them as being among the reserve rations stolen from No. 7 Coy.?

A. Yes Sir.

Q. How can you recognise these tins as belonging to No. 7 Coy.?

A. They are the same type of tins.

Q. But you can't state definitely that these tins were in No. 7 Coy's store room?

A. No.

Q. Would you say this particular tin was in the store room? ((Defending Officer holds up tin of jam).

A. Yes.

Q. How do you recognise this particular tin - identify it?

A. By its colour and markings.

Cross-examined by the Defending Officer (continued)

Q. From your knowledge and experience with stores at No. 7 Coy. had you many tins of this type. (Defending Officer holds up large canister).

A. Yes Sir.

Q. What happened to these tins when they were emptied?

A. Usually they were flattened out and sent for salvage.

Q. But was this always done?

A. No.

Q. Was it quite possible for some of these tins to be taken out of camp?

A. Yes.

Q. You can only identify these tins as being similar to those taken from No. 7 Coy. camp?

A. Yes.

Q. Is this type of canister a common container of rations?

A. It is a container of cocoa or coffee.

Q. You made the statement that it contained sugar?

A. After the cocoa or coffee is finished we sometimes use them for sugar.

Q. If this is a container of cocoa or coffee, many tins of this type would reach you at No. 7 Coy. camp?

A. Yes.

Q. If these tins were not always destroyed, would it not be possible for some of the lads in the Coy. to have them away?

A. Yes.

Q. Could you identify these tins as the actual tins taken from No. 7 Coy. camp?

A. No Sir.

Q. Would you say that the theft of the reserve rations was common knowledge at No. 7 Coy. camp?

A. Yes Sir.

Q. Did your duties keep your confined to the immediate camp surroundings - kitchen, office, etc.?

A. Yes Sir.

Q. Am I right in saying you left the camp each evening for home?

A. Yes.

Q. You wouldn't know from experience around camp them whether the men talked about the theft of rations or not?

A. No.

Cross-examined by The Defending Officer: (continued)

Q. Did your Coy. have a bush crew of about 40 or 50 men?

A. Yes.

Q. You sent their rations out with them?

A. Yes.

Q. You wouldn't know then, what these men talked about?

A. No.

Questioned by the President:

Q. From this exhibit "A" I show you a tin of jam - is this the type of jam issued in the Army?

A. That is the type of jam kept in the reserve rations but is not the daily jam ration.

Q. Are these canisters the type of tin you keep reserve rations in?

A. Yes, they keep the vermin out.

The witness withdrawn.

Third Witness for The Prosecution:

A.32003 Cpl. J.R. Saunders , No. 6 Area, Canadian Provost Corps, being duly sworn, states:

Q. Do you recognize the accused?

A. Yes. (Witness identifies accused).

Q. What was your duties on or after 3 Oct. 43?

A. General duties - patrol duties in Inverness. On 8 Oct. I was detailed to investigate a theft at No. 7 Coy. camp.

Q. Tell the Court the results of your investigation?

A. During the investigation I learned certain information and took a statement from Sgt. Greenwood.

Q. Was this statement given after proper caution?

A. Yes.

Q. Was it given voluntary?

A. Yes.

He said he was at the Canteen on Sunday 3 Oct. and was approached by another soldier and asked if he wanted some jam and a tin of sugar. He said he asked the soldier what he wanted for it and the soldier asked him what he had. Sgt. Greenwood said he pulled some money out of his pocket - a ten shilling note and some silver which he thought amounted to about 15/- and gave it to the soldier. The soldier handed him a gunny sack which he didn't open until he got home and then found it contained tinned jam, tea and sugar. He also said that when he was making the above deal, Mr. MacDonald, at whose home he was residing with his wife, came up and asked if a Pte. Stephenson was in the Canteen. He also said that he moved to Inverness on Monday 4 Oct. and that he took the goods he had purchased from the other soldier with him and when his residence was searched by the civilian police the goods were found and taken to police H.Q.

Q. Were your around No. 7 Coy. camp during that period?

A. Yes.

Third Witness for the Prosecution: (continued)

Q. What were you wearing?

A. Battle dress.

Q. What badges were you wearing?

A. Provost flashes.

Q. Was your presence known by the men?

A. Yes.

Q. It would appear that it was common knowledge that you were making an investigation?

A. Yes.

Cross-examined by Defending Officer:

Q. When did you first start your investigation?

A. On Friday, October 8th.

Q. Was that your first appearance in No. 7 Coy. camp?

A. Yes.

Q. You state that the accused told you that on Sunday 3 Oct. he purchased rations from another man?

A. Yes.

Q. Was any time mentioned?

A. No.

Q. Did he mention the name of this "Other man"?

A. Yes, Pte. Stephenson.

Q. Was he at all concerned regarding where these rations came from?

A. I couldn't tell you that Sir, I wasn't there when the rations were purchased.

The witness withdrawe.

Fourth Witness for the Prosecution:

H.36119 Pte. MacCrae, No. 24 Coy. C.P.C., being duly sworn, states:

Q. Have you ever been a member of No. 7 Coy. C.P.C.?

A. Yes.

Q. Were you a member of No. 7 Coy. in October, 1943?

A. Yes.

Q. Do you recognize the accused?

A. Yes.

Q. Did you have any dealings with Sgt. Greenwood regarding sugar on 3rd October, 1943?

A. No.

Fourth Witness for the Prosecution: (continued)

Q. Did you see him that day?

A. Yes.

Q. Did he give you any instructions?

A. He asked me to get Mr. MacDonald and I went and got him.

Q. Did he tell you the purpose of the trip?

A. Yes, he told me to tell MacDonald that he had some sugar - I think it was 50 lbs.

Q. Then what did you do?

A. I went and told him.

Q. Did you see anything more?

A. No.

Q. Did you see the accused talking to MacDonald?

A. Yes, when I came down I got Sgt. Greenwood and he spoke to MacDonald.

Q. When Sgt. Greenwood told you to go and get MacDonald, did he say it in front of anyone else?

A. No, no one.

Q. You say you saw MacDonald and Sgt. Greenwood talking, was anyone else there?

A. Yes. Stevenson came out at that time but I don't know if he spoke to them.

Q. Why was it you came back from MacDonald's farm?

A. I went up to get him and I had to come back to my Company.

Q. Did you have any discussion with MacDonald regarding the sugar?

A. No.

Q. Did he ask you how much it would cost?

A. Yes.

Q. What did you say?

A. I didn't know.

Q. How did you not know?

A. I never had the sugar.

Q. Did you see any rations in Greenwood's possession?

A. No.

Q. Did you know that something unusual took place at No. 7 Coy. camp around 3rd October?

A. No.

Q. You never found out anything about the theft of rations?

A. No.

Cross-examined by Defending Officer

Q. You state that you were told by Sgt. Greenwood to go and get Mr. MacDonald?

A. Yes.

Q. What day was that?

A. Sunday.

Q. Was the Canteen open?

A. Yes.

Q. What time of the day was that?

A. About 7.30.

Q. Were you in the Canteen much that day?

A. No, not much.

Q. Did Sgt. Greenwood send you to get Mr. MacDonald?

A. Yes, he told me he had some sugar for him.

Q. Was it 30 lbs.?

A. I'm not quite sure.

Q. Then your story is that on 3 Oct. Sunday, at about 7.30 hrs. Sgt. Greenwood told you to go and get Mr. MacDonald as he had some sugar for him?

A. Yes.

The witness withdrawn.

THE COURT CLOSES AT 1300 HOURS.

THE COURT RE-OPENS AT 1340 HOURS.

Fifth witness for The Prosecution

Mr. Archibald MacDonald, railway man and crofter, West Hill, Dulleden, having taken the oath in the Scottish Form (note 1 to R.P. 30), states:

Q. Do you recognise the accused?

A. Yes. (witness identifies accused).

Q. Did you have any dealings with Sgt. Greenwood on 3 Oct. 43.

A. Well Sgt. Greenwood had been at my house for about a year.

Q. Did you have any dealings with him in regard to rations?

A. I couldn't say "dealings".

Q. Did you receive anything from Sgt. Greenwood?

A. I couldn't say that I got anything from Greenwood himself.

Q. If you received anything at all, was Greenwood present?

A. No.

Q. When did Greenwood leave your home ?

A. On Wednesday.

Fifth witness for the Prosecution: (Continued)

Q. When he left did he take anything with him?

A. He took his odds and ends.

Q. Any provisions?

A. For that, I couldn't say.

Q. Did he take any groceries?

A. I couldn't say.

Q. Do you recall 3 Oct. 43?

A. Yes.

Q. Did you give Sgt. Greenwood any money?

A. About one pound, which was between him and myself.

Q. Do you know Pte. McCrae?

A. Yes.

Q. Did you see him about 2100 hrs. that day - Sunday?

A. Yes.

Q. What did he say?

A. He said Sgt. Greenwood wanted to see me?

Q. What did you do?

A. I went to see Sgt. Greenwood.

Q. Did you see him?

A. Yes.

Q. What happened?

A. I saw Sgt. Greenwood.

Q. Did you have a car?

A. Yes.

Q. Did you put anything into your car?

A. 3 boxes.

Q. What did they contain?

A. I didn't know.

Q. Did you find out.

A. Yes, sugar.

Q. Did Sgt. Greenwood say anything regarding the sugar to you?

A. He never mentioned sugar to me.

Fifth Witness for The Prosecution: (continued)

Q. Regarding the boxes, did he tell you to keep them out of sight?

A. I'm not going to commit myself on that. He might of said something offhand like "put it out of the road" or something.

Q. You do recall something to that effect?

A. Some words to that effect might have been passed.

Questioned by the Defending Officer:

Q. The tins you received were not from Sgt. Greenwood?

A. No.

Q. They were not in his possession?

A. No.

Q. Regarding this one pound note you gave Sgt. Greenwood; he had been living at your house for about a year and it is quite possible during that time you had borrowed money from Greenwood? And did this pound not have something to do with a loan?

A. Yes.

Q. Are you aware of the civilian ration of jam per person per week?

A. About 2 lbs. per week at least.

Q. Is it possible to give up the sugar ration and get jam?

A. Yes.

Q. Can the type of jam, exhibited in this Court, be found in a grocery store?

A. Yes.

The Prosecutor re-examines the Witness. With permission of the President.

Q. Had Sgt. Greenwood lived with you for about a year?

A. Yes.

Q. Would it be possible for him to have a case of jam on 1st. Sept.

A. I don't know.

Questioned by the President:

Q. Was Sgt. Greenwood present when the other soldier handed you the tins?

A. No. Sgt. Greenwood left me after I met another soldier in the camp - a carpenter.

Q. Did this carpenter or other soldier ask you to take the sugar?

A. Yes, but he did not say it was sugar?

Q. He just asked you to take three tins?

A. Yes.

Questioned by The President:

Q. Did you know why he wanted you to take the three tins?

A. No.

Q. Did you not think it was unusual to be called to turn out late at to pick up 3 tins?

A. No, I had made arrangements that in case of an emergency they would get in touch with me for the car.

Q. And you didn't know what was in the tins?

A. No.

Q. When did you find out what was in the tins?

A. When I took them out of my car.

Q. Did the carpenter not tell you there was a surplus sugar in the tins?

A. I think by the way, that he said something about seeing me again about it.

Q. When Mrs. Greenwood left your house on 5 Oct. did she make you a present of some goods?

A. I think it was a sort of a present?

Q. Did she leave you tins of something?

A. Yes.

Q. What did they contain?

A. Jam.

Q. How many tins were there?

A. I don't know.

Q. Was it a whole case?

A. No.

Q. Was it half a case?

A. What do you call a case?

Q. About 12 tins?

A. Well she was sorting out her belongings from ours and I'm not sure how much she left.

Q. Did she say she had more than she wanted?

A. She said something about clumsiness of transport.

Q. Did it not occur to you to wonder how she had so much jam?

A. No, lots of people have jam accumulating - some from even before the war.

The witness withdrews.

THE EXAMINATION IS CLOSED.

The Defending Officer makes a motion for dismissal of the charges:

Mr. President and
Members of the Court:

I refer to R.R. 40 note 1 and the charge sheet, and respectfully submit that from the evidence that has been presented, the property which was taken from the home or premises where Mrs. Greenwood lived on Sunday 7 Oct. 43, has not been identified as public property.

The sugar and tea are of the same quality that may be found in any home. The tins which could be associated with a military camp are handy tins to have around a house and Sgt. Greenwood no doubt took these home from the camp for his wife to use. The jam was found in 2 lb. tins, the type of tin a soldier is not likely to see in Company rations, as the regular jam ration is issued in 7 lb. tins. They are of the type to be found in most any grocery store. I contend then, Sir, that the goods have not been proved to be public property.

I submit too that no evidence has been produced before the Court to prove that Sgt. Greenwood had knowledge of their being stolen.

The same holds on the second charge. If value was received for value there can be no question of improper possession and again what proof is there that these goods were part of No. 7 Coy.'s rations.

From the evidence brought before the Court, I would submit that the prosecution has not made out a prima facie case and accordingly ask for a dismissal of the charges.

THE COURT IS CLOSED FOR CONSIDERATION OF THE FINDING.

THE COURT RE-OPENS.

By President to Defending Officer:

The Court has carefully considered the motion for dismissal, but is of the opinion that the prosecution has made out a prima facie case and accordingly the motion has been denied.

First Witness for the Defence:

K.99014 Sgt. Greenwood, J.G., Reinforcement Section, C.F.C., formerly No. 7 Coy. C.F.C., having been duly sworn, states:

Q. Sgt. Greenwood, you are accused of having stolen rations from No. 7 Coy. camp. This public property - 8 ¼ lbs. of sugar, 7½ lbs. of tea and 22 two lb. tins of jam - was it taken by Detective-Sgt. Urquhart from your house when it was searched?

A. Yes.

Q. Insofar as the canisters containing the tea and sugar are concerned, how long did you have these canisters?

A. The one with the tea and the one with the sugar I had taken home some time before the theft for the wife to put stuff in.

Q. Did you receive any goods from Pte. Stevenson?

A. Yes.

Q. Did you pay Pte. Stevenson for them?

A. Yes.

Q. Was there anything about the goods to indicate that they were stolen?

A. No.

Q. Look at these tins of jam - did your wife purchase tins similar to these from the grocery store?

A. Yes.

Q. Did Pte. Stephenson indicate to you where they came from?

A. No.

Q. Did he suggest to you where they came from?

A. The Camp was breaking up and I figured the rations were from the boys' supplies they had of their own. I was in the canteen getting some soap and Stephenson asked me if I had any money. I was digging around in my pocket and I pulled out a 10/- note and some silver. He asked me if I wanted a few extra rations for the wife and said they were some the boys had lying around. I asked him what he wanted for them and he said whatever I had. I gave him the money I had in my hand. We went outside and he gave me a gunny sack. I didn't know what was in it.

Q. Where were you staying?

A. At MacDonald's home.

Q. It is not far from camp?

A. No.

Q. Did you leave MacDonald's on Monday?

A. Yes. I had arranged with Major Clarke for the day off and I was all packed ready to move.

Q. When did you open the sack?

A. When I took it home I threw the sack in with a lot of packing cases which were moved into town. I didn't open the sack until I got into town. We moved everything into town but a suitcase.

First Witness for
The Defence
(Continued)

Q. When did you return to camp?

A. Monday night.

Q. Did you spend that night there?

A. No, the wife was still staying at MacDonald's.

Q. Then the story goes - you went to MacDonald's on Sunday night, you stayed there for the night and on Monday you moved most of your belongings to Inverness but your wife did not accompany you?

A. Yes.

Q. When did your wife move from MacDonald's?

A. Tuesday.

Q. Then it would be Tuesday morning before you opened for mail?

A. Tuesday night.

Q. What ration cards were held by your wife?

A. Her card, one for the baby and a special card from the Doctor for the ~~expectant~~ baby.

MR. [illegible]

Q. Will you tell the Court the condition of your wife at this time?

A. My wife was not in very good condition and in a very short time she was to be confined. A few days afterwards she went to the hospital.

Q. When was the baby born?

A. I think it was about 15th of the month.

Q. From the gist of your remarks it would appear that Pte. Stephenson offered you some extra rations which you believe he had gathered from the boys in the camp and which you as a married man was pleased to get, and that these rations were subsequently found by Detective-Sgt. Urquhart when he searched your house.

A. Yes.

Q. Had you any reason to question Pte. Stephenson in regard to where he obtained the rations?

A. No. I knew Stephenson well and had always found him to be a good man. He was a carpenter in the Coy. and well liked.

Q. You wouldn't have any reason to suspect him when he offered you the goods?

A. No.

Q. When were you first aware of the theft of reserve rations from No. 7 Coy. camp?

A. Tuesday night.

Q. Was there any reason why you should suspect that the goods you had received from Pte. Stephenson had been stolen from the reserve rations?

A. No, I didn't know that jam was put up in this type of tin for the men.

First Witness for The Defence: (Continued)

Cross-examined by The Prosecutor:

Q. You became aware of the theft of rations on Tuesday 5th?

A. Yes.

Q. You still had the rations on the 8th?

A. Yes.

Q. Were you aware you were harbouring stolen rations?

A. No.

Q. Pte. Stephenson came to you and was in need of money?

A. Yes.

Q. He was broke?

A. Yes, I believe he was at that time.

Q. Did you ever see a tin like this in a grocery store? (Prosecutor holds up tin of jam, Exhibit "A").

A. I've never given it a serious thought.

Q. Did Pte. Stephenson ask you for money?

A. Yes.

Q. Is Pte. Stephenson a carpenter?

A. Yes.

Q. Do you normally buy groceries from a carpenter?

A. No.

Q. Did you really believe it to be his property?

A. Yes.

Q. Did you know what the sack contained when you bought it?

A. No.

Q. You bought a sort of "pig in the poke"?

A. Yes.

Q. You gave him 15/- ?

A. Yes, I think it was about that much.

Q. You mean to say you gave good money for a gunny sack when you didn't even know what was in the sack?

A. I'd known Pte. Stephenson ever since I'd been over here and he often made various things for me such as a high-chair for the baby. I always paid him for these jobs and I knew him to be a square fellow.

Q. But was your susspicions not aroused when he asked you to buy groceries?

A. No.

Cross-examined by The Prosecutor: (continued)

Q. You thought they were surplus goods?

A. Yes.

Q. What did Pte. Stephenson say they were?

A. Some "overs" in the camp.

Q. Do you want to tell the Court that rations are for sale when surplus?

A. No.

Q. Why didn't you go to the Q.M. Stores to buy the goods?

A. I thought the boys bought the goods from the NAAFI and they were left overs.

Q. Did you ever see a tin like this in the NAAFI? (Prosecutor holds up tin of jam Exhibit "A".)

A. Yes.

Q. The fact is that you found out on Tuesday 5th Oct. of the theft and you still had the rations on the 6th Oct.

A. Yes, but when I heard about it I thought it was in connection with another incident in which a pig was concerned and which was taking the attention at that time.

Questioned by the President:

Q. Have you ever bought any quantity of sugar at the canteen?

A. Maybe about 6 lbs. from the canteen.

Q. Have you ever bought jam from the canteen?

A. No.

Q. When Pte. Stephenson said the goods were "overs" what did you think he meant?

A. Every hut in the camp practically had some rations of jam, tea and bread of their own and the boys had a sort of "nagging-up" at nights. It would be easy for them to have some surplus rations at that time as the Company was breaking up.

Q. Did you as a Sgt. not know you couldn't purchase rations?

A. Yes.

Q. You hear on Tuesday that the reserve ration store room was broken into. Did it not occur to you that some of the food you bought might be from there?

A. No, because there was another affair regarding a pig and rations and I thought it was this. It was taking the attention at that moment.

Q. Did you send for MacDonald on Sunday night?

A. I sent for MacDonald but not in connection with rations.

Q. What did you send for him for?

A. To make another deal with a pig.

Questioned by the President: (continued)

Q. Did you not send Pte. MacCrae to tell MacDonald you had 50 lbs. of sugar for him?

A. No, it was nothing about sugar.

The [illegible] is CLOSED.

The Prosecutor makes a closing address:

Mr. President:

To briefly deal with the charges against the accused I respectfully submit that -

Evidence has shown that rations were obtained by Sgt. Greenwood and were found in the house in which Sgt. Greenwood's wife resided. It is logical to assume that these rations were from the reserve ration stores at No. 7 Coy. Canadian Forestry Corps.

It is a remarkable coinsidence that the theft of the reserve rations at No. 7 Coy. should take place on 3rd Oct. and that a quantity of rations were found in the accused's home a few days later. The accused must have heard of the theft and it is surprising that he did not report that he had received a quantity of rations from another soldier at that time.

By the admission of the reluctant witness Mr. MacDonald we learn that he picked up rations at No. 7 Coy. on 3 Oct. 43 after receiving a message from Sgt. Greenwood to come to the camp. Pte. MacCrae who delivered the message has stated that the message concerned about 50 lbs. of sugar.

Mr. MacDonald himself, after a great deal of prodding, stated that when he picked up the 3 tins at No. 7 Coy. and put them in his car the accused, Sgt. Greenwood, told him to "put it out of sight."

Whether the accused knows the goods were stolen or not is something we don't know. Only the accused himself knows this, and the circumstances show that he should know. MacDonald states that the accused told him to "keep it out of sight". The whole thing is referred to as a "deal". Why Greenwood would pay good money for a gunny sack when he didn't even know what was in it and didn't even open it until a day later is beyond me.

Detective Sg. Urquhart in his evidence states that he found the goods in the accused's house and has identified them here in Court to-day. These have been identified by CQMS Rigbey who was CQMS at No. 7 Coy. on 3 Oct. as the goods taken from No. 7 Coy. The accused himself admits having them in his possession.

On the alternative charge I need not dwell for I feel sure that he is quite guilty of the first charge against him and I feel that the evidence brought before this Court to-day has proven beyond a doubt the charge against the accused.

I ask the Court to find the accused guilty as charged.

The Defending Officer makes a closing address:

Mr. President and
Members of the Court:

The accused does not deny possession of "Exhibit "A". But concerning the fact that they are public property or the fact that they are part of the rations of No. 7 Coy., I submit,Sir, that a great deal of doubt exists.

The quantity of tea and sugar is small. Any civilian could accumulate this amount in a short period of time. The canisters are of the type found in a military camp and available to personnel who cared to go out of their way to get them.

The accused is a married man and had taken some of these canisters home to his wife who could use them to advantage in their home.

The jam did not appear in the carton until put there by the civilian police. It was taken from the shelf of the sideboard in the accused's home. This 2 lb. type of tin is not the everyday ration to soldiers. The ordinary ration comes in 7 lb. tins. The 2 lb. type of tin can be purchased from any grocery store. Any man would ordinarily be ready to pick up rations which would cost points and could be obtained without points, if he had the chance.

I suggest that these rations were not public property and were not on charge to No. 7 Coy.

Regarding the improper possession: The accused stated in his evidence that Pte. Stephenson needed money and had something to give in exchange. Sgt. Greenwood did not ask Stephenson where he obtained the goods. He was more concerned with his wife at home and her condition. Stephenson was well known to him and he had always found him fair in his dealings. Stephenson had something he wanted and he had something Stephenson wanted.

Regarding Sgt. Greenwood's knowledge of the theft on Tuesday night; the accused stated that the 50 lbs. of sugar had something to do with a pig. This was another thing altogether and had nothing to do with the case. I suggest that he had reason to suspect that the rations found in his possession came from the theft of reserve rations as there was too much going on in the camp at the time and his direct attention at that time was concerning another case of rations and a pig.

I submit that there is no evidence to show possession of public property or on which to base the fact that the accused knew such was the case.

LIST OF WITNESSES

RE: Charge Against: K-99014 Sgt. Greenwood, John Gladwell,
Reinforcement Section, Cdn. Forestry Corps.

For Prosecution	For Defence
A-32003 Cpl. Saunders, J.R. (Cdn. Provost Corps)	
E-36119 Pte. MacRae, G.	
Det/Sgt. G.C. Urquhart, (Inverness-shire Constabulary)	N I L
K-99116 CSM Rigby, R.	
Mr. A. Macdonald, (Culloden Moor, Inverness-shire) (East Hill)	

LIST OF EXHIBITS

RE: Charge Against K-99014 Sgt. Greenwood, John Gladwell

EXHIBIT "A"

Statement by Mr. A. Macdonald, Crofter and Steam Raiser, East Hill, Culloden Moor, Inverness-shire

EXHIBIT "B"

Statement by Det/Sgt. C. C. Urquhart, Inverness-shire Constabulary, The Castle, Inverness, Inverness-shire

No. 7 Coy. C.F.C. Highwood Camp;::: (RESERVE RATIONS) Exhibit B.

P.Meat	324	lbs	@ 13.833	d	per	11[illegible]	18-13-5¾
Biscuits	432	"	@ 6.	d	"	"	10-16-0
Tea	33	"	@ 2/3		"	"	3-14-3
Sugar	133	"	@ 2¼	d	"	"	1- 4-11¼
Salt	20	"	@ ¼	d	"	"	-10
Margarine	80	"	@ 7¼	d	"	"	2- 8-4
Jam	96	"	@ 8	d	"	"	3- 4-0
Condensed Milk, U.S.A.	131.6	"	@ 7.86261		"	"	4- 4-2¾
Sausage, "Tinned"	240	"	@ 13.5	d	"	"	13-16-0
Soups, "Tinned"	141	"	@ 5.266	d	"	"	3- 1-10½

::::::::::::::

Left behind in storeroom:- All above missing from Crane Rations

Biscuits	432	lbs
Condensed Milk, U.S.A.	48	Tins. (Full Sealed Case)
Sugar	18	lbs. (w/tin Scattered on floor)

::::::::

Certified Correct
K-99116 C.Q.M.S.R.Rigby.

Code No. 67 Ration Scale Canadian

RATION ISSUE VOUCHER.

Name of Unit No. 4 Coy. C.F.C. for Messing Period ending 27 August 1943

A.F.S.758

Exhibit C.
Maj.
Pte.

	Balance Forward	Strength Last Night	Date of Count	Actual Nos. in Mess on Date of Consumption: Officers	O.R.'s Date	Nan-A.T.S.	Total	Est. Nos. in Mess	No. of Rations Including Percentage Allce: Issues Daily	Issues Advance	Extra Issues: Type	No. of Rations	Date of Issue	Cutting of Allow	Beef	Doneless Beef	Mutton	P. Meat	Milk Powder
	1	2	3	4	5	6		7	8	9	10	11	12	13					
Balance Forward										398									
1	67	1/3	6	14	160	180		552	552				31	2		208			
2	67	4/5	6	14	160	180		360	360				3	1		136			
			30	70	801	901		912	912	898									
4	67	6	6	14	160	180		360	360	1870			5	1		136			34½
5	67													4		480			34½
6		6	6	14	160	180		5H0	5H0				7	2		DH			
7		8	8	14	160	180													
								19	19	19			7			5½			
8	67	12	6	14	160	180		361	361				10	1		136			
9			168	1921	2161			2192	219	197									
10	67	13	6	14	160	180		360	360	1260			12	1		136			33½
11	67													8		961½			68
12	67	15	6	14	160	180		5H0	5H0				14	2		203			
13	67	16	6	14	160	180													
		17	12	14	161	181		360	36				17	1		136			
14			114	266	3042	2H22		3H52	3H92	3447									
15	67	20	6	15	160	181		360	360	1260			19	1	60	136			
16	67	21	6	15	160	181		5H0	5H0				21	2		28H			
17	67		6	15	160	181								11	60	16H0½			68
18	67	24	6	15	161	182		361	361				24	1		136			
19			156	371	4163	4690		4713	4713	4707									
20	67	26	6	15	160	181		362	362	1270			26	½			182½		
21	67		168	401	4484	5053		5075	5075	5077					60	1776½	182½		68
22																			
23																			
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32																			
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35																			

	Bread	Biscuit	Flour	Tea	Sugar	Salt	Marmalade	Cheese	Jam	Marmalade	Syrup	Cond. Milk	Dried Milk U.S.A.	Drinking Choc.	Cocoa	Tomatoes A	Tomatoes B	Vegetables C	Coffee D	Tomatoes E	Tomatoes F	Tomatoes G	Tomatoes H	Tomatoes J
Balance Forward																								
1	HH																							
2	270																							
4																								
5	270		140	10	168½	31	79½	69	49	14	23	204				22⅝		16½						
6	45H		140	10	158½	31	79½	69	49	14	28	204				22⅝		16½						
7	2DH		75																					
			2½	½	2½	½	1	3				3						20						
8	270																							
9																								
10																								
11	270		140	10	157½	30	79	67½	42	21	28	203						36	38½					
12	1798		357½	20	318½	61	154½	139½	91	35	56	409				22⅝		36	75					
13	HH																							
	270																							
14																					45½			
15	270		140	10	152½	30	68	66	49	14	28	240					36		38½					
16	HOH																							
17	2H6		497½	30	471	91½	207	205½	140	49	84	649				22⅝	36	36	112½		145½			
18	270																							
19																								
20	272		130	10	157	30	82	69	42	17	34	298				22⅝			38½		45½			
21	3688		627½	402	630	122	307	274½	182	63	118	887				45	36	36	152		91			
22																								
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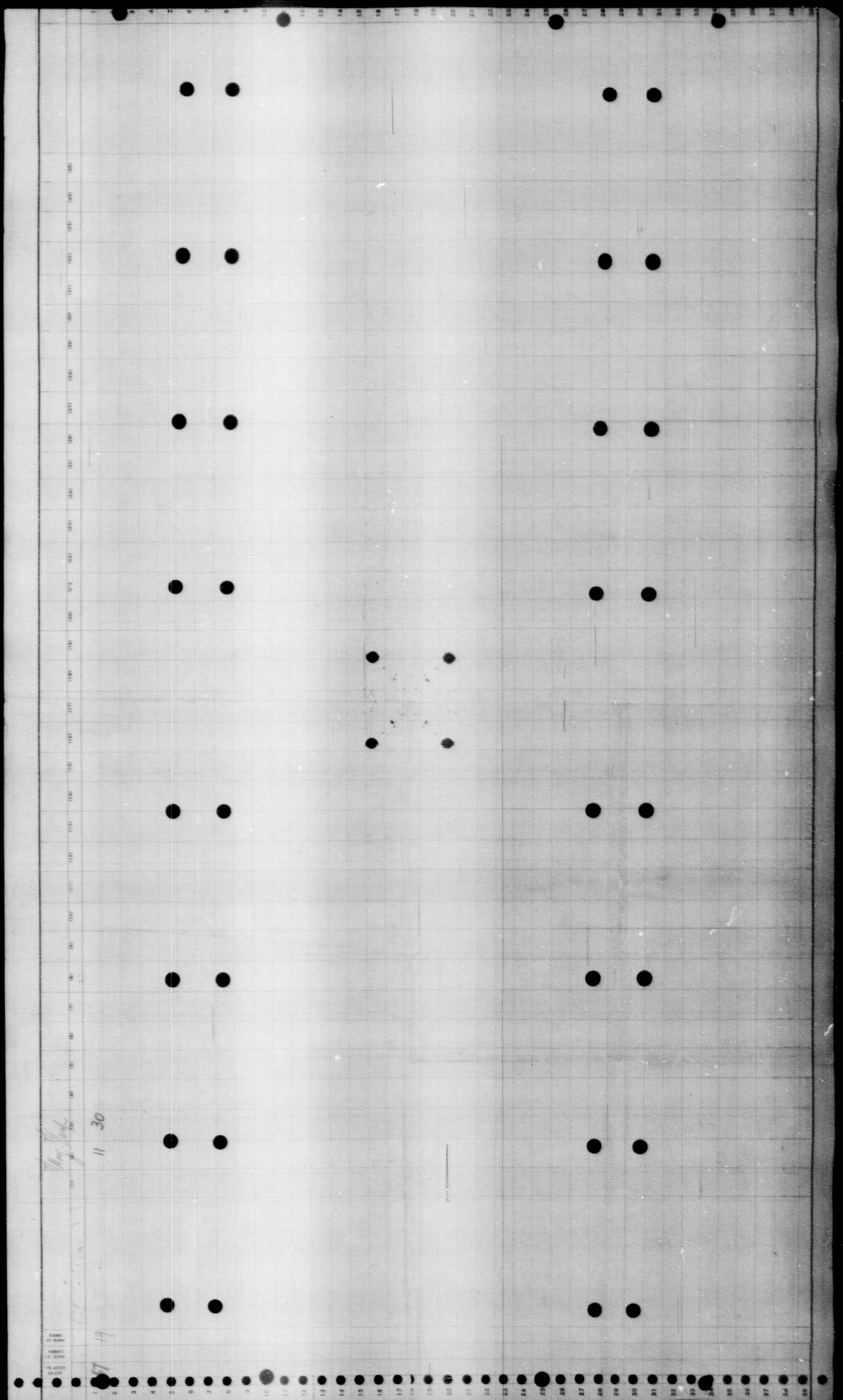
	Bread	Biscuit	Flour	Tea	Sugar	Salt	Marmalade	Cheese	Jam	Marmalade	Syrup	Cond. Milk	Dried Milk U.S.A.	Drinking Choc.	Cocoa	Tomatoes A	Tomatoes B	Vegetables C	Coffee D	Tomatoes E	Tomatoes F	Tomatoes G	Tomatoes H	Tomatoes J
Balance Carried Forward																								
Total Issues	3688		627½	402	630	122	307	274½	182	63	118	887				45	36	36	152		91			
	—	70	—	—	30	130	—	112	8	120	20	56	69½	55	14	26	162	—	—	37	—	—	39	30
	—	—	—	32	—	—	432	140	33	133	20	80	40	96	—	—	—	1016	—	Rum 2 Gal	—	—	Pavage 240	—
																							Lent 141	

SUPPLY DEPOT STAMP
O.C. R.A.S.C. 7 SEP 1943 Edmonton
ISSUED BY C.S.D. AT ... AND CERTIFIED CORRECT
SIGNATURE OF SUPPLY OFFICER ...
DATE ... 194

TO BE COMPLETED BY O.C. UNIT

UNIT STAMP
CERTIFIED CORRECT
SIGNATURE OF O.C. UNIT
DATE ... 194



SUMMARY OF EVIDENCE

-RE-

E-99014 SGT. GREENWOOD J.G.

COPY NO. 1

SUMMARY OF EVIDENCE FOR CHARGES UNDER SECTION 18 (4) and 40 A.A.
IN THE CASE OF K-89014 SERGEANT GREENWOOD, John Gladwell,
Reinforcement Section, C.F.C., Canadian Army (Overseas) (A.F.)

By direction of the Officer Commanding No. 3 District, C.F.C., the summary of evidence is to be taken on Oath - R.F. 4(F).

1st Witness for Prosecution.

A-32003 Cpl. Saunders, J.R., No. 3 Detachment, Canadian Provost Corps, being duly sworn states:-

On the 8th Oct 43, I accompanied Lieut. Luker to the County Police Stn., Inverness, where we were introduced to Det/Sgt. Urquhart. We were shown some foodstuffs and we were informed that these foodstuffs had been found at the home of a Sergeant belonging to No. 7 Coy. C.F.C. by the name of Greenwood, J.G. I was then detailed to carry out an investigation into this matter in co-operation with Det/Sgt. Urquhart and Constable E. MacDonald. We proceeded to Highwood Camp where we questioned Sgt. Greenwood and, after duly cautioning him that any statement he made might be used as evidence, obtained the following statement:-

"I was in the Canteen on Sunday, 3 Oct 43 when I was approached by K-89131 Pte. Stephenson and he asked me if I wanted a few tins of jam and some tea and sugar. I asked him what he wanted for it and I put my hand in my pocket and gave him all the change I had in my pocket. It would be about 12 or 15 shillings; there was a ten shilling note. As I left the canteen I was handed a gunny sack. I opened the sack when I got home and found it to contain tins of jam, tin with some tea in it and also a tin with sugar in it. Previously to making the above deal with Pte. Stephenson, I met Mr. A. MacDonald, a farmer with whom my wife and I resided, and he asked me if Pte. Stephenson was in the canteen and I said yes. He then asked me to inform Stephenson that he, MacDonald, was there. I did so and Stephenson came outside and spoke to him. Stephenson was outside for about half an hour. He then came back into the Canteen. When I moved to Inverness on Monday, 4 Oct 43, I brought the goods I had purchased from Pte. Stephenson with me and when my residence was searched the goods were found by the Civil Police and were taken to Police Headquarters. I did not take any other goods to my home at any time nor did I ever give him any goods or food at any time. I did not ask Stephenson where he got the rations. He said to me this is some overs. When I returned to Camp on Monday night after returning from Inverness, I went into the Canteen to get some change and I noticed MacDonald's car parked along beside the Canteen heading towards Inverness Lake when I overheard some men talking. I recognized MacDonald's voice and MacDonald was saying, is it alright and a person I do not know said in reply - Oh Yes, it is O.K., it is cached over beside Royan Place. This is all I know about the affair."
(signed by J.G. Greenwood)

On further investigating the matter, I visited a house and interviewed the occupant, a Mr. A. MacDonald, and during the course of this visit I was informed by Mr. MacDonald that - "I gave to Sgt. Greenwood a £1 note as he had hinted to me he was broke. It was a £1 note. Then on Sunday night he sent Pte. G. MacRae about 9 o'clock to my house to say Sgt. Greenwood wanted to see me at the camp. I went to the Camp and met Sgt. Greenwood who took me to another soldier who was the carpenter and he asked me to take this sugar if it was any good to me, or bully beef or anything like that, and I said I don't want any of it and he asked me to take this sugar which he had in three large tins at the side of the road. I took it in my car and Sgt. Greenwood told me to put it well out of sight."

The accused declines to cross examine the witness.

A-32003 Cpl. J.R. Saunders, C.P.C.

2nd Witness for Prosecution

K-99116 CQMS Rigby, R. of Reinforcement Section, C.F.C. being duly sworn states:

All I can say about this charge, sir, is that there was held in No. 7 Coy. C.F.C. Reserve Ration Storeroom at all times the following rations. These rations were Public Property and I made a monthly check of them and submitted a monthly return to O. i/c R.A.S.C. Supply Depot, Inverness. My last check of same took place on the 20th Sep 43. The Reserve Ration Storeroom was kept locked at all times, the key being kept in the Q.M. Stores. The values shown for the following articles was obtained from the O. i/c R.A.S.C. Supply Depot, Inverness.

P. Meat	324 lbs.	@	13.833d	£ 18 - 13 - 5½
Biscuits	432 "	@	6d	10 - 16 - 0
Tea	33 "	@	2/3d	3 - 14 - 3
Sugar	133 "	@	2½d	1 - 4 -11½
Salt	20 "	@	½d	10
Margarine	80 "	@	7½d	2 - 8 - 4
Jam	96 "	@	8d	3 - 4 - 0
Milk, Cond.	151.6 "	@	7.8626d	4 - 6 - 9½
Sausages, tin.	240 "	@	13.5d	13 - 10 - 0
Soup, tinned	141 "	@	5.266d	3 - 1 -10½

The accused declines to cross-examine the witness.

E Rigby

K-99116 CQMS Rigby, R.

3rd Witness for Prosecution

E-36119 Pte. MacRae, G. Reinforcement Section, C.F.C., being duly sworn states:-

I was told by Sgt. Greenwood to go up to Mr. MacDonald's farm and tell him I have fifty pounds of sugar. I went up to MacDonald's and told him and he asked me how much I wanted for it. I told him I did not know . I came down to Camp with Mr. MacDonald. I then went into the canteen and got Sgt. Greenwood and told him that MacDonald was outside the canteen. Greenwood came out and spoke a few words to MacDonald. I could not tell what they were talking about at the time. Pte. Stephenson was in company with Sgt. Greenwood and MacDonald outside the canteen. When I had been in the Canteen about ten or fifteen minutes Pte. Stephenson and Sgt. Greenwood came into the canteen. Sgt. Greenwood came in a few minutes after me. Stephenson when he came in bought me three bottles of beer. I never saw him after that.

Q.1 Did you at any time handle any foodstuffs for Sgt. Greenwood?
A.1 No, sir.

Q.2 Did you at any time see Mr. MacDonald hand over any monies to Sgt.Greenwood.
A.2 No, sir.

The accused proceeds to cross-examine the witness.

Q.3 What time and date was I supposed to have told you about 50 lbs. of sugar?
A.3 I cannot state what time and date it was.

Q.4 Were you doing much drinking that day.
A.4 I was drinking alright that day.

Q.5 Did you walk up to MacDonalds.?
A.5 No, I cycled up.

Q.6 Did you return back to camp on your cycle?
A.6 I was on the bicycle but was hanging on to the car with my hand.

E-36119 Pte. MacRae, G.

4th Witness for Prosecution

Mr. A. MacDonald, Crofter and steam raiser, L.M.S., residing at East Hill, Culloden Moor.

A written statement of the witness's evidence purporting to be signed by him has been read to the accused and is included in this summary attached to be known as "Exhibit "A"."

Having regard to difficulty of obtaining the presence of this witness cannot in my opinion be readily procured. The accused does not demand the attendance of this witness for cross-examination.

R. E. Rapple, Capt.

5th Witness for Prosecution

Detective Sergeant G. C. Urquhart of the Inverness-shire Constabulary, The Castle, Inverness.

A written statement of the witness's evidence purporting to be signed by him has been read to the accused and is included in this summary attached to be known as "Exhibit "B"."

Having regard to difficulty of obtaining the presence of this witness cannot in my opinion be readily procured. The accused does not demand the attendance of this witness for cross-examination.

R.E. Rapple, Capt.

The accused having been cautioned in accordance with R.F. 4(E), elects to give evidence on Oath, and being duly sworn, states:-

I was in No. 7 Company canteen on Sunday 2 Oct 43 when I was approached by K-99181 Pte. Stephenson and asked by him if I wanted a few tins of jam, some tea and sugar. I asked him what he wanted for it and put my hand in my pocket and gave him what change I had. It would be about twelve or fifteen shillings. There was a ten shilling note. As I left the canteen I was handed a gunny sack. I opened the sack when I got home and found it to contain tins of jam (10) with some tea and also some sugar. Previous to making the aforementioned purchase with Pte. Stephenson, I met a Mr. MacDonald, a farmer with whom my wife and I resided. He asked me if Pte. Stephenson was in the canteen and I said yes. He then asked me to inform Pte. Stephenson that he, MacDonald, was there. I did so and Pte. Stephenson came out and spoke to him. Pte Stephenson was outside for about one half hour. He then came back into the canteen. When I moved to Inverness on Monday 4 Oct 43, I took with me the goods I had purchased from Pte. Stephenson and when my residence was searched, the goods were found by the Civil Police and taken to Police H.Q. The goods taken by the Police were on the shelves in a cupboard and I did not at any time try to hide same away. I did not at any other time take any goods or foodstuffs to my home nor did I at any time give any foodstuffs away to any other party. I did not ask Pte. Stephenson at any time where he got the foodstuffs from. All he said to me was "This is some overs". When I returned to camp on Tuesday morning, not Monday night as I previously stated to Cpl. Saunders, C.P.C., and carrying on with my duties mostly in the bush all during parade hours. On Tuesday, 5 Oct 43, after having my supper I went into the canteen to get some change I noticed MacDonald's car parked alongside the canteen heading out towards Inverness. I overheard some men talking and recognized MacDonald's voice. MacDonald was saying "Is it alright?" and a person I do not know said "Yes, its O.K., it is cached over by Royn Place." I further state when I purchased the ~~xxx~~ foodstuffs from Stephenson I was not aware that any foodstuffs or rations had been stolen from any place. If I had of been in camp, I probably would have heard same, but I was granted leave to move my wife from MacDonald's farm to Inverness from 1000 hrs. 4 Oct 43 to 0700 hrs. 5 Oct 43 and as stated before, when I did report to camp, and after having my breakfast, I immediately proceeded to the bush to pick up tools, repair a fence and other various duties. I further wish to state, had I been aware that any foodstuffs or rations had been stolen I certainly would not have made the purchase under any circumstances.

K-99014 Sgt. J.G. Greenwood.

Certified that R.P. 4 M.M.L. have been complied with.

Taken down by me, in the presence and hearing of the accused, at Ardersier Camp, this 14th & 15th days of October and 6th day of November, 1943.

R E Clapple Capt.
Adjt. & Q.M., No. 3 District, CFC.

Exhibit "A"
Original RCR

Statement made by Mr. A Macdonald Crofter and Steam Raiser L.M.S. residing at East Hill Culloden moor re the charge against K-99014 Sgt. Greenwood T.G. This 5th day of November 1943

Between 1800 and 1900 hours on Saturday 2 Oct 43 I gave Sgt. Greenwood a one pound note as he had hinted to me that he was broke. Then on Sunday night he sent Pte McRae of No 7 Company at about 2100 hours to my house to say that Sgt. Greenwood wanted to see me at the camp I went to the camp and met Sgt. Greenwood who took me to another soldier whas was a carpenter and he asked me to take this sugar which he had in three large tins at the side of the road. I took it in my car and Sgt Greenwood told me to put it well out of sight. This was before I went to work at twelve midnight. The carpenter told me it was surplus sugar out of the cook-house On Mrs Greenwood leaving from my house on Tuesday 5 Oct 43 she came down with a case of jam to our sitting room. She said she had something to give for the rent and this jam ~~is part of the payment of the~~ she said she had more and had too much to take with her and I said if I give you one pound for the linoleum on the floor which had been put on by Mrs Greenwood and free of the weeks rent would she be pleased She said yes.

Witness
R E Rapple Capt.

A Macdonald

Exhibit "B"
RCR

INVERNESS-SHIRE CONSTABULARY.

Statement made by Detective Sergeant Gregor Calder Urquhart of the Inverness-shire Constabulary - Re. charge against No.K.99014, Sergeant J. G. Greenwood, dated this 5th day of November, 1943.

On Thursday, 7th October, 1943, I was detailed by Deputy Chief Constable MacKay to investigate a theft of Reserve Rations at No. 7 Coy., Canadian Forestry Corps Camp. Upon making a search of Archibald MacDonald's residence at Easthill, Culloden Moor, I found 6-2 lbs. tins of Greengage Jam which he said he obtained from Mrs. Greenwood, wife of Sergeant Greenwood, on 5th October, 1943. MacDonald also advised that Mrs. Greenwood had just moved to No. 6 Glenurquhart Road, Inverness and I would probably be able to locate more of the stolen rations there. This I did. On arrival there we saw Sgt. Greenwood. I informed him of the purpose of my visit and enquired if he had any objection to us searching the house. Both he and his mother-in-law, Mrs. Fairweather, consented to the search. I found a tin containing approximately 8¾ lbs. of sugar, another tin containing 7¾ lbs. of Tea also 22-2 lb. tins of Greengage Jam. Mrs. Greenwood volunteered the statement that the 22 tins of Jam were taken to Easthill by her husband one night the previous week, Mrs. Greenwood apparently being under the impression that her husband got them as a present. These Reserve Rations were also conveyed to the County Police Headquarters.

I charged Sgt. Greenwood with Reset on the 9th October, 1943, and he replied - "I told you everything yesterday I possibly could. I have nothing to add or draw back".

The Castle,
INVERNESS, 5th November, 1943.

Gilleghast
Detective Sergeant.

Sworn to Duncan - D.A.P.C.
Witness

Previous Sheet Destroyed 22-9-42

No. K99014 Name Greenwood, J.G. Sqn., Battery, or Company No. 7 Coy C.F.C. CA(O) Corps Date of enlistment 3-8-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 177) 175M—7-40 (1219-20) H.Q. 1772-20-1852

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. (Sgd) C.W. Mobley Character Major.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No Entries					
						Exhibit F			
				Certified true copy					
				R.E. Rapple		[illegible]			
				(R.E. Rapple) Capt. Adj. & Q.M.		Area Major			
				No. 3 District, H.Q.					
				Canadian Forestry Corps.					

P.T.O.

Exhibit E.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-99014	Sergeant	Greenwood, J.G.	Reinforcement Section, C.F.C. Attached to No. 28 Coy. C.F.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number or entries in the conduct sheets, provision being given in the most serious offence in each entry, and to any recommended special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused.

2. [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. [redacted] beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and eight days in military custody, making a total of eight days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] is 36 years 5 months

6. The date of his [redacted] attestation specified in his record of service [redacted] is 3 Aug 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs. 8½ mos.

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 8½ months service.

9. The accused is entitled to reckon 3 years 8½ months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, *no* military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). Nil

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of R/A

12. (*In the case of an officer.*) The accused holds in the army the rank of R/A dated .....

and in his regiment (*or* corps *or* department) the rank of ..... dated .....

(*****) W1.21705/1577 10,000 10/42 A.A.D.W.I.(S) Gp.698
(*****) W1.32656/1577 12,000 8/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K-99014 Rank Sergeant Name Greenwood, J.G. of R.S., C.F.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of January, 1944

Lawrence Capt
No. 28 Company, Canadian Forestry Corps.
A.O.L

ORDERLY ROOM
No. 28 COY. CANADIAN F. CORPS

IV. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of Sergeant 2 years 8 months years

In the rank of years

In the rank of years

Date of Promotion 1st July 41

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

COUNTER NUMBER 435-889

HOUR 20.15

OPERATOR'S INITIALS E. M.

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Edna M. Madore of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated NOV. 28 19 52

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

	JOB NO. 44	REEL NO. 25
	BOOK NO. 23-4	
PRODUCTION DATA	44-25A	INDEXING DATA 44-25B
DATE / HOUR	BEGINS WITH GIROUX P.E.	GRANT A.R.
STARTED	1. GLOVER S.	GRATIX R.J.
FINISHED	2. GRAHAM H.	GRAY A.R.
TOTAL NO. OF HOURS 6 1/2	3. GRAHAM G.	GREEN W.
TOTAL NO. OF IMAGES 5114	ENDS WITH GRANT A.A.	REDMOND J.G.

J.E

END

SECOND

SIDE


REEL
NO
44 • 60